

Department of Political Affairs

**Repertoire of the Practice
of the Security Council**

Supplement 1989-1992



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Note

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Contents

	<i>Page</i>
Introduction	xi
Chapter I. Provisional rules of procedure of the Security Council	
Introductory note	3
Part I. Meetings (rules 1-5).....	4
Note	4
Special cases concerning the application of rules 1-5	4
Part II. Representation and credentials (rules 13-17)	10
Note	10
Special cases concerning the application of rules 13-17	10
Part III. Presidency (rules 18-20)	11
Note	11
Special cases concerning the application of rules 18-20	13
Part IV. Secretariat (rules 21-26)	14
Note	14
Part V. Conduct of business (rules 27-36)	14
Note	14
Special cases concerning the application of rules 27-36	15
Part VI. Languages (rules 41-47)	18
Part VII. Publicity of meetings, records (rules 48-57)	18
Note	18
Special cases concerning the application of rules 48-57	19
Chapter II. Agenda	
Introductory note	25
Part I. The provisional agenda (rules 6-8 and 12)	26
Note	26
Preparation of the provisional agenda (rule 7)	26
Part II. Adoption of the agenda (rule 9)	27
Note	27
Precedence of the decision on adoption of the agenda	27

Part III. The agenda: matters of which the Security Council is seized (rules 10 and 11)	28
Note	28
Retention and deletion of items from the summary statements by the Secretary-General on matters of which the Security Council is seized (rule 11)	29
A. Items added to the list of matters of which the Security Council was seized during the period 1989-1992	30
B. Items that appeared in previous volumes of the <i>Repertoire</i> on which new action by the Security Council was reported in summary statements issued during the period 1989-1992	45
C. Items that were deleted from the list of matters of which the Security Council was seized during the period 1989-1992	50
Chapter III. Participation in the proceedings of the Security Council	
Introductory note	53
Part I. Basis of invitations to participate	54
Note	54
A. Invitations extended under rule 37 (States Members of the United Nations)	54
B. Invitations extended under rule 39 (members of the Secretariat or other persons)	55
C. Invitations not expressly extended under rule 37 or rule 39	58
D. Requests for invitations denied or not acted upon	59
Part II. Procedures relating to participation	60
Note	60
A. Stage at which those invited to participate are heard	60
B. Limitations on participation	61
Annexes	
Invitations extended under rule 37 (1989-1992)	63
Invitations extended under rule 39 (1989-1992)	79
Chapter IV. Voting	
Introductory note	87
Part I. Procedural and non-procedural matters	88
Note	88
A. Cases in which the vote indicated the procedural character of the matter	88
1. Suspension of a meeting	88
2. Invitation to participate in the proceedings	88

B. Cases in which the vote indicated the non-procedural character of the matter	89
In connection with matters considered by the Security Council under its responsibility for the maintenance of international peace and security	89
Part II. Proceedings of the Security Council regarding voting upon the question whether the matter was procedural within the meaning of Article 27, paragraph 2, of the Charter	90
Note	90
Part III. Abstention, non-participation or absence in relation to Article 27, paragraph 3, of the Charter	91
Note	91
A. Obligatory abstention	91
Consideration of abstention in accordance with the proviso to Article 27, paragraph 3	91
B. Voluntary abstention, non-participation or absence in relation to Article 27, paragraph 3	92
Certain cases in which permanent members abstained otherwise than in accordance with the proviso to Article 27, paragraph 3	93
Part IV. Adoption of resolutions and decisions without a vote	94
Note	94
A. Cases in which the Security Council adopted resolutions without a vote	94
B. Cases in which Security Council decisions were announced in presidential statements issued after being agreed upon by the members of the Council at consultations	95
1. Statements placed on record at meetings of the Security Council	95
2. Statements issued only as Security Council documents	99
C. Cases in which Security Council decisions were recorded in letters or notes from the President of the Security Council	100
Chapter V. Subsidiary organs of the Security Council	
Introductory note	107
Part I. Subsidiary organs of the Security Council established or continuing during the period 1989-1992.	108
A. Standing committees/ad hoc committees	108
B. Investigative bodies	108
C. Peacekeeping missions.	109
D. Security Council committees.	156
E. Ad hoc commissions/Coordinator for the Return of Property	161
Part II. Subsidiary organs of the Security Council whose mandate was completed or terminated during the period 1989-1992	171

Part III. Subsidiary organs of the Security Council proposed but not established	171
Chapter VI. Relations with other United Nations organs	
Introductory note	178
Part I. Relations with the General Assembly	178
Note	178
A. Election by the General Assembly of non-permanent members of the Security Council	178
Note	178
B. Recommendations by the General Assembly to the Security Council in the form of resolutions under Articles 10 and 11 of the Charter	179
Note	179
1. Recommendations on matters relating to the Council's powers and functions or with regard to the general principles of cooperation in the maintenance of international peace and security	180
2. Recommendations with regard to questions relating to the maintenance of international peace and security or requesting action on such questions by the Council	182
3. Situations drawn to the attention of the Security Council	188
C. Practice in relation to Article 12 of the Charter	188
Note	188
D. Practice in relation to provisions of the Charter involving recommendations by the Security Council to the General Assembly	189
Note	189
1. Appointment of the Secretary-General	189
2. Membership in the United Nations	190
E. Reports of the Security Council to the General Assembly	190
Note	190
F. Other Council practice bearing on relations with the General Assembly	191
Note	191
G. Relations with subsidiary organs established by the General Assembly	194
Note	194
Communications from subsidiary organs established by the General Assembly	195
Part II. Relations with the Economic and Social Council	206
Practice in relation to Article 65 of the Charter	206
Note	206

Part III. Relations with the Trusteeship Council	209
Note	209
A. Practice relating to the partial termination of a trusteeship agreement under Article 83, paragraph 1, of the Charter	209
B. Transmission of reports to the Security Council by the Trusteeship Council	211
Part IV. Relations with the International Court of Justice	211
Note	211
A. Practice in relation to the election of members of the International Court of Justice	211
B. Consideration of the relationship between the Security Council and the Court	213
Part V. Relations with the Secretariat	216
Note	216
A. Functions entrusted to the Secretary-General by the Security Council	216
B. Matters brought to the attention of the Security Council by the Secretary-General	219
Part VI. Relations with the Military Staff Committee	221
Note	221
Chapter VII. Practice relative to recommendations to the General Assembly regarding membership in the United Nations	
Introductory note	227
Part I. Applications for admission to membership in the United Nations and action taken thereon by the Security Council and the General Assembly, 1989-1992	230
Note	230
A. Applications recommended by the Security Council	230
B. Discussion of the question in the Security Council	231
C. Applications pending on 1 January 1989	231
D. Applications submitted and action taken thereon by the Security Council and the General Assembly from 1 January 1989 to 31 December 1992	232
E. Applications pending on 31 December 1992	243
Part II. Presentation of applications	243
Note	243
Part III. Referral of applications to the Committee on the Admission of New Members	243
Note	243
Part IV. Procedures in the consideration of applications within the Security Council	244
Note	244
Part V. Roles of the General Assembly and the Security Council	245
Note	245

Part VI. Practices relative to the applicability of Articles 4, 5 and 6 of the Charter	245
Note	245
Chapter VIII. Consideration of questions under the responsibility of the Security Council for the maintenance of international peace and security	
Introductory note	252
Africa	
1. Items relating to the situation in Angola	253
2. The situation in Liberia	268
3. Items relating to the Libyan Arab Jamahiriya	275
4. The situation in Mozambique	294
5. The situation in Namibia	299
6. Items relating to the situation in Somalia	312
7. The question of South Africa	336
8. The situation concerning Western Sahara	350
Americas	
9. Central America: efforts towards peace	358
10. Letter dated 27 November 1989 from the Permanent Representative of El Salvador to the United Nations addressed to the President of the Security Council	
Letter dated 28 November 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council	381
11. Items relating to Cuba	384
12. Items relating to Haiti	387
13. Items relating to the situation in Panama	391
Asia	
14. The situation relating to Afghanistan	404
15. Items relating to the situation in Cambodia	414
16. The situation in Tajikistan	435
Europe	
17. The situation in Cyprus	437
18. The situation in Georgia	467
19. The situation relating to Nagorny-Karabakh	469
20. Items relating to the situation in the former Yugoslavia	473
Middle East	
21. The situation between Iran and Iraq	558

22. Items relating to the situation between Iraq and Kuwait	568
23. The situation in the Middle East	734
24. The situation in the occupied Arab territories.	758
General issues	
25. Marking of plastic or sheet explosives for the purpose of detection.	810
26. The question of hostage-taking and abduction	811
27. United Nations peacekeeping operations	812
28. The responsibility of the Security Council in the maintenance of international peace and security	813
29. An agenda for peace: preventive diplomacy, peacemaking and peacekeeping	822
Chapter IX. Decisions in the exercise by the Security Council of its other functions and powers	829
Chapter X. Consideration of the provisions of Chapter VI of the Charter	
Introductory note	833
Part I. Referral of disputes and situations to the Security Council	835
Part II. Investigation of disputes and fact-finding	852
Part III. Decisions of the Security Council concerning the pacific settlement of disputes	857
A. Recommendations relating to terms, methods or procedures of settlement	859
B. Decisions involving the Secretary-General in the Council's efforts at the peaceful settlement of disputes.	861
Part IV. Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter	865
Chapter XI. Consideration of the provisions of Chapter VII of the Charter	
Introductory note	877
Part I. Determination of a threat to the peace, breach of the peace, or act of aggression under Article 39 of the Charter.	879
Part II. Provisional measures to prevent the aggravation of a situation in accordance with Article 40 of the Charter.	888
Part III. Measures not involving the use of armed force in accordance with Article 41 of the Charter	893
Part IV. Other measures to maintain or restore international peace and security in accordance with Article 42 of the Charter.	913
Part V. Decisions and deliberations having relevance to Articles 43 to 47 of the Charter.	919
Part VI. Obligations of Member States under Article 48 of the Charter	925
Part VII. Obligations of Member States under Article 49 of the Charter	927
Part VIII. Special economic problems of the nature described in Article 50 of the Charter . . .	929

Part IX. The right of self-defence in accordance with Article 51 of the Charter	934
Chapter XII. Consideration of the provisions of other Articles of the Charter	
Introductory note	945
Part I. Consideration of the provisions of Article 1, paragraph 2, of the Charter.	946
Part II. Consideration of the provisions of Article 2 of the Charter	952
A. Article 2, paragraph 4	952
B. Article 2, paragraph 5	962
C. Article 2, paragraph 6	964
D. Article 2, paragraph 7	967
Part III. Consideration of the provisions of Article 24 of the Charter.	977
Part IV. Consideration of the provisions of Article 25 of the Charter	982
Part V. Consideration of the provisions of Article 26 of the Charter.	989
Part VI. Consideration of the provisions of Chapter VIII of the Charter	990
A. General consideration of the provisions of Chapter VIII	991
B. Encouragement by the Security Council of efforts undertaken by regional organizations in the pacific settlement of disputes	992
C. Challenges to the appropriateness of Security Council action in the light of Article 52.	997
D. Authorization by the Security Council of the use of force by regional organizations	998
Index	1001

Introduction

The present volume constitutes the eleventh supplement to the *Repertoire of the Practice of the Security Council, 1946-1951*, which was issued in 1954. It covers the proceedings of the Security Council from the 2835th meeting, on 5 January 1989, to the 3154th meeting, on 20 December 1992.

The *Repertoire* was mandated by the General Assembly in its resolution 686 (VII) of 5 December 1952, entitled “Ways and means for making the evidence of customary international law more readily available”. It is a guide to the proceedings of the Council and sets forth in a readily accessible form the practices and procedures to which the Council has had recourse. The *Repertoire* is not intended as a substitute for the records of the Council, which constitute the only comprehensive and authoritative account of its deliberations.

The categories employed to arrange the material are not intended to suggest the existence of procedures or practices that have not been clearly or demonstrably established by the Council itself. The Council is at all times, within the framework of the Charter of the United Nations, its own provisional rules of procedure, and practice established through notes by the President of the Security Council, master of its own procedure.

In recording the Council’s practice, the headings under which the practices and procedures of the Council were presented in the original volume have been largely retained. Where necessary, however, adjustments have been made to better reflect the Council’s practice. The use of double asterisks (**) to denote topics not considered anew by the Council has been discontinued. For ease of reference, the studies contained in chapter VIII are organized according to region or general issues. In addition, this introduction now contains a table indicating the membership of the Security Council during the period under review.

The agenda items considered by the Council during 1989-1992, and the meetings at which they were considered, are presented in a table hereunder in the order in which the items were initially taken up during the period.

* * *

Symbols of United Nations documents are composed of capital letters combined with figures. A symbol such as S/23244 indicates a Security Council document. References to the verbatim records of meetings of the Council are given in the form S/PV.3154, p. 2. As in the previous volume, reference is made in this Supplement only to the provisional verbatim records of Security Council meetings, as the practice of publishing the meeting records in the *Official Records* has been discontinued.

The resolutions adopted by the Security Council and most of the statements by the President are published in the yearly volumes of *Resolutions and Decisions of the Security Council*. Resolutions are identified by a number followed by the year of adoption in parentheses, for example, resolution 646 (1989). Statements by the President not included in the yearly volumes are recorded in the relevant verbatim records.

Readers who wish to consult the full record of a meeting or the text of a Security Council document referred to in the *Repertoire* may do so on the official United Nations Documentation Centre website, <http://www.un.org/documents/>. Security Council documents can be accessed on the website by selecting “Official Document System of the United Nations (ODS)” or one of the direct links to specific categories of documents. The volumes of resolutions and decisions may be accessed by symbol (S/INF/45, for 1989; S/INF/46, for 1990; S/INF/47, for 1991; and S/INF/48, for 1992). Other volumes of the *Repertoire* may be consulted at <http://www.un.org/Depts/dpa/repertoire/index.html>.

Members of the Security Council

1989-1992

<i>Member</i>	<i>1989</i>	<i>1990</i>	<i>1991</i>	<i>1992</i>
Algeria	•			
Austria			•	•
Belgium			•	•
Brazil	•			
Canada	•	•		
Cape Verde				•
China (permanent member)	•	•	•	•
Colombia	•	•		
Côte d’Ivoire		•	•	
Cuba		•	•	
Ecuador			•	•
Ethiopia	•	•		
Finland	•	•		
France (permanent member)	•	•	•	•
Hungary				•
India			•	•
Japan				•
Malaysia	•	•		
Morocco				•
Nepal	•			
Romania		•	•	
Senegal	•			

<i>Member</i>	<i>1989</i>	<i>1990</i>	<i>1991</i>	<i>1992</i>
Union of Soviet Socialist Republics/Russian Federation ^a (permanent member)	•	•	•	•
United Kingdom of Great Britain and Northern Ireland (permanent member)	•	•	•	•
United States of America (permanent member)	•	•	•	•
Venezuela				•
Yemen ^b		•	•	
Yugoslavia	•			
Zaire			•	•
Zimbabwe			•	•

^a By a letter dated 24 December 1991, the Secretary-General requested the President of the Security Council to bring to the attention of the members of the Council a letter of the same date from the representative of the Union of Soviet Socialist Republics, transmitting a letter, also of the same date, from the President of the Russian Federation, in which he informed the Secretary-General that the membership of the Union of Soviet Socialist Republics in the United Nations was being continued by the Russian Federation.

^b The General Assembly, on 18 October 1989, elected Democratic Yemen as a non-permanent member of the Security Council for a term of office beginning on 1 January 1990. On 22 May 1990, Democratic Yemen and Yemen merged and have since that date been represented as one Member with the name "Yemen".

Items considered by the Security Council at formal meetings, 1989-1992

<i>Agenda item</i>	<i>Meetings</i>
Items relating to the Libyan Arab Jamahiriya	
Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/20364)	2835-2837, 2839-2841
Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Bahrain to the United Nations addressed to the President of the Security Council (S/20367)	
Letters dated 20 and 23 December 1991 (S/23306, S/23307, S/23308, S/23309, S/23317)	3033
(a) Letters dated 20 and 23 December 1991 (S/23306, S/23307, S/23308, S/23309, S/23317)	3063
(b) Report by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992) (S/23574)	
(c) Further report by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992) (S/23672)	
Letter dated 2 April 1992 from the Permanent Representative of Venezuela to the United Nations addressed to the President of the Security Council (S/23771)	3064
Elections to the International Court of Justice	
Date of an election to fill a vacancy in the International Court of Justice (S/20340)	2838
(S/22959)	3005
Election of a member of the International Court of Justice (S/20551, S/20552 and Add.1 and Rev.1, S/20553 and S/20593)	2854
(S/23227, S/23243 and S/23244)	3021
Election of five members of the International Court of Justice (S/21823, S/21824 and Add.1 and 2, S/21824/Rev.1 and S/21825)	2955, 2956
The situation in Namibia	
The situation in Namibia	2842
The situation in Namibia	2848
(a) Further report of the Secretary-General concerning the implementation of Security Council resolutions 435 (1978) and 439 (1978) concerning the question of Namibia (S/20412)	
(b) Explanatory statement by the Secretary-General concerning the implementation of Security Council resolutions 435 (1978) and 439 (1978) concerning the question of Namibia (S/20457)	

<i>Agenda item</i>	<i>Meetings</i>
The situation in Namibia	2876-2882
Letter dated 10 August 1989 from the Permanent Representative of Ghana to the United Nations addressed to the President of the Security Council (S/20779)	
Letter dated 10 August 1989 from the Permanent Representative of Zimbabwe to the United Nations addressed to the President of the Security Council (S/20782)	
The situation in Namibia	2886
Letter dated 18 October 1989 from the Permanent Representative of Kenya to the United Nations addressed the President of the Security Council (S/20908)	
The situation in Namibia	2893
Further report of the Secretary-General on the implementation of Security Council resolution 435 (1978) concerning the question of Namibia (S/20967)	
The situation in the Middle East	
The situation in the Middle East	
Report of the Secretary-General on the United Nations Interim Force in Lebanon (S/20416 and Add.1, Add.1/Corr.1 and Add. 2)	2843
(S/20742)	2873
(S/21102)	2906
(S/21406 and Corr.1 and Add. 1)	2931
(S/22129 and Add. 1)	2975
(S/22829)	2997
(S/23452)	3040
(S/24341)	3102
The situation in the Middle East	2851, 2858, 2891, 2894, 2903
The situation in the Middle East	
Report of the Secretary-General on the United Nations Disengagement Observer Force	
(S/20651)	2862
(S/20976)	2895
(S/21305)	2925
(S/21950 and Corr.1)	2964
(S/22631 and Add.1)	2990
(S/23233 and Corr.1)	3019
(S/23955)	3081
(S/24821)	3141
The situation in the Middle East	2875, 2884
Letter dated 15 August 1989 from the Secretary-General addressed to the President of the Security Council (S/20789)	
The situation in the Middle East	3053
Letter dated 17 February 1992 from the Permanent Representative of Lebanon to the United Nations addressed to the President of the Security Council (S/23604)	

The situation between Iran and Iraq

The situation between Iran and Iraq

Report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group

(S/20442)	2844
(S/20862)	2885
(S/21200)	2916
(S/21803)	2944
(S/21960)	2961
(S/22148)	2976

The situation between Iran and Iraq	2908
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The situation in the occupied Arab territories

The situation in the occupied Arab territories	2845-2847, 2849, 2850
--	-----------------------

Letter dated 8 February 1989 from the Permanent Representative of Tunisia to the United Nations addressed to the President of the Security Council (S/20454)

Letter dated 9 February 1989 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the President of the Security Council (S/20455)

The situation in the occupied Arab territories	2863-2867
--	-----------

Letter dated 31 May 1989 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council (S/20662)

The situation in the occupied Arab territories	2870
--	------

Letter dated 30 June 1989 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council (S/20709)

The situation in the occupied Arab territories	2883
--	------

Letter dated 29 August 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Qatar to the United Nations addressed to the President of the Security Council (S/20817)

The situation in the occupied Arab territories	2887-2889
--	-----------

Letter dated 3 November 1989 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council (S/20942)

The situation in the occupied Arab territories	2910-2912, 2914, 2915, 2920
--	-----------------------------

Letter dated 12 February 1990 from the Permanent Representative of the Union of Soviet Socialist Republics to the United Nations addressed to the President of the Security Council (S/21139)

The situation in the occupied Arab territories	2923, 2926
--	------------

Letter dated 21 May 1990 from the Permanent Representative of Bahrain to the United Nations addressed to the President of the Security Council (S/21300)

<i>Agenda item</i>	<i>Meetings</i>
The situation in the occupied Arab territories Letter dated 26 September 1990 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council (S/21830)	2945-2949
The situation in the occupied Arab territories Letter dated 26 September 1990 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council (S/21830) Report submitted to the Security Council by the Secretary-General in accordance with resolution 672 (1990) (S/21919 and Corr.1 and Add.1-3)	2953, 2954, 2957, 2965-2968, 2970
The situation in the occupied Arab territories	2973, 2980, 3026, 3065
The situation in the occupied Arab territories Letter dated 22 May 1991 from the Permanent Representatives of Côte d'Ivoire, Cuba, Ecuador, India, Yemen, Zaire and Zimbabwe to the United Nations addressed to the President of the Security Council (S/22634)	2989
The situation in the occupied Arab territories Letter dated 18 December 1992 from the Permanent Representative of Lebanon to the United Nations addressed to the President of the Security Council (S/24980)	3151
The situation relating to Afghanistan	
The situation relating to Afghanistan Letter dated 3 April 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Afghanistan to the United Nations addressed to the President of the Security Council (S/20561)	2852, 2853, 2855-2857, 2859-2860
The situation relating to Afghanistan Letter dated 9 January 1990 from the Secretary-General addressed to the President of the Security Council (S/21071)	2904
Items relating to the situation in Panama	
Letter dated 25 April 1989 from the Permanent Representative of Panama to the United Nations addressed to the President of the Security Council (S/20606)	2861, 2874
The situation in Panama Letter dated 20 December 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council (S/21034)	2899-2902
Letter dated 3 January 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Nicaragua to the United Nations addressed to the President of the Security Council (S/21066)	2905
The situation in Cyprus	
The situation in Cyprus Report of the Secretary-General on the United Nations operation in Cyprus	

<i>Agenda item</i>	<i>Meetings</i>
(S/20663 and Add.1)	2868
(S/21010 and Add.1)	2898
(S/21340)	2928
(S/21981 and Add.1)	2969
(S/22665 and Add.1 and 2)	2992
(S/23263 and Add.1)	3022
(S/24050 and Add.1)	3084
(S/24917 and Add.1)	3148
The situation in Cyprus	
Report of the Secretary-General on his mission of good offices in Cyprus	
(S/21183)	2909
(S/23121)	3013
(S/23300)	3024
(S/23780)	3067
(S/24472)	3109
(S/24830)	3140
The situation in Cyprus	2930
Report of the Secretary-General on his mission of good offices in Cyprus (S/21393)	
Letter dated 18 July 1990 from the Permanent Representative of Cyprus to the United Nations addressed to the President of the Security Council (S/21399)	
The situation in Cyprus	2971
Report of the Secretary-General on the United Nations operation in Cyprus (S/21981 and Add.1)	
Report of the Secretariat review team on the United Nations Peacekeeping Force in Cyprus (S/21982)	
Letter dated 12 December 1990 from the Permanent Representatives of Australia, Austria, Denmark, Ireland and Sweden to the United Nations addressed to the President of the Security Council (S/21996)	
The situation in Cyprus	2993
The costs and financing of the United Nations Peacekeeping Force in Cyprus	
The situation in Cyprus	3094
Marking of plastic or sheet explosives for the purpose of detection	2869
Central America: efforts towards peace	
Central America: efforts towards peace	2871, 2919, 2922, 3010
Central America: efforts towards peace — report of the Secretary-General	
(S/20895)	2890
(S/21194)	2913
(S/21274)	2921
(S/21341 and S/21349)	2927
(S/21909)	2952

<i>Agenda item</i>	<i>Meetings</i>
(S/22543)	2986
(S/22031 and S/22494 and Corr.1 and Add.1)	2988
(S/23171)	3016
(S/23402 and Add.1)	3030
(S/23421)	3031
Central America: efforts towards peace	3129
Letter dated 28 October 1992 from the Secretary-General addressed to the President of the Security Council (S/24731)	
Central America: efforts towards peace	3142
Report of the Secretary-General on the United Nations Observer Mission in El Salvador (S/24833 and Add.1)	
The question of hostage-taking and abduction	2872
Letter dated 27 November 1989 from the Permanent Representative of El Salvador to the United Nations addressed to the President of the Security Council (S/20991)	2896, 2897
Letter dated 28 November 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council (S/20999)	
Items relating to Cuba	
Letter dated 2 February 1990 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council (S/21120)	2907
Letter dated 27 April 1992 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council (S/23850)	3080
Admission of new Members	
Admission of new Members	2917
Letter dated 6 April 1990 from the President of the Republic of Namibia addressed to the Secretary-General (S/21241)	
Admission of new Members	2918
Report of the Committee on the Admission of New Members concerning the application of the Republic of Namibia for admission to membership in the United Nations (S/21251)	
Admission of new Members	2935
Letter dated 10 August 1990 from the Head of Government of the Principality of Liechtenstein addressed to the Secretary-General (S/21486)	
Admission of new Members	2936
Report of the Committee on the Admission of New Members concerning the application of the Principality of Liechtenstein for admission to membership in the United Nations (S/21506)	

<i>Agenda item</i>	<i>Meetings</i>
Admission of new Members	2998
Letter dated 2 July 1991 from the Vice-Premier of the Administration Council and Minister for Foreign Affairs of the Democratic People's Republic of Korea addressed to the Secretary-General (S/22777)	
Letter dated 19 July 1991 from the Minister for Foreign Affairs of the Republic of Korea addressed to the Secretary-General (S/22778)	
Admission of new Members	2999
Letter dated 17 July 1991 from the President of the Federated States of Micronesia addressed to the Secretary-General (S/22864 and Corr.1)	
Admission of new Members	3000
Letter dated 25 July 1991 from the President of the Republic of the Marshall Islands addressed to the Secretary-General (S/22865 and Corr.1)	
Admission of new Members	3001
Report of the Committee on the Admission of New Members concerning the applications of the Democratic People's Republic of Korea and the Republic of Korea for admission to membership in the United Nations (S/22895)	
Admission of new Members	3002
Report of the Committee on the Admission of New Members concerning the application of the Federated States of Micronesia for admission to membership in the United Nations (S/22896)	
Admission of new Members	3003
Report of the Committee on the Admission of New Members concerning the application of the Republic of the Marshall Islands for admission to membership in the United Nations (S/22897)	
Admission of new Members	3006
Letter dated 30 August 1991 from the Chairman of the Supreme Council of the Republic of Estonia addressed to the Secretary-General (S/23002)	
Letter dated 30 August 1991 from the Vice-Chairman of the Supreme Council of the Republic of Latvia addressed to of the Secretary-General (S/23003)	
Letter dated 29 August 1991 from the President of the Supreme Council of the Republic of Lithuania addressed to the Secretary-General (S/23004)	
Admission of new Members	3007
Report of the Committee on the Admission of New Members concerning the applications of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania for admission to membership in the United Nations (S/23021)	
Admission of new Members	3032
Letter dated 31 December 1991 from the President of the Republic of Kazakhstan addressed to the Secretary-General (S/23353)	

<i>Agenda item</i>	<i>Meetings</i>
Admission of new Members	3034
Report of the Committee on the Admission of New Members concerning the application of the Republic of Kazakhstan for admission to membership in the United Nations (S/23456)	
Admission of new Members	3035
Letter dated 31 December 1991 from the President of the Republic of Armenia addressed to the Secretary-General (S/23405)	
Admission of new Members	3036
Letter dated 6 January 1992 from the President of the Republic of Kyrgyzstan addressed to the Secretary-General (S/23450)	
Admission of new Members	3037
Letter dated 6 January 1992 from the President of the Republic of Uzbekistan addressed to the Secretary-General (S/23451)	
Admission of new Members	3038
Letter dated 16 January 1992 from the President of the Republic of Tajikistan addressed to the Secretary-General (S/23455)	
Admission of new Members	3041
Report of the Committee on the Admission of New Members concerning the application of the Republic of Armenia for admission to membership in the United Nations (S/23475)	
Admission of new Members	3042
Report of the Committee on the Admission of New Members concerning the application of the Republic of Kyrgyzstan for admission to membership in the United Nations (S/23476)	
Admission of new Members	3043
Report of the Committee on the Admission of New Members concerning the application of the Republic of Uzbekistan for admission to membership in the United Nations (S/23477)	
Admission of new Members	3044
Report of the Committee on the Admission of New Members concerning the application of the Republic of Tajikistan for admission to membership in the United Nations (S/23478)	
Admission of new Members	3045
Letter dated 17 January 1992 from the President of the Republic of Moldova addressed to the Secretary-General (S/23468)	
Admission of new Members	3047
Report of the Committee on the Admission of New Members concerning the application of the Republic of Moldova for admission to membership in the United Nations (S/23511)	

<i>Agenda item</i>	<i>Meetings</i>
Admission of new Members Letter dated 20 January 1992 from the President of Turkmenistan addressed to the Secretary-General (S/23489 and Corr.1)	3048
Admission of new Members Report of the Committee on the Admission of New Members concerning the application of Turkmenistan for admission to membership in the United Nations (S/23523)	3050
Admission of new Members Letter dated 14 January 1992 from the President of the Republic of Azerbaijan addressed to the Secretary-General (S/23558)	3051
Admission of new Members Report of the Committee on the Admission of New Members concerning the application of the Republic of Azerbaijan for admission to membership in the United Nations (S/23569)	3052
Admission of new Members Letter dated 19 February 1992 from the Secretary of State for Foreign and Political Affairs of the Republic of San Marino addressed to the Secretary-General (S/23619)	3054
Admission of new Members Report of the Committee on the Admission of New Members concerning the application of the Republic of San Marino for admission to membership in the United Nations (S/23634)	3056
Admission of new Members Letter dated 11 February 1992 from the President of the Republic of Croatia addressed to the Secretary-General (S/23884)	3073
Admission of new Members Letter dated 5 May 1992 from the President of the Republic of Slovenia addressed to the Secretary-General (S/23885)	3074
Admission of new Members Report of the Committee on the Admission of New Members concerning the application of the Republic of Croatia for admission to membership in the United Nations (S/23935)	3076
Admission of new Members Report of the Committee on the Admission of New Members concerning the application of the Republic of Slovenia for admission to membership in the United Nations (S/23936)	3077
Admission of new Members Letter dated 8 May 1992 from the Minister for Foreign Affairs of the Republic of Bosnia and Herzegovina addressed to the Secretary-General (S/23971)	3078

<i>Agenda item</i>	<i>Meetings</i>
Admission of new Members	3079
Report of the Committee on the Admission of New Members concerning the application of the Republic of Bosnia and Herzegovina for admission to membership in the United Nations (S/23974)	
Admission of new Members	3090
Letter dated 6 May 1992 from the President of the State Council of the Republic of Georgia addressed to the Secretary-General (S/24116)	
Admission of new Members	3091
Report of the Committee on the Admission of New Members concerning the application of the Republic of Georgia for admission to membership in the United Nations (S/24231)	
United Nations peacekeeping operations	2924
The situation concerning Western Sahara	
Report of the Secretary-General	
(S/21360)	2929
(S/22464 and Corr.1)	2984
(S/23299)	3025
Items relating to the situation between Iraq and Kuwait	
The situation between Iraq and Kuwait	2932, 2933
Letter dated 2 August 1990 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council (S/21423)	
Letter dated 2 August 1990 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/21424)	
The situation between Iraq and Kuwait	2934
Letter dated 2 August 1990 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council (S/21423)	
Letter dated 2 August 1990 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/21424)	
Letter dated 8 August 1990 from the Permanent Representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates to the United Nations addressed to the President of the Security Council (S/21470)	
The situation between Iraq and Kuwait	2937
Letter dated 2 August 1990 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council (S/21423)	
Letter dated 2 August 1990 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/21424)	

Letter dated 8 August 1990 from the Permanent Representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates to the United Nations addressed to the President of the Security Council (S/21470)

Letter dated 18 August 1990 from the Permanent Representative of Italy to the United Nations addressed to the President of the Security Council (S/21561)

The situation between Iraq and Kuwait

2938

Letter dated 2 August 1990 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council (S/21423)

Letter dated 2 August 1990 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/21424)

Letter dated 8 August 1990 from the Permanent Representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates to the United Nations addressed to the President of the Security Council (S/21470)

Letter dated 18 August 1990 from the Permanent Representative of Italy to the United Nations addressed to the President of the Security Council (S/21561)

Letter dated 24 August 1990 from the Permanent Representative of the Federal Republic of Germany to the United Nations addressed to the President of the Security Council (S/21634)

Letter dated 24 August 1990 from the Permanent Representative of Italy to the United Nations addressed to the President of the Security Council (S/21635)

Letter dated 24 August 1990 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council (S/21636)

Letter dated 24 August 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Spain to the United Nations addressed to the President of the Security Council (S/21637)

Letter dated 24 August 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/21638)

Letter dated 24 August 1990 from the Permanent Representatives of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates to the United Nations addressed to the President of the Security Council (S/21639)

The situation between Iraq and Kuwait

2939, 2942, 2943,
2950, 2951, 2959,
2960, 2962, 2963,
2978, 2979, 2981,
2983, 3004, 3061,
3098, 3108, 3117

The situation between Iraq and Kuwait

2940

Letter dated 15 September 1990 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council (S/21755)

Letter dated 15 September 1990 from the Permanent Representative of Italy to the United Nations addressed to the President of the Security Council (S/21756)

Letter dated 15 September 1990 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council (S/21757)

Letter dated 15 September 1990 from the Permanent Representative of Denmark to the United Nations addressed to the President of the Security Council (S/21758)

Letter dated 15 September 1990 from the Permanent Representative of the Federal Republic of Germany to the United Nations addressed to the President of the Security Council (S/21759)

Letter dated 15 September 1990 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council (S/21760)

Letter dated 15 September 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Finland to the United Nations addressed to the President of the Security Council (S/21761)

Letter dated 15 September 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Austria to the United Nations addressed to the President of the Security Council (S/21762)

Letter dated 15 September 1990 from the Permanent Representative of Hungary to the United Nations addressed to the President of the Security Council (S/21763)

Letter dated 15 September 1990 from the Permanent Representative of Spain to the United Nations addressed to the President of the Security Council (S/21764)

Letter dated 15 September 1990 from the Permanent Representative of the Netherlands to the United Nations addressed to the President of the Security Council (S/21765)

Letter dated 15 September 1990 from the Permanent Representative of Greece to the United Nations addressed to the President of the Security Council (S/21766)

Letter dated 15 September 1990 from the Permanent Representative of Ireland to the United Nations addressed to the President of the Security Council (S/21767)

Letter dated 15 September 1990 from the Permanent Representative of Sweden to the United Nations addressed to the President of the Security Council (S/21768)

Letter dated 15 September 1990 from the Permanent Representative of Norway to the United Nations addressed to the President of the Security Council (S/21769)

- Letter dated 15 September 1990 from the Permanent Representative of Portugal to the United Nations to the President of the Security Council (S/21770)
- Letter dated 15 September 1990 from the Permanent Representative of Australia to the United Nations addressed to the President of the Security Council (S/21771)
- Letter dated 15 September 1990 from the Permanent Representative of Luxembourg to the United Nations addressed to the President of the Security Council (S/21773)
- The situation between Iraq and Kuwait 2977
- Letter dated 23 January 1991 from the Permanent Representatives of Algeria, the Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia to the United Nations addressed to the President of the Security Council (S/22135)
- Letter dated 24 January 1991 from the Permanent Representative of Yemen to the United Nations addressed to the President of the Security Council (S/22144)
- Letter dated 28 January 1991 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council (S/22157)
- Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council (S/22435) 2982
- Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council (S/22442)
- The situation between Iraq and Kuwait 2985
- Statement by the President of the Security Council concerning the States that have invoked Article 50 of the Charter of the United Nations
- The situation between Iraq and Kuwait 2987
- Report of the Secretary-General pursuant to paragraph 19 of Security Council resolution 687 (1991) (S/22559)
- The situation between Iraq and Kuwait 2994
- Plan for the implementation of relevant parts of section C of Security Council resolution 687 (1991): report of the Secretary-General (S/22614)
- Note by the Secretary-General (S/22615)
- Report of the Secretary-General pursuant to paragraph 26 of Security Council resolution 687 (1991) (S/22660)
- The situation between Iraq and Kuwait 2995
- Letter dated 26 June 1991 from the Secretary-General addressed to the President of the Security Council (S/22739)
- The situation between Iraq and Kuwait 2996
- Letter dated 26 June 1991 from the Secretary-General addressed to the President of the Security Council (S/22739)

<i>Agenda item</i>	<i>Meetings</i>
Letter dated 28 June 1991 from the Secretary-General addressed to the President of the Security Council (S/22743)	
The situation between Iraq and Kuwait	3008
Report of the Secretary-General pursuant to paragraph 5 of Security Council resolution 706 (1991) (S/23006 and Corr.2)	
The situation between Iraq and Kuwait	3012
Report of the Secretary-General (S/22871/Rev.1)	
Note by the Secretary-General (S/22872/Rev.1 and Corr.1)	
The situation between Iraq and Kuwait	3058
Note by the Secretary-General (S/23643)	
The situation between Iraq and Kuwait	3059
Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council (S/22435)	
Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council (S/22442)	
Letter dated 5 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/23685)	
Letter dated 7 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/24393)	3105
Letter dated 7 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council (S/24394)	
Letter dated 7 August 1992 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council (S/24395)	
Letter dated 7 August 1992 from the Chargé d'affaires a.i. of the United States Mission to the United Nations addressed to the President of the Security Council (S/24396)	
Letter dated 24 August 1992 from the Secretary-General addressed to the President of the Security Council (S/24509)	3112
The situation between Iraq and Kuwait	3139
Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council (S/22435)	
Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council (S/22442)	

Letter dated 5 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/23685)

Letter dated 3 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/24386)

Letter dated 19 November 1992 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council (S/24828)

Items relating to the situation in Cambodia

The situation in Cambodia 2941, 3153

The situation in Cambodia 3014

Report of the Secretary-General (S/23097 and Add. 1)

The situation in Cambodia 3015

Letter dated 30 October 1991 from the representatives of France and Indonesia to the United Nations addressed to the Secretary-General (S/23177)

The situation in Cambodia

Report of the Secretary-General on Cambodia (S/23331 and Add. 1) 3029
(S/23613 and Add. 1) 3057

The situation in Cambodia

Special report of the Secretary-General on the United Nations Transitional Authority in Cambodia (S/24090) 3085

Second special report of the Secretary-General on the United Nations Transitional Authority in Cambodia (S/24286) 3099

Second progress report of the Secretary-General on the United Nations Transitional Authority in Cambodia (S/24578) 3124

The situation in Cambodia 3143

Report of the Secretary-General on the implementation of Security Council resolution 783 (1992) (S/24800)

Letter dated 7 December 1990 from the President of the Trusteeship Council addressed to the President of the Security Council (S/22008) 2972

The situation in Liberia

The situation in Liberia 2974

Letter dated 15 January 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Côte d'Ivoire to the United Nations addressed to the President of the Security Council (S/22076)

The situation in Liberia 3071

<i>Agenda item</i>	<i>Meetings</i>
The situation in Liberia	3138
Letter dated 28 October 1992 from the Permanent Representative of Benin to the United Nations addressed to the President of the Security Council (S/24735)	
Letter dated 18 November 1992 from the Minister for Foreign Affairs of Liberia addressed to the President of the Security Council (S/24825)	
Items relating to the situation in Angola	
Letter dated 17 May 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Angola to the United Nations addressed to the President of the Secretary-General (S/22609)	2991
Report of the Secretary-General on the United Nations Angola Verification Mission (S/22627 and Add. 1)	
Further report of the Secretary-General on the United Nations Angola Verification Mission (S/23671 and Add. 1)	3062
Further report of the Secretary-General on the United Nations Angola Verification Mission II	
(S/24145 and Corr.1)	3092
(S/24556)	3115
(S/24858 and Add. 1)	3144
Oral report of the Secretary-General on the United Nations Angola Verification Mission II	3120
Letter dated 27 October 1992 from the Secretary-General addressed to the President of the Security Council	3126
Letter dated 29 October 1992 from the Secretary-General addressed to the President of the Security Council (S/24736)	3130
Letter dated 18 December 1992 from the Secretary-General addressed to the President of the Security Council (S/24996)	3152
Items relating to the situation in the former Yugoslavia	
Letter dated 19 September 1991 from the Permanent Representative of Austria to the United Nations addressed to the President of the Security Council (S/23052)	3009
Letter dated 19 September 1991 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council (S/23053)	
Letter dated 20 September 1991 from the Permanent Representative of Hungary to the United Nations addressed to the President of the Security Council (S/23057)	
Letter dated 24 September 1991 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council (S/23069)	

<i>Agenda item</i>	<i>Meetings</i>
Letter dated 24 November 1991 from the Secretary-General addressed to the President of the Security Council (S/23239)	3018
Letter dated 21 November 1991 from the Permanent Representative of Germany to the United Nations addressed to the President of the Security Council (S/23232)	
Letter dated 26 November 1991 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council (S/23247)	
Report of the Secretary-General pursuant to Security Council resolution 721 (1991) (S/23280)	3023
Oral report of the Secretary-General pursuant to his further report of 5 and 7 January 1992	3027
Further report of the Secretary-General pursuant to Security Council resolution 721 (1991)	
(S/23363 and Add. 1)	3028
(S/23513)	3049
(S/23592 and Add. 1)	3055
Report of the Secretary-General pursuant to Security Council resolution 743 (1992) (S/23777)	3066, 3068
Letter dated 23 April 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Austria to the United Nations addressed to the President of the Security Council (S/23833)	3070
Letter dated 24 April 1992 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council (S/23838)	
Further report of the Secretary-General pursuant to Security Council resolution 749 (1992) (S/23900)	3075
Report of the Secretary-General pursuant to Security Council resolution 752 (1992) (S/24000)	3082
Letter dated 26 May 1992 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council (S/23997)	
Letter dated 27 May 1992 from the Minister for Foreign Affairs of Bosnia and Herzegovina addressed to the President of the Security Council (S/24024)	
Report of the Secretary-General pursuant to Security Council resolution 757 (1992) (S/24075 and Add. 1)	3083
Report of the Secretary-General pursuant to paragraph 15 of Security Council resolution 757 (1992) and paragraph 10 of resolution 758 (1992) (S/24100 and Corr.1)	3086
Oral reports of the Secretary-General on 26 and 29 June 1992 pursuant to Security Council resolution 758 (1992) (S/24201)	3087

<i>Agenda item</i>	<i>Meetings</i>
Further report of the Secretary-General pursuant to Security Council resolution 752 (1992) (S/24188)	3088
Further report of the Secretary-General pursuant to Security Council resolutions 757 (1992), 758 (1992) and 761 (1992) (S/24263 and Add. 1)	3093
Letter dated 11 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council (S/24264)	3097
Letter dated 12 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council (S/24265)	
Letter dated 13 July 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council (S/24266)	
Letter dated 13 July 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Slovenia to the United Nations addressed to the President of the Security Council (S/24270)	
Letter dated 17 July 1992 from the Permanent Representatives of Belgium, France and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council (S/24305)	
Report of the Secretary-General on the situation in Bosnia and Herzegovina (S/24333)	3100
Letter dated 4 August 1992 from the Chargé d'affaires a.i. of the United States Mission to the United Nations addressed to the President of the Security Council (S/24376)	3103
Letter dated 4 August 1992 from the Permanent Representative of Venezuela to the United Nations addressed to the President of the Security Council (S/24377)	
Report of the Secretary-General pursuant to Security Council resolution 762 (1992) (S/24353 and Add. 1)	3104
Letter dated 10 August 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council (S/24401)	3106
Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the President of the Security Council (S/24409)	
Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council (S/24410)	
Letter dated 11 August 1992 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the Security Council (S/24412)	
Letter dated 11 August 1992 from the Permanent Representative of Senegal to the United Nations addressed to the President of the Security Council (S/24413)	
Letter dated 11 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council (S/24415)	

Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to the President of the Security Council (S/24416)	
Letter dated 11 August 1992 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Security Council (S/24419)	
Letter dated 12 August 1992 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council (S/24423)	
Letter dated 13 August 1992 from the Permanent Representative of the United Arab Emirates to the United Nations addressed to the President of the Security Council (S/24431)	
Letter dated 13 August 1992 from the Permanent Representative of Bahrain to the United Nations addressed to the President of the Security Council (S/24433)	
Letter dated 13 August 1992 from the Permanent Representative of the Comoros to the United Nations addressed to the President of the Security Council (S/24439)	
Letter dated 13 August 1992 from the Permanent Representative of Qatar to the United Nations addressed to the President of the Security Council (S/24440)	
Letter dated 28 August 1992 from the Secretary-General addressed to the President of the Security Council	3111
The situation in Bosnia and Herzegovina	3113, 3122, 3150
Report of the Secretary-General on the situation in Bosnia and Herzegovina (S/24540)	3114
Draft resolution contained in document S/24570	3116
Further report of the Secretary-General pursuant to resolutions 743 (1992) and 762 (1992) (S/24600)	3118
Letter dated 10 August 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council (S/24401)	3119
Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the President of the Security Council (S/24409)	
Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council (S/24410)	
Letter dated 11 August 1992 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the Security Council (S/24412)	
Letter dated 11 August 1992 from the Permanent Representative of Senegal to the United Nations addressed to the President of the Security Council (S/24413)	

Letter dated 11 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council (S/24415)

Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to the President of the Security Council (S/24416)

Letter dated 11 August 1992 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Security Council (S/24419)

Letter dated 12 August 1992 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council (S/24423)

Letter dated 13 August 1992 from the Permanent Representative of the United Arab Emirates to the United Nations addressed to the President of the Security Council (S/24431)

Letter dated 13 August 1992 from the Permanent Representative of Bahrain to the United Nations addressed to the President of the Security Council (S/24433)

Letter dated 13 August 1992 from the Permanent Representative of the Comoros to the United Nations addressed to the President of the Security Council (S/24439)

Letter dated 13 August 1992 from the Permanent Representative of Qatar to the United Nations addressed to the President of the Security Council (S/24440)

Letter dated 5 October 1992 from the representatives of Egypt, the Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey addressed to the President of the Security Council (S/24620)

The situation in Bosnia and Herzegovina 3132

Letter dated 29 October 1992 from the Permanent Representative of Bosnia and Herzegovina addressed to the President of the Security Council (S/24740)

The situation in Bosnia and Herzegovina 3133

Report of the Secretary-General pursuant to Security Council resolution 781 (1992) (S/24767 and Add. 1)

Letter dated 6 November 1992 from the Secretary-General addressed to the President of the Security Council (S/24783)

The situation in Bosnia and Herzegovina 3134-3137

Letter dated 5 October 1992 from the representatives of Egypt, the Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey addressed to the President of the Security Council (S/24620)

Letter dated 4 November 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council (S/24761)

Letter dated 9 November 1992 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council (S/24785)	
Letter dated 9 November 1992 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council (S/24786)	
The situation in Bosnia and Herzegovina	3146
Letter dated 7 December 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council (S/24916)	
Report of the Secretary-General on the former Yugoslav Republic of Macedonia (S/24923)	3147
Letter dated 30 September 1991 from the Permanent Representative of Haiti to the United Nations addressed to the President of the Security Council (S/23098)	3011
Recommendation regarding the appointment of the Secretary-General of the United Nations	3017
Items relating to the situation in Somalia	
Letter dated 20 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Somalia to the United Nations addressed to the President of the Security Council (S/23445)	3039
The situation in Somalia	3060
(a) Letter dated 20 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Somalia to the United Nations addressed to the President of the Security Council (S/23445)	
(b) Report of the Secretary-General (S/23693 and Corr.1)	
The situation in Somalia	3069
Report of the Secretary-General (S/23829 and Add. 1 and 2)	
The situation in Somalia	
Report of the Secretary-General on the situation in Somalia (S/24343)	3101
(S/24480 and Add. 1)	3110
The situation in Somalia	3145
Letter dated 24 November 1992 from the Secretary-General addressed to the President of the Security Council (S/24859)	
Letter dated 29 November 1992 from the Secretary-General addressed to the President of the Security Council (S/24868)	
The responsibility of the Security Council in the maintenance of international peace and security	3046

The situation relating to Nagorny-Karabakh

- The situation relating to Nagorny-Karabakh 3072
 Letter dated 9 May 1992 from the Permanent Representative of Azerbaijan to the United Nations addressed to the President of the Security Council (S/23894)
 Letter dated 11 May 1992 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council (S/23896)
- The situation relating to Nagorny-Karabakh 3127
 Letter dated 12 October 1992 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council (S/24656)
- An agenda for peace: preventive diplomacy, peacemaking and peacekeeping 3089, 3128, 3154
 Report of the Secretary-General pursuant to the statement adopted by the Security Council at its summit meeting on 31 January 1992 (S/24111)

The question of South Africa

- The question of South Africa 3095, 3096
 Letter dated 2 July 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Madagascar to the United Nations addressed to the President of the Security Council (S/24232)
- The question of South Africa 3107
 Report of the Secretary-General on the question of South Africa (S/24389)
- The situation in Georgia 3121
 Letter dated 6 October 1992 from the First Deputy Foreign Minister of Georgia addressed to the President of the Security Council (S/24619)

The situation in Mozambique

- The situation in Mozambique 3123
 Report of the Secretary-General on the United Nations Operation in Mozambique (S/24642)
- The situation in Mozambique 3125
 Letter dated 23 October 1992 from the Secretary-General addressed to the President of the Security Council
- The situation in Mozambique 3149
 Report of the Secretary-General on the United Nations Operation in Mozambique (S/24892 and Corr.1 and Add.1)

<i>Agenda item</i>	<i>Meetings</i>
The situation in Tajikistan	3131
Letter dated 29 October 1992 from the Secretary-General addressed to the President of the Security Council (S/24739)	
Letter dated 19 October 1992 from the Permanent Representative of Kyrgyzstan to the United Nations addressed to the Secretary-General (S/24692)	
Letter dated 21 October 1992 from the Permanent Representative of Tajikistan to the United Nations addressed to the President of the Security Council (S/24699)	

Chapter I

Provisional rules of procedure of the Security Council

Contents

	<i>Page</i>
Introductory note	3
Part I. Meetings (rules 1-5).....	4
Note	4
Special cases concerning the application of rules 1-5	4
Part II. Representation and credentials (rules 13-17).....	10
Note	10
Special cases concerning the application of rules 13-17	10
Part III. Presidency (rules 18-20).....	11
Note	11
Special cases concerning the application of rules 18-20	13
Part IV. Secretariat (rules 21-26)	14
Note	14
Part V. Conduct of business (rules 27-36).....	14
Note	14
Special cases concerning the application of rules 27-36	15
Part VI. Languages (rules 41-47).....	18
Part VII. Publicity of meetings, records (rules 48-57).....	18
Note	18
Special cases concerning the application of rules 48-57	19

Introductory note

The present chapter contains material bearing upon the practice of the Security Council in relation to the provisional rules of procedure of the Security Council arranged as follows: part I, Meetings (rules 1-5); part II, Representation and credentials (rules 13-17); part III, Presidency (rules 18-20); part IV, Secretariat (rules 21-26); part V, Conduct of business (rules 27-36); part VI, Languages (rules 41-47); part VII, Publicity of meetings, records (rules 48-57).

The practice of the Council in relation to some of the provisional rules of procedure are more appropriately dealt with in other chapters of this *Supplement*, as follows: rules 6 to 12, in chapter II (Agenda); rule 28, in chapter V (Subsidiary organs of the Security Council); rules 37 and 39, in chapter III (Participation in the proceedings of the Security Council); rule 40, in chapter IV (Voting); rules 58 to 60, in chapter VII (Practice relative to recommendations to the General Assembly regarding membership in the United Nations); and rule 61, in chapter VI (Relations with other United Nations organs).

As in previous *Supplements*, the major headings under which the material is entered in this chapter follow the successive chapters of the provisional rules of procedure of the Security Council, with the exceptions noted above.

The material in this chapter relates to questions that arose regarding the application of a certain rule, especially when there was a discussion regarding variations from the Council's usual practice. The case histories presented here do not constitute cumulative evidence of the practice of the Council, but are indicative of special problems or issues that have arisen in the proceedings of the Council under its provisional rules of procedure.

During the period under review, the Council did not consider the adoption or amendment of its provisional rules of procedure.

Part I Meetings (rules 1-5)

Note

The material assembled in this section reflects the provisions of Article 28 of the Charter of the United Nations, and indicates special instances of the interpretation or application of rules 1 to 5 on the convening and place of Security Council meetings. During the period under review, there were cases falling under rules 1 to 3 (cases 1 to 5), rule 4 (case 6) and rule 5 (case 7).

In four instances, dealt with under rules 1 to 3, complaints were made about delays in convening meetings.

The meeting of the Security Council held at the level of Heads of State and Government, on 31 January 1992, has been included under rule 4, although it was not convened explicitly under that rule or Article 28 (2) of the Charter.¹

During the period under review, the Security Council met away from Headquarters on one occasion (case 7). A communication was also received that called for a meeting of the Council to be held away from Headquarters.²

The members of the Council continued to meet frequently in the format of informal consultations of the whole.

Special cases concerning the application of rules 1-5

Rule 1

Meetings of the Security Council shall, with the exception of the periodic meetings referred to in rule 4, be held at the call of the President at any time he deems necessary, but the interval between meetings shall not exceed fourteen days.

Rule 2

The President shall call a meeting of the Security Council at the request of any member of the Security Council.

Rule 3

The President shall call a meeting of the Security Council if a dispute or situation is brought to the attention of the Security Council under Article 35 or under Article 11 (3) of the Charter, or if the General Assembly makes recommendations or refers any question to the Security Council under Article 11 (2), or if the Secretary-General brings to the attention of the Security Council any matter under Article 99.

Case 1

By a letter dated 20 November 1990 addressed to the President of the Security Council,³ the representatives of Colombia, Cuba, Malaysia and Yemen requested a meeting on Wednesday, 21 November 1990, to put to the vote a draft resolution they had sponsored in connection with the situation in the occupied Arab territories.⁴

At the 2959th meeting, on 27 November 1990, the representative of Cuba, speaking on a point of order prior to the adoption of the agenda, said that it was exactly one week since four members of the Council had formally requested the convening of a meeting to consider the draft resolution. Their request, which was fully in accordance with the provisional rules of procedure of the Security Council, had

¹ In a statement made at the 1544th meeting, on 12 June 1970, the President announced the Council's decision to hold a periodic meeting, in accordance with Article 28 (2), and outlined broadly the nature and purposes of periodic meetings. The first periodic meeting of the Council (the 1555th meeting) was held in private on 21 October 1970. For details, see *Supplement 1969-1971*, under the same heading.

² Letter dated 15 August 1990 from the representative of the Libyan Arab Jamahiriya addressed to the Secretary-General, transmitting a letter from the leader of the Libyan Arab Jamahiriya (S/21529, annex).

³ S/21952.

⁴ S/21933.

received no response, and the Council had not yet been able to meet to consider the draft resolution.⁵

The President (United States of America) proposed that informal consultations be held immediately after the meeting to consider the matter raised by the representative of Cuba. He noted that the revised draft resolution had just been circulated and that, in the tradition of the Security Council, delegations were extended a courtesy period to consider such drafts.

The representative of Cuba wondered whether an informal meeting was needed in order to consider the official request of the four delegations that the draft resolution, already in the possession of the members of the Council, be considered. Noting that there had been three weeks of consultations on the draft resolution, the representative of Yemen, one of its co-sponsors, officially moved that the Council meet at 3 o'clock that afternoon to consider the issue and the draft resolution. The representative of Malaysia believed that there was a definite majority in the Council in favour of considering now in a formal way the item mentioned by Cuba and Yemen, and of taking a vote on it. He therefore appealed to the President to take immediate steps to act accordingly.

The representative of the United Kingdom of Great Britain and Northern Ireland suggested that the President, who had expressed his willingness to schedule informal consultations, should propose a time for those consultations. His delegation had a number of observations that it would wish to make on the text that had just been circulated. He therefore thought that the Council should follow the normal practice where texts were concerned, and have informal consultations. The representative of Finland voiced his delegation's support for the idea of having informal consultations that day, as early as possible, in order to see where members stood on the matter.

The President repeated his invitation to the Council to meet in informal consultations immediately following the present meeting. He hoped that through that process the Council would be able to reach an early decision on what it would be doing next in regard to that item.

The representative of Cuba accepted the President's proposal on the understanding that, as a

⁵ S/PV.2959, p. 3.

result of the informal consultations, the Council would be able to take action on the draft resolution.⁶

At the 2963rd meeting, on 29 November 1990, the representative of Cuba, referring to the request for a meeting of the Council in connection with the same draft resolution, stated that the President had ignored that request, "bypassing the established rules and procedures".⁷ At the same meeting, the representative of Malaysia expressed his deep disappointment with the Council over its inability for more than three weeks to address properly the question of Palestinians in the occupied territories. All attempts to bring about a proper consideration of the matter, including a vote, had been deliberately thwarted, raising questions on the procedure and conduct of the Council.⁸

At the 2966th meeting, held on 8 December 1990, in connection with the occupied Arab territories, the representative of Colombia, opposing the proposal to adjourn the meeting,⁹ recalled that more than 15 days had passed since a request had been made for a Security Council meeting to consider formally the above-mentioned draft resolution.¹⁰

Case 2

By a letter dated 23 January 1991, addressed to the President of the Security Council,¹¹ the representatives of Algeria, the Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia requested that the President convene "an urgent meeting of the Security Council to consider the grave situation in the Gulf region". By a letter dated 23 January 1991, addressed to the President of the Security Council,¹² the representative of the Sudan stated that his country supported the request made by the States members of the Arab Maghreb Union. By a letter dated 24 January 1991, addressed to the President of the Security Council,¹³ the representative of Yemen requested "an immediate meeting of the Security Council to examine the grave situation in the Gulf region". By a letter

⁶ Ibid., pp. 3-6, 10 (President); pp. 6, 11 (Cuba); p. 7 (Yemen); p. 8 (Malaysia); pp. 8-9 (United Kingdom); and p. 9 (Finland).

⁷ S/PV.2963, p. 56.

⁸ Ibid., p.77.

⁹ See case 14.

¹⁰ S/PV.2966, p. 11.

¹¹ S/22135.

¹² S/22138.

¹³ S/22144.

dated 25 January 1991, addressed to the President of the Security Council,¹⁴ the representative of Jordan stated that his country supported the request made by Yemen and the States members of the Arab Maghreb Union for the convening of an immediate meeting of the Security Council. By a letter dated 28 January 1991, addressed to the President of the Security Council,¹⁵ the representative of Cuba requested that the President “call a formal meeting of the Security Council as soon as possible”. He concluded his letter by saying that he would be grateful if the President “would immediately call a formal meeting of the Security Council”.

At the outset of the 2976th meeting, held on 31 January in connection with the situation between Iran and Iraq, the representative of Cuba said that his delegation was unable to vote in favour of the provisional agenda listing that item without voicing its deep dissatisfaction that the Council had failed to consider a serious problem that was of concern to the entire world. Despite the fact that for more than one week a group of “Council members”¹⁶ had been asking for a meeting on an urgent basis and despite the fact that two members of the Council had requested that the Council meet to consider the war situation in the Gulf region, thus far the Council had not done so, “notwithstanding the clear and categorical provisions set forth in the Council’s provisional rules of procedure”.¹⁷

Speaking after the adoption of the agenda, the representative of Yemen stated that it was regrettable that the Security Council had, to date, been unable to accede to his request to convene a meeting under rule 2 of the provisional rules of procedure. He said that it was “the first time in the history of the Security Council” that a request of this kind had not been accepted.¹⁸ The representative of Cuba considered it ironic that, while the Council was considering the end of the conflict that had so long divided Iran and Iraq, it had not yet been able to meet, as required by its provisional rules of procedure, to fulfil its responsibilities in the case of the Gulf conflict. He

stated that “the members of the Council must not be deprived of the right under the Charter to be heard. Above all, the Council must not be placed in a situation in which it could be found to be ignoring the norms governing its activities”.¹⁹

At the close of the meeting, the President (Zaire) responded to the representative of Yemen as follows: “[A]ll members of the Council are aware that rule 2 of the provisional rules of procedure was duly applied by the President. He has thus received a mandate from all members of the Council to conduct consultations. It is clearly understood that the members of the Council are unanimous in supporting the principle of convening a formal meeting of the Council. The President has therefore received a mandate to convene [consultations] to agree on the date of that meeting.” He concluded by saying that the President for February would continue the consultations and prepare for the formal meeting.²⁰

In a letter dated 31 January 1991, addressed to the President of the Security Council,²¹ the representative of Yemen referred to his letter of 24 January 1991, quoted rule 2 of the provisional rules of procedure of the Security Council and deplored the fact that the President of the Security Council had not yet acceded to his request for an immediate meeting of the Council. This was, in his view, a “dangerous precedent for the conduct of the work of the Council in accordance with its provisional rules of procedure”. He added that: “Rule 2 of the provisional rules of procedure of the Security Council is abundantly clear, and the request of any member of the Council for a meeting of the Council is not subject to or linked with any prior conditions. The grave precedent established by the procrastination and delay in acceding to our request will give the opportunity for the Council to be accused of employing double standards in the positions that it adopts.”

A meeting was eventually convened on 13 February 1991. At its 2977th meeting, in connection with the situation between Iraq and Kuwait, the Council included in its agenda the letter dated 23 January 1991 from representatives of the States

¹⁴ S/22147.

¹⁵ S/22157.

¹⁶ States members of the Arab Maghreb Union.

¹⁷ S/PV.2976, p. 2. For the discussion that followed relating to the adoption of the agenda in that instance, see chapter II, case 3.

¹⁸ S/PV.2976, p. 11.

¹⁹ *Ibid.*, pp. 12-13

²⁰ *Ibid.*, pp. 13-14.

²¹ S/22185.

members of the Arab Maghreb Union,²² the letter dated 24 January 1991 from the representative of Yemen,²³ and the letter dated 28 January 1991 from the representative of Cuba.²⁴

During the debate, the representative of Cuba, in connection with what he termed “the inexplicable delay in convening the Security Council”, quoted from a letter dated 21 April 1966, from the representative of the United States addressed to the President of the Security Council.²⁵ He stated that the Council was meeting for the first time on the twenty-eighth day of the war, despite the efforts that had been made and the specific requests that had been put forward for some time, not only by members of the Security Council, but also by other Members of the United Nations, on whose behalf it was to be assumed the members of the Council act.²⁶

The representative of the United States said that the Council should meet when it was in a position to advance its objectives and to take action. That did not seem to be the case given the continuing refusal of Iraq to acknowledge the validity of the Council’s demands.²⁷

The representative of India noted that the Council had kept the matter under review through informal consultations. That practice ought to continue. However, the informal meetings could not be a permanent substitute for official meetings of the Council. The Council’s failure to meet formally since the expiry on 15 January of the deadline set by resolution 678 (1990) had not reflected well on the prestige of the Council and the United Nations.²⁸

The representative of Austria observed that one of the considerations motivating his country’s idea of holding a formal private meeting was to uphold rule 2 of the provisional rules of procedure, a rule that was of particular importance in protecting the rights of members of the Security Council who found themselves in a minority.²⁹

In a letter dated 14 February 1991, addressed to the President of the Security Council,³⁰ the representatives of the States members of the Arab Maghreb Union stated that they regretted that it had taken the Security Council three weeks to act on their request for a meeting.

Case 3

By a letter dated 27 April 1992, addressed to the President of the Security Council,³¹ the representative of Cuba requested the convening of a meeting of the Council as soon as possible to consider the “terrorist activities being carried out against the Republic of Cuba”. By a letter dated 8 May 1992 addressed to the President of the Security Council,³² the representative of Cuba reiterated his request, stressing that it was “a formal request, made by a State Member of the United Nations exercising its right under Article 35 of the San Francisco Charter, bearing in mind the obligation of the Council under Article 24 of the Charter”. He noted that, on the basis of that right and that obligation, there had been a well-established and generally respected practice since the inception of the United Nations. By a letter dated 13 May 1992, addressed to the President of the Security Council,³³ the representative of Cuba reiterated his country’s request for a meeting. At its

²² Letter dated 23 January 1991 from the representatives of Algeria, the Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia addressed to the President of the Security Council, S/22135.

²³ S/22144.

²⁴ S/22157.

²⁵ S/7261. The representative of Cuba read out four paragraphs of the letter, including the following:

“Even if a majority of Council members are opposed to a meeting, the meeting must be held. Those members opposed to the meeting may express their views on the agenda when the meeting is convened may seek to adjourn the meeting, or to defeat proposals submitted to it, but the President is bound to convene the Council on a request under rule 2, unless that request is not pressed.

“Subject to rule 2, the President is given, under rule 1, the authority and responsibility to set the time of a meeting. In so doing, the President acts not as a representative of his country but as a servant of the Council, and he does not exercise an arbitrary or unfettered discretion. His decision must be related to the requirements of Articles 24 and 28 of the Charter and of rule 2 of the provisional rules of procedure, and to the urgency of the request and situation. A request for an urgent meeting must be respected and decided upon on an urgent basis, and the timing established responsive to the urgency of the situation.” (S/PV.2977 (Part I), p. 22)

²⁶ S/PV.2977 (Part I), p. 23; see also S/PV.2977 (Part II) (closed), pp. 56-57.

²⁷ S/PV.2977 (Part I), pp. 46-47.

²⁸ *Ibid.*, p. 51.

²⁹ *Ibid.*, p. 53; see also pp. 54-55 (France); and p. 58 (Ecuador).

³⁰ S/22237.

³¹ S/23850.

³² S/23890.

³³ S/23913.

3080th meeting, on 21 May 1992, the Council included Cuba's letter of 27 April in its agenda and considered the matter at the same meeting.

Case 4

By a letter dated 5 October 1992 addressed to the President of the Security Council,³⁴ the members of the Contact Group of the Organization of the Islamic Conference³⁵ called for an immediate meeting of the Security Council to consider the situation in Bosnia and Herzegovina.

At the 3135th meeting, held on 13 November 1992 to consider the item, the representative of Malaysia regretted the delay in convening the meeting. He added that: "The right of Member States to ask for an emergency meeting of the Security Council, with formal debate, to consider such a serious situation, involving a breach of international law and threatening international peace and security, has always to be respected by the Council."³⁶

At the 3136th and 3137th meetings, on 16 November 1992, the representatives of Pakistan and the Comoros expressed satisfaction that the meeting had finally been convened.³⁷

Case 5

By a letter dated 15 August 1989 addressed to the President of the Security Council,³⁸ the Secretary-General expressed deep concern about the tragic events in Lebanon, and reported that the violence in and around Beirut had escalated to a level unprecedented in 14 years of conflict. He concluded by stating: "In my opinion, the present crisis poses a serious threat to international peace and security. Accordingly, in the exercise of my responsibility under the Charter of the United Nations, I ask that the Security Council be convened urgently in order to contribute to a peaceful solution of the problem." Looking back at the end of 1989 on these events in Lebanon, the Secretary-General recalled that in August he had "felt compelled, for the first time in [his] tenure as Secretary-General, to invoke Article 99

³⁴ S/24620.

³⁵ Egypt, Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey.

³⁶ S/PV.3135, p. 28.

³⁷ S/PV.3136, pp. 28-30; S/PV.3137, p. 22.

³⁸ S/20789.

of the Charter".³⁹ In response to the Secretary-General's urgent appeal, the Security Council met on the same day, 15 August 1989, to consider the item entitled "The situation in the Middle East: letter dated 15 August 1989 from the Secretary-General addressed to the President of the Security Council".⁴⁰

Rule 4

Periodic meetings of the Security Council called for in Article 28 (2) of the Charter shall be held twice a year, at such times as the Security Council may decide.

Case 6

At its 3046th meeting, on 31 January 1992, the Security Council convened for the first time in its history at the level of Heads of State or Government,⁴¹ to consider an item entitled "The responsibility of the Security Council in the maintenance of international peace and security".

In his introductory statement, the President (United Kingdom) described the meeting as "unique" and "extraordinary". In convening the meeting he had intended that the discussion could serve, among other things, to reaffirm the principle of collective security, to consider anew the means by which it is upheld through the United Nations, and as an opportunity for

³⁹ Report of the Secretary-General of 22 November 1989 on the situation in the Middle East (S/20971, para. 43).

⁴⁰ See S/PV. 2875. See also chapter VI, case 14, regarding this invocation of Article 99 of the Charter.

⁴¹ With the exception of Hungary and Zimbabwe, all of the members of the Council were represented at the meeting by their Heads of State or Government. The 2608th meeting, on 26 September 1985, was held at the Foreign Minister level to commemorate the fortieth anniversary of the United Nations. At the 2750th meeting, on 20 July 1987, seven members were represented at the Foreign Minister level, including France, the United Kingdom and the United States, while Japan was represented by its Vice-Minister for Foreign Affairs. At the 2943rd meeting, on 25 September 1990, all the members of the Council, except Côte d'Ivoire and Cuba, were represented at the Foreign Minister level. Similarly, at the 2963rd meeting, on 29 November 1990, all the members of the Council, with the exception of Côte d'Ivoire and Yemen, were represented by their Foreign Ministers. At the 3009th meeting, on 25 September 1991, all the members of the Council, with the exception of Côte d'Ivoire, Yemen and Zaire, were represented by their Foreign Ministers.

renewed commitment to international peace and security through reinforced arms control.⁴²

In the course of the debate, the Secretary-General suggested that the Council meet at the “summit level periodically to take stock of the state of the world”. This would “strengthen the tone of authority” that the United Nations needed and help ensure its transformation before its fiftieth anniversary in 1995.⁴³

In letters relating to the 3046th meeting, Member States variously referred to the “special meeting of the United Nations Security Council to be held at the highest political level”,⁴⁴ the “unprecedented summit level session of the Council”,⁴⁵ “this historic meeting”,⁴⁶ “the summit meeting of the Security Council”,⁴⁷ and “the meeting of the Security Council held at the level of Heads of State and Government”.⁴⁸

In his report entitled “An Agenda for Peace” dated 17 June 1992,⁴⁹ the Secretary-General recommended that the Heads of State and Government of the members of the Council meet in alternate years, before the general debate in the General Assembly.⁵⁰

Rule 5

Meetings of the Security Council shall normally be held at the seat of the United Nations.

Any member of the Security Council or the Secretary-General may propose that the Security Council should meet at another place. Should the Security Council accept any such proposal, it shall decide upon the place, and the period during which the Council shall meet at such place.

Case 7

By a letter dated 21 May 1990, addressed to the President of the Security Council,⁵¹ the representative of Bahrain in his capacity as Chairman of the Arab Group requested an immediate meeting of the Security Council in connection with the situation in the occupied Arab territories. In accordance with the understanding reached during informal consultations on 22 May 1990, the Council held its 2923rd meeting at the United Nations Office at Geneva on 25 May 1990.⁵²

⁴² S/PV.3046, pp. 2-6.

⁴³ *Ibid.*, p. 8.

⁴⁴ Letter dated 22 January 1992 from the representative of Iceland addressed to the Secretary-General, transmitting the Reykjavik Statement on the United Nations issued on 21 January 1992 by the Foreign Ministers of the Nordic countries (S/23457).

⁴⁵ Letter dated 29 January 1992 from the representative of Brazil addressed to the President of the Security Council, transmitting a letter from the President of the Federal Republic of Brazil addressed to the Prime Minister of the United Kingdom of Great Britain and Northern Ireland (S/23493).

⁴⁶ Letter dated 31 January 1992 from the representative of Argentina addressed to the President of the Security Council transmitting a letter from the President of the Republic of Argentina addressed to the Prime Minister of the United Kingdom of Great Britain and Northern Ireland (S/23503).

⁴⁷ Letter dated 3 February 1992 from the representative of Mexico addressed to the Secretary-General, enclosing a statement issued by the Government of Mexico (S/23509).

⁴⁸ Letter dated 26 May 1992 from the representatives of Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Honduras, Jamaica, Mexico, Paraguay, Uruguay and Venezuela addressed to the Secretary-General, submitting “Guidelines for strengthening the capacity of the United Nations in the area of preventive diplomacy, peacemaking and peacekeeping” (S/24025).

⁴⁹ S/24111, submitted pursuant to the request of the Council contained in the statement by the President of 31 January 1992 (S/23500).

⁵⁰ S/24111, para. 79.

⁵¹ S/21300.

⁵² Notes by the President of the Security Council dated 22 and 23 May 1990 (S/21309 and S/21310, respectively).

Part II

Representation and credentials (rules 13-17)

Note

Since 1948, the reports of the Secretary-General on the credentials of the representatives of members of the Security Council have been circulated to the delegations of all members of the Council and, in the absence of a request that they be considered by the Council, have been considered approved without objection. In practice, however, the credentials under rule 13 have been submitted and reported on by the Secretary-General only at times when changes in the representation of members of the Council have been made and when, at the beginning of each year, the representatives of the newly elected non-permanent members of the Council have been designated. That practice was followed during the period under review.

By a letter dated 24 December 1991,⁵³ the Secretary-General requested the President of the Security Council to bring to the attention of the members of the Council the text of a letter of the same date from the representative of the Union of Soviet Socialist Republics, transmitting to the Secretary-General a letter, also of the same date, from the President of the Russian Federation. In his letter, the President of the Russian Federation informed the Secretary-General that the membership of the Union of Soviet Socialist Republics in the United Nations, including the Security Council, was being continued by the Russian Federation, and requested the Secretary-General to consider that letter as confirmation of the credentials to represent the Russian Federation in the United Nations organs for all the persons currently holding the credentials of representatives of the Union of Soviet Socialist Republics to the United Nations.⁵⁴

In one instance, during the period under review, the Council received two requests to participate on behalf of a Member State and asked the Secretary-General to prepare a report on credentials under rule 15 (case 8).

⁵³ Not issued as a Security Council document. See note to membership of the Security Council in *Resolutions and Decisions of the Security Council, 1991*, p. v.

⁵⁴ For further details, see chapter VII.

Special cases concerning the application of rules 13-17

Rule 15

The credentials of representatives on the Security Council and of any representative appointed in accordance with rule 14 shall be examined by the Secretary-General who shall submit a report to the Security Council for approval.

Case 8

By a letter dated 20 December 1989 addressed to the President of the Security Council,⁵⁵ the representative of Nicaragua requested a meeting of the Council to consider the situation in Panama.

At its 2901st meeting, on 21 December 1989, the Council, at the request of the United States, voted on the proposal to invite Panama to participate in the discussion.⁵⁶ Speaking in explanation of vote, the United States stated that, although it had abstained, it had no objection to the State of Panama being represented in the debate. The problem was that the Council was being asked to decide the question of participation in a way that did not permit it to consider the question of who would represent Panama.⁵⁷ Other members of the Council underlined that their vote did not prejudge that question.⁵⁸ The President (Colombia) informed the Council that he had received two requests for participation in the debate as representative of Panama. It was his understanding that the Council wished to ask the Secretary-General to prepare a report on credentials under rules 14 and 15 of its provisional rules of procedure.⁵⁹

At its 2902nd meeting, on 23 December 1989, the Council took note of the report on credentials submitted by the Secretary-General in accordance with

⁵⁵ S/21034.

⁵⁶ The proposal was adopted by 14 votes in favour (Algeria, Brazil, Canada, China, Colombia, Ethiopia, Finland, France, Malaysia, Nepal, Senegal, Union of Soviet Socialist Republics, United Kingdom, Yugoslavia), with one abstention (United States).

⁵⁷ S/PV.2901, p. 6.

⁵⁸ *Ibid.*, p. 6 (United Kingdom); and p. 7 (France, Canada).

⁵⁹ *Ibid.*, p. 7.

rule 15.⁶⁰ The President then informed the Council that both requests to participate had been withdrawn in writing.

In his report, the Secretary-General recalled the provisions of the Charter and the provisional rules of procedure applicable to the invitation of non-members of the Security Council and the submission of credentials for their representatives. He then quoted rule 15 and added: "It follows from that rule that the credentials have to be reported upon by the Secretary-General but that the determination as to their approval has to be made by the Council itself. It may be added here that invitations under rule 37 have become so frequent that, in the practice of the Council, the procedure foreseen in rule 15 is not always observed and the Secretary-General is not regularly requested to report on credentials of representatives of States invited under rule 37. That does not mean, however, that the procedure foreseen under rule 15 has become obsolete. In case of doubt, it can be and is applied. The criteria which the Secretary-General must apply when examining a credential under rule 15 are formal in nature. Under international law a credential is a document which certifies that one or several persons are entitled to represent a given State. Such documents must be issued by the Head of the State to be represented, by the Head of its Government or by its Minister for Foreign Affairs, that is, one of the three persons which are presumed under international law to represent their country without having to produce a

credential. The Secretary-General, therefore, must examine whether the document contains a clear authorization to represent a country and whether it is signed by one of the persons cited above."⁶¹

Examining the two requests received, the Secretary-General concluded that, from a formal point of view, both met the technical requirements of a credential, albeit a provisional one since they had reached him in telefaxed form. However, the two communications emanated from contending authorities on the ground. As the Secretary-General was not in a position to clarify the factual situation on the ground, he was not able to formulate an opinion as to the adequacy of the provisional credentials that had been submitted.

Noting that the General Assembly had approved at its forty-fourth session credentials issued by the Government of Panama in which the signatory of the first request had later assumed the post of Foreign Minister, the report of the Secretary-General referred to General Assembly resolution 396 (V), which is designed to avoid conflicting practice of the various organs in matters of recognition of the representation of Member States. It quoted paragraph 3 of that resolution, in which the Assembly recommended that "the attitude adopted by the General Assembly ... concerning any such question should be taken into account in other organs of the United Nations and in the specialized agencies".⁶²

⁶⁰ S/21047.

⁶¹ *Ibid.*, pp. 1-2.

⁶² *Ibid.*, p.3.

Part III Presidency (rules 18-20)

Note

Part III of the present chapter deals with proceedings of the Security Council directly related to the Office of the President. Material relevant to the exercise by the President of his functions in connection with the agenda is dealt with in chapter II. Material pertaining to the exercise by the President of his functions in the conduct of meetings is included in part V of this chapter.

During the period under review, there was no special case concerning the application or interpretation of rule 18, which provides for the monthly rotation of the presidency in the English alphabetical order of the names of the members of the Council. No exception was made to that rule when, on two occasions, States members of the Council changed their names. In the first instance, the application of rule 18 caused a Council member to hold the presidency twice in one year, while in the second instance the order of the rotation of the presidency was not affected. Democratic Yemen, which had been elected to the

Council for a term of office starting on 1 January 1990, held the presidency of the Council in March 1990. On 22 May 1990, Democratic Yemen merged with Yemen to form a single State with the name “Yemen”. As a result, Yemen held the presidency in December 1990, after the United States. By a letter dated 24 December 1991, during the presidency of the Union of Soviet Socialist Republics, the President of the Russian Federation informed the Secretary-General that the membership of the Union of Soviet Socialist Republics in the United Nations, including the Security Council, was being continued by the Russian Federation.⁶³ He requested that the name “Russian Federation” be used in the United Nations in place of the name “Union of Soviet Socialist Republics”. Owing to the composition of the Council, the change of name did not affect the order of rotation according to rule 18.⁶⁴

There were no special instances concerning rule 19, which deals with the conduct of the presidency. On one occasion, the President represented the Security Council in ascertaining Iraq’s irrevocable and unqualified acceptance of resolution 687 (1991) and noting, on behalf of the members of the Council, that the conditions in paragraph 33 of that resolution had been met and that the formal ceasefire referred to in that paragraph was therefore effective.⁶⁵

There was one instance of the application of rule 20, which deals with the temporary cession of the chair by the President (case 9).

During the period under review, the members of the Council continued to use informal consultations as a procedure for reaching decisions. On many occasions, the President presented the results of such consultations to the Council in the form of a statement of consensus made on behalf of the members,⁶⁶ or as a draft resolution, which the Council then adopted without further debate.⁶⁷ In other instances, the

628 (1989); S/20400, adopted without change as resolution 629 (1989); S/20429, adopted without change as resolution 630 (1989); S/20449, adopted without change as resolution 631 (1989); S/20466, adopted without change as resolution 632 (1989); S/20656, adopted without change as resolution 633 (1989); S/20679, adopted without change as resolution 634 (1989); S/20690, adopted without change as resolution 635 (1989); S/20752, adopted without change as resolution 637 (1989); S/20755, adopted without change as resolution 639 (1989); S/20873, adopted without change as resolution 642 (1989); S/20951, adopted without change as resolution 644 (1989); S/20996, adopted without change as resolution 645 (1989); S/21020, adopted without change as resolution 646 (1989); S/21073, adopted without change as resolution 647 (1990); S/21117, adopted without change as resolution 648 (1990); S/21184, adopted without change as resolution 649 (1990); S/21207, adopted without change as resolution 650 (1990); S/21217, adopted without change as resolution 651 (1990); S/21258, adopted without change as resolution 653 (1990); S/21286, adopted without change as resolution 654 (1990); S/21325, adopted without change as resolution 655 (1990); S/21350, adopted without change as resolution 656 (1990); S/21357, adopted without change as resolution 657 (1990); S/21376, adopted without change as resolution 658 (1990); S/21411, adopted without change as resolution 659 (1990); S/21471, adopted without change as resolution 662 (1990); S/21562, adopted without change as resolution 664 (1990); S/21800, adopted without change as resolution 668 (1990); S/21811, adopted without change as resolution 669 (1990); S/21822, adopted without change as resolution 671 (1990); S/21927, adopted without change as resolution 675 (1990); S/21970, adopted without change as resolution 676 (1990); S/21972, adopted without change as resolution 679 (1990); S/22000, adopted without change as resolution 680 (1990); S/22022, adopted without change as resolution 681 (1990); S/21988/Rev.2, adopted with oral amendments as resolution 682 (1990); S/22170, adopted without change as resolution 684 (1991); S/22171, adopted without change as resolution 685 (1991); S/22470, adopted with one oral amendment as resolution 689 (1991); S/22525, adopted without change as resolution 690 (1991); S/22564, adopted without change as resolution 691 (1991); S/22616, adopted without change as resolution 693 (1991); S/22633, adopted without change as resolution 694 (1991); S/22650, adopted without change as resolution 696 (1991); S/22652, adopted without change as resolution 696 (1991); S/22700, adopted without change as resolution 697 (1991); S/22857, adopted without change as resolution 701 (1991); S/22940, adopted without change as resolution 705 (1991); S/22984, adopted without

⁶³ For further details, see chapter VII.

⁶⁴ The following countries were members of the Security Council in 1992: Austria, Belgium, Cape Verde, China, Ecuador, France, Hungary, India, Japan, Morocco, Russian Federation, United Kingdom, United States, Venezuela, Zimbabwe.

⁶⁵ Letter dated 11 April 1991 from the President of the Security Council addressed to the representative of Iraq (S/22485).

⁶⁶ See decisions collected in chapter IV, part IV, section B.1.

⁶⁷ S/20374, adopted without change as resolution 627 (1989); S/20399, adopted without change as resolution

change as resolution 708 (1991); S/23090, adopted without change as resolution 714 (1991); S/23137, adopted without change as resolution 716 (1991); S/23145, adopted without change as resolution 717 (1991); S/23180, adopted without change as resolution 718 (1991); S/23196, adopted without change as resolution 719 (1991); S/23245, adopted without change as resolution 721 (1991); S/23250, adopted without change as resolution 722 (1991); S/23281, adopted without change as resolution 723 (1991); S/23285, adopted without change as resolution 724 (1991); S/23330, adopted without change as resolution 725 (1992); S/23372, adopted without change as resolution 726 (1992); S/23382, adopted without change as resolution 727 (1992); S/23383, adopted without change as resolution 728 (1992); S/23411, adopted without change as resolution 729 (1992); S/23427, adopted without change as resolution 730 (1992); S/23461, adopted without change as resolution 733 (1992); S/23483, adopted without change as resolution 734 (1992); S/23534, adopted without change as resolution 740 (1992); S/23523, adopted without change as resolution 741 (1992); S/23620, adopted without change as resolution 743 (1992); S/23651, adopted without change as resolution 745 (1992); S/23722, adopted without change as resolution 746 (1992); S/23743, adopted without change as resolution 747 (1992); S/23788, adopted without change as resolution 749 (1992); S/23797, adopted without change as resolution 750 (1992); S/23834, adopted without change as resolution 751 (1992); S/24026, adopted without change as resolution 756 (1992); S/24078, adopted without change as resolution 758 (1992); S/24084, adopted without change as resolution 759 (1992); S/24114, adopted without change as resolution 760 (1992); S/24199, adopted without change as resolution 761 (1992); S/24207, adopted without change as resolution 762 (1992); S/24267, adopted without change as resolution 764 (1992); S/24288, adopted without change as resolution 765 (1992); S/24320, adopted without change as resolution 766 (1992); S/24347, adopted without change as resolution 767 (1992); S/24360, adopted without change as resolution 768 (1992); S/24382, adopted without change as resolution 769 (1992); S/24444, adopted without change as resolution 772 (1992); S/24487, adopted without change as resolution 774 (1992); S/24497, adopted without change as resolution 775 (1992); S/24617, adopted without change as resolution 779 (1992); S/24650, adopted without change as resolution 782 (1992); S/24652, adopted without change as resolution 783 (1992); S/24737, adopted without change as resolution 784 (1992); S/24738, adopted without change as resolution 785 (1992); S/24784, adopted without change as resolution 786 (1992); S/24827, adopted without change as resolution 788 (1992); S/24841, adopted without change as resolution 789

President announced the agreement or consensus in a statement, note or letter circulated as a Council document.⁶⁸

For instance, the outcome of reviews of the various measures imposed against Iraq carried out pursuant to resolution 687 (1991)⁶⁹ was communicated by the President of the Security Council in statements to the media or presidential statements issued as documents of the Security Council. Such statements typically provided that “after hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes” that were in force.⁷⁰

Special cases concerning the application of rules 18-20

Rule 20

Whenever the President of the Security Council deems that for the proper fulfilment of the responsibilities of the presidency he should not preside over the Council during the consideration of a particular question with which the member he represents is directly connected, he shall indicate his decision to the Council. The presidential chair shall then devolve, for the purpose of the consideration of that question, on the representative of the member next

(1992); S/24842, adopted without change as resolution 790 (1992); S/24861, adopted without change as resolution 791 (1992); S/24863, adopted without change as resolution 793 (1992); S/24880, adopted without change as resolution 794 (1992); S/24940, adopted without change as resolution 795 (1992); S/24949, adopted without change as resolution 796 (1992); S/24941, adopted without change as resolution 797 (1992); S/24987, adopted without change as resolution 799 (1992).

⁶⁸ For the presidential statements issued only as Security Council documents see chapter IV, part IV, section B.2. For decisions recorded in letters or notes, see chapter IV, part IV, section C.

⁶⁹ Resolution 687 (1991) of 3 April 1991, paras. 21 and 28.

⁷⁰ Letter dated 6 August 1991 from the President of the Security Council addressed to the Secretary-General (S/22904). Notes by the President of the Security Council (S/23107 of 2 October 1991; S/23305 of 20 December 1991, reissued for technical reasons on 6 March 1992; S/23517 of 5 February 1992; S/23761 of 27 March 1992; S/24010 of 27 May 1992; S/24352 of 27 July 1992; S/24584 of 24 September 1992; S/24843 of 24 November 1992).

in English alphabetical order, it being understood that the provisions of this rule shall apply to the representatives on the Security Council called upon successively to preside. This rule shall not affect the representative capacity of the President as stated in rule 19, or his duties under rule 7.

Case 9

At the 2907th meeting of the Council, on 9 February 1990, convened at Cuba's request to consider the item entitled "Letter dated 2 February 1990 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council (S/21120)", the President (Cuba) stated that the item on the agenda directly involved the interests of Cuba and the United States. He quoted rule 20 of the provisional rules of procedure of the Security Council and noted that it placed the decision whether

or not to vacate the Chair — provided that the circumstances envisaged by the rule existed — entirely within the discretion of the President. The precedents he had examined revealed that Presidents of the Council had not made it a habit to vacate their seats because the Council was considering situations with which their Governments were directly concerned. In fact, he had found only two precedents in the Council's practice over the past 25 years. Nonetheless, he had decided that it would be appropriate for him to exercise the discretion given to the President under rule 20 and to vacate the Chair while the item was under discussion.⁷¹ Consequently, in accordance with rule 20, he invited the representative of Democratic Yemen to preside over the meeting for the consideration of that item.

⁷¹ S/PV.2907, pp. 6-7.

Part IV Secretariat (rules 21-26)

Note

Part IV relates to rules 21 to 26 of the provisional rules of procedure, which set out the specific functions and powers of the Secretary-General in connection with the meetings of the Security Council.⁷² These rules reflect

the provisions of Article 98 of the Charter insofar as they concern the requirements of the Security Council.

There were no special instances of the application of rules 21 to 26 during the period under review.

Instances in which the Secretary-General was requested or authorized by the Security Council to carry out other functions, in accordance with Article 98 of the Charter, are dealt with in chapter VI (Relations with other United Nations organs).

⁷² Under rule 24 the Secretary-General has provided not only the required staff to service meetings of the Council, but also made available staff for subsidiary organs of the Council both at Headquarters and in the field.

Part V Conduct of business (rules 27-36)

Note

Part V sets out the cases bearing on rules 27 and 29 to 36. Material relating to rule 28 can be found in chapter V (Subsidiary organs of the Security Council). Material relating to rules 37 to 39 is included in chapter III (Participation in the proceedings of the Security Council).

As in previous volumes of the *Repertoire*, the cases assembled here are indicative of the special

problems that arose in the application of the rules on the conduct of business, rather than the routine practice of the Council. They relate to such matters as:

(a) Rule 27, on the order of intervention in the debate (cases 10-12);

(b) Rule 30, on the extent to which the President rules on a point of order (case 13). Those instances in which representatives, having asked to be recognized on a point of order, made statements in

which no ruling was required have not been included in the present study;⁷³

(c) Rule 33, on the suspension and adjournment of meetings (cases 14-16).

An instance of the application of rule 36, on the order in which amendments are put to the vote, has also been included for its illustrative value (case 17).

During the period under review there were no special instances of the application of rules 29, 31, 32, 34 and 35.

The provisional rules of procedure of the Security Council do not contain a rule permitting the President to call speakers to order if their remarks are not relevant to the item under discussion.⁷⁴ However, there have been instances where Presidents have expressed their regret or displeasure at the language used by a speaker. At the 2981st meeting, held on 3 April 1991 in connection with the situation between Iraq and Kuwait, the representative of Iraq referred to the representative of Kuwait as “a man with no identity, personal or national”.⁷⁵ The President (Belgium) stated that he regretted “the manner in which the representative of Iraq had referred to his colleague from Kuwait”.⁷⁶

Special cases concerning the application of rules 27-36

Rule 27

The President shall call upon representatives in the order in which they signify their desire to speak.

Case 10

At the 2898th meeting of the Council, held on 14 December 1989 in connection with the situation in Cyprus, the representative of Greece, who had been

invited to participate under rule 37, suggested that the President of the Security Council might wish to place before the members of the Council a proposal — in the light of Security Council resolutions 541 (1983) and 550 (1984), and bearing in mind rules 27, 29, 37 and 39 of the Council’s provisional rules of procedure — that precedence should be given to representatives of Member States who wished to address the Council over persons entitled to address the Council under rule 39.⁷⁷ No action was taken in response to the proposal at that meeting.

Case 11

At the 2938th meeting, held on 25 August 1990 in connection with the situation between Iraq and Kuwait, the representative of Iraq stated that he had asked to speak before the vote in order to show the “illegality” under the Charter of the resolution just adopted by the Council.⁷⁸ He noted that the President, “without citing a precedent or procedure”, had denied him that privilege.

Case 12

At the 2977th meeting, held on 14 February 1991 in connection with the situation between Iraq and Kuwait, the representative of the United States, speaking after the representative of Kuwait, addressed a number of questions to the representative of Kuwait “in full knowledge of, and in keeping with, our provisional rules of procedure”.⁷⁹ The next speaker, the representative of Saudi Arabia, expressed his willingness, if the President so wished, to let the representative of Kuwait answer the questions put to him before making his own statement. The President (Zimbabwe) called on the representative of Kuwait, who was interrupted by the representative of Yemen on a point of order. The representative of Yemen recalled that members of the Security Council had agreed to abide strictly by the provisional rules of procedure and affirmed that the representative of Kuwait had every right to answer the questions addressed to him, but “should do so in accordance with the list of speakers”. In other words, he should inscribe his name at the end of the list.⁸⁰

⁷³ For example, at the 2970th meeting, held on 19 December 1990 in connection with the situation in the occupied Arab territories, the representative of the United Kingdom requested on a point of order that the President call on the representative of Finland to report on his contacts with members of the Council on the matter before it. The President called on the representative of Finland, who presented his report.

⁷⁴ See rule 68 of the rules of procedure of the General Assembly.

⁷⁵ S/PV.2981, p. 133.

⁷⁶ *Ibid.*, p. 137.

⁷⁷ S/PV.2898, p. 40.

⁷⁸ S/PV.2938, p. 66.

⁷⁹ S/PV.2977 (Part II) (closed), p. 26.

⁸⁰ *Ibid.*, p. 28.

The representative of the United States, speaking on the point of order raised by the representative of Yemen, stated that it was clear that the representative of Saudi Arabia, who was next on the list of speakers, had “yielded his priority to the representative of Kuwait, in accordance with rule 27 of the provisional rules of procedure”. He noted that, normally, members of the Council exerted “their right to priority to appear on the list” without prior clearance by the other Council members. In fact, he had inscribed his name only hours before in the second place on the list, without seeking the permission of eight other Council members. In the absence of objection on the part of other members, there should be “no reason why, in the careful following of the rules of procedure”, the Council should not proceed to hear the response of the representative of Kuwait.⁸¹

The representative of Cuba underlined that his delegation had no objection to any representative who had “requested to participate in our deliberations, doing so as many times as he or she feels necessary”. However, the meeting was to be conducted in accordance with the rules of procedure. In his view, “the representative of the United States [had] the right to propose that the relevant rule not be applied, but not that a new list of speakers be drawn up”. If the representative of Saudi Arabia did not wish to speak, but preferred to yield his place on the list, the next speaker on that list ought to follow him. The representative of Cuba noted that “the Council should follow the order of the list of speakers, or it should determine that the United States has raised a point of order and proposed that the rule not be applied and that a different order be followed. In that event, the Council would have to take a decision, and if the majority of members [did] not agree with the proposal, the letter of rule 27 must be observed”.⁸²

The representative of Zaire was of the opinion that the representative of Saudi Arabia “could, under rule 27, yield his place to the representative of Kuwait if he wish[ed] to do so”. He questioned whether the

Council could prevent the representative of Kuwait from speaking, even if he had to do so several times, in order to inform the Council on all aspects of the conflict, which primarily concerned Kuwait. He also pointed out that the closed meeting had been convened to permit a frank exchange of views. The representative of Kuwait should therefore be allowed to answer the questions put to him by the representative of the United States.⁸³ The representative of the United Kingdom agreed “that the right thing [was] to allow the representative of Kuwait, who [was] a party to this dispute, to answer the questions”. It would be better to allow the President to “apply the rules of procedure as they are and to allow the representative of Kuwait to reply to the questions”.⁸⁴ The representative of Cuba proposed that the Council respect rule 27 of its rules of procedure and that if necessary a vote should be taken.⁸⁵

The President then explained that it had been his understanding that the representative of Saudi Arabia had ceded his place on the list to the representative of Kuwait. If that had not been the intention of the representative of Saudi Arabia, there had been a misunderstanding. He had called on the representative of Kuwait on the basis that the representative of Saudi Arabia was willing to wait until a later stage to make his presentation, and to have a new place on the list of speakers.⁸⁶ The representative of Saudi Arabia explained that he had not intended to cede his position on the list of speakers. He had been, and still was, prepared to wait while the representative of Kuwait spoke, before making his own presentation. The President stated that, in the light of this explanation, the representative of Saudi Arabia had the floor; the representative of Kuwait could reply to the questions at a later stage.⁸⁷

Rule 30

If a representative raises a point of order, the President shall immediately state his ruling. If it is challenged, the President shall submit his ruling to the Security Council for immediate decision and it shall stand unless overruled.

⁸¹ Ibid., p. 28.

⁸² Ibid., p. 31.

⁸³ Ibid., p. 32.

⁸⁴ Ibid., p. 33.

⁸⁵ Ibid., p. 33.

⁸⁶ Ibid., pp. 34-35.

⁸⁷ Ibid., p. 36.

Case 13

At the 2976th meeting, held on 31 January 1991 in connection with the situation between Iran and Iraq, the representative of Cuba took the floor before the adoption of the agenda, voicing his delegation's "deep dissatisfaction" that the Council had not been able to consider a "serious problem" of concern to the entire world.⁸⁸ The representative of the United States, speaking on a point of order, submitted that, unless the representative of Cuba had a proposal to make with respect to the provisional agenda, the debate into which he was entering was out of order.⁸⁹ The President (Zaire) noted that the Council had before it a provisional agenda. If the representative of Cuba wished to raise a point of order under rule 30, the President would be obliged to ask the members of the Council to take an immediate decision on his ruling with regard to the adoption of the provisional agenda.⁹⁰ The President reminded the Council that it was proceeding according to rule 9 of the provisional rules of procedure. If a member objected to the adoption of the provisional agenda he would be obliged to put that challenge to the vote. Speaking on the point of order, the representative of Yemen contended that rule 9 did not preclude a statement by a member of the Council before the adoption of the agenda. The President reiterated that the agenda had to be adopted first. If his ruling were challenged, he would request the Council to take a decision on that challenge. Those who voted against that challenge would be in favour of the strict application of rule 9. The representative of Yemen clarified that he had not challenged what the President had said about rule 9. The provisional agenda was adopted without objection.⁹¹

Rule 33

The following motions shall have precedence in the order named over all principal motions and draft resolutions relative to the subject before the meeting:

1. *To suspend the meeting;*
2. *To adjourn the meeting;*
3. *To adjourn the meeting to a certain day or hour;*

⁸⁸ S/PV.2976, p. 2.

⁸⁹ Ibid., p. 3.

⁹⁰ Ibid., p. 3.

⁹¹ See also chapter II.

4. *To refer any matter to a committee, to the Secretary-General or to a rapporteur;*

5. *To postpone discussion of the question to a certain day or indefinitely; or*

6. *To introduce an amendment.*

Any motion for the suspension or for the simple adjournment of the meeting shall be decided without debate.

Case 14

At the 2966th meeting, held on 8 December 1990 in connection with the situation in the occupied Arab territories, the representative of the Union of Soviet Socialist Republics moved, under rule 33.3, that the Council should adjourn the meeting until Monday, 10 December, at 3 p.m.⁹²

Following statements by several representatives, the representative of Zaire expressed his surprise that the Council had engaged in a discussion although rule 33 stated quite clearly in its last paragraph that any motion for the suspension or simple adjournment of the meeting should be decided without debate.⁹³ In reply, the President (Yemen) explained that the applicable rule was rule 33.3, concerning the adjournment of the meeting to a certain day or hour, and that, under point 3, discussion was permitted.⁹⁴ The proposal to adjourn the meeting was put to the vote and adopted.⁹⁵

Case 15

At the 2970th meeting, held on 19 December 1990 in connection with the situation in the occupied Arab territories, the representative of the United Kingdom proposed the suspension of the meeting, in accordance with rule 33.1 of the provisional rules of procedure.⁹⁶ After reading out the applicable rule, the President (Yemen) noted that it did not specify whether a vote was necessary on the motion to suspend. In the absence of objection, the meeting would be suspended to a further time to be decided by the President.⁹⁷ Following an objection from the representative of

⁹² S/PV.2966, p. 6.

⁹³ Ibid., p. 17.

⁹⁴ Ibid., p. 18.

⁹⁵ The proposal was adopted by 9 votes in favour, 4 against, with 2 abstentions.

⁹⁶ S/PV.2970 (Part I), p. 7.

⁹⁷ Ibid., p. 7.

Malaysia, the motion to suspend the meeting was put to the vote and adopted by 9 votes to 6.

Case 16

At the 2972nd meeting, held on 22 December 1990 in connection with the letter dated 7 December 1990 from the President of the Trusteeship Council addressed to the President of the Security Council, the representative of Cuba proposed that the meeting be adjourned until Tuesday, 8 January 1991 at 3 p.m., in accordance with rule 33.3. He stated that the Council had not had an opportunity to consider in depth the situation that was the subject of the agenda item, and that there were very specific requests from the representatives of the people whose destiny the Council would be deciding, asking the Council not to take a hasty decision.⁹⁸ The representative of the United States opposed the proposal to adjourn for several reasons and expressed the view that, in accordance with the agreement reached in informal consultations the day before, the Council should proceed to the vote on the agenda item before it.⁹⁹ The Cuban motion to adjourn the meeting was put to the vote but was not adopted.¹⁰⁰

⁹⁸ S/PV.2972, pp. 2-3. The item concerned the partial termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands. See also chapter VI, case 9.

⁹⁹ S/PV.2972, pp. 3-7.

¹⁰⁰ The vote was 2 in favour, 9 against, and 4 abstentions.

Rule 36

If one or more amendments to a motion or draft resolution are proposed, the President shall rule on the order in which they are to be voted upon. Ordinarily, the Security Council shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed until all amendments have been put to the vote, but when an amendment adds to or deletes from the text of a motion or draft resolution, that amendment shall be voted on first.

Case 17

At its 2978th meeting, held on 2 March 1991, in connection with the situation between Iraq and Kuwait, the Council had before it a draft resolution submitted by the United States.¹⁰¹ Members also had before them 18 amendments submitted by Cuba.¹⁰² After quoting rule 36 of the Council's provisional rules of procedure, the President (Austria) set out the order in which he intended to put the amendments to the vote.¹⁰³ The Council proceeded to vote on the amendments in that order.

¹⁰¹ S/22298.

¹⁰² Contained in documents S/22300 to S/22317.

¹⁰³ S/PV.2978, p. 7.

Part VI Languages (rules 41-47)

During the period under review, there were no special cases concerning the application of rules 41 to 47.

Part VII Publicity of meetings, records (rules 48-57)

Note

Rule 48 provides that, unless it decides otherwise, the Security Council shall meet in public. In accordance with rule 49, the verbatim records of each meeting are made available in the working languages to the representatives on the Security Council, as well

as to the representatives of any other States that participated in the meeting — not later than 10 a.m. of the first working day following the meeting. A note is incorporated in the copies of the record showing the time and date of distribution. Corrections, in the same language as the text to which they refer, may be submitted and are issued as corrigenda to the published

verbatim record. In one instance during the period under review, there was an agreed waiver of the requirement laid down in rule 49 regarding the time of issuance of the verbatim record of the meeting (case 19).

The Council has opted on occasion to discuss certain matters in private. During the period under review, the Council held five private meetings.¹⁰⁴ The deliberations leading to the holding of a private meeting in connection with the situation between Iraq and Kuwait are considered below (case 18). At the close of each meeting, the Council issued a communiqué through the Secretary-General, in accordance with rule 55 of the provisional rules of procedure. In one instance, it also released the record of the private meeting (case 20).

Special cases concerning the application of rules 48-57

Rule 48

Unless it decides otherwise, the Security Council shall meet in public. Any recommendation to the General Assembly regarding the appointment of the Secretary-General shall be discussed and decided at a private meeting.

¹⁰⁴ The five private meetings were the following:

<i>Meeting</i>	<i>Date</i>	<i>Agenda item</i>
2892	17 November 1989	Consideration of the draft report of the Security Council to the General Assembly
2958	23 November 1990	Consideration of the draft report of the Security Council to the General Assembly
3017	21 November 1991	Recommendation regarding the appointment of the Secretary-General of the United Nations
2977 (Part II), resumed 5 times	14, 15, 16, 23 and 25 February and 2 March 1991	The situation between Iraq and Kuwait
3020	29 November 1991	Consideration of the draft report of the Security Council to the General Assembly

Case 18

At the 2977th meeting of the Council, held on 13 February 1991, in connection with the situation between Iraq and Kuwait, the representative of the United Kingdom proposed that, in accordance with rule 48 of the provisional rules of procedure, the Council should meet in private to consider the item on the agenda. He noted that, as a general rule, the Council should meet in public, as envisaged by the provisional rules of procedure. However, the rules of procedure also provided for private meetings in exceptional circumstances. In the view of his delegation, the circumstances were indeed exceptional. The Council should do nothing that could detract from its unity of purpose or blur the signal sent to the outside world. The present occasion called for serious and careful consideration of all developments away from the glare of immediate publicity. The representative recalled that, in the context of Western Sahara in 1975, the Council had decided that a private meeting would best assist the exploratory discussion on that issue. It had chosen a format that had enabled it to enter into a dialogue with the participants. The speaker believed that that format offered the right model for the current meeting. He explained that his proposal was not intended to limit participation or restrict knowledge of the proceedings: all Members of the United Nations would be free to attend and participate, and the verbatim record would be taken and circulated. He believed, however, that the Council would carry out its functions better if the public aspect of the meeting — the presence of the media — did not influence or even distort the course and nature of its debate.¹⁰⁵

The representative of Yemen opposed the proposal put forward by the United Kingdom. He argued that since the Council represented the entire membership of the United Nations and all the peoples of the world, it was — save in exceptional circumstances — expected to meet in public, and in a clear and transparent manner. Recalling three exceptions to that established tradition, he stated that the purpose of holding the present meeting in private was not to put questions to a delegation, or to listen to the parties concerned, or to hear new information from any quarter, as in previous cases, but solely to exclude the media. He contended that no problem was created by difference of opinion, pointing out that the situation in the Gulf had been debated in public for over six

¹⁰⁵ S/PV.2977 (Part I), pp. 2-4.

months and that public opinion deserved to be informed. In fact, it was in the interest of the Council and the United Nations that the Council should be constantly scrutinized by other Members of the United Nations and public opinion.¹⁰⁶

The representative of Cuba also opposed the proposal. He regretted that the representative of the United Kingdom had not pointed to the very valuable precedent of the first private meeting held in 1956. On that occasion, the Council had heard statements in public meetings before holding a private meeting. He also wondered how the Council could avoid giving the impression that it was divided or lacked cohesiveness when it met three weeks after being requested to do so. The Council, he said, had been considering the same subject, with full publicity, for six and a half months and differences of opinion had been expressed. The representative believed that the Council must meet in public, in keeping with the requests made by a number of sovereign Member States. It must also meet in public because the war was of legitimate concern to all Member States and peoples of the world who had the right to know the views of the Council.¹⁰⁷

The representative of the Union of Soviet Socialist Republics was of the view that a public debate might hinder the efforts made by the Soviet Union and other countries to achieve a peaceful settlement, whereas a “comprehensive and businesslike” discussion in a private meeting might provide these efforts with the necessary additional impetus.¹⁰⁸

The representative of the United States supported the holding of a private meeting because it would enable those delegations that wished to do so to express their views and to exchange ideas in an appropriate setting. He hoped that it would “offer the opportunity for a serious and constructive discussion, free from the glare of instantaneous publicity and the misinterpretation and misuse to which [the] meeting might be subject”.¹⁰⁹

The representative of India stated that informal consultations, although they were useful and should continue, could not be a permanent substitute for official meetings. In his delegation’s view, it would be proper and desirable for the meeting to be public, in

accordance with the Council’s normal practice. A decision to depart from this normal practice should be taken only in very special circumstances. His delegation was not convinced that the present circumstances justified such an exception but would respect the Council’s decision, should it decide, by majority, to convert the meeting into a private one. This was provided for by the Council’s rules of procedure, but it would be the first time that such an important decision would be taken by vote. His delegation expected that, in the near future, the Council would revert to its traditional method of meeting in public.¹¹⁰

The proposal to continue the meeting in private was put to the vote and adopted.¹¹¹

In a letter dated 14 February 1991 addressed to the President of the Security Council,¹¹² the representatives of the States members of the Arab Maghreb Union, who had requested the meeting, expressed regret that the Council had created a precedent by deciding that the general debate would be held in closed session. They confirmed that they would not be participating in the closed meetings.

Rule 49

Subject to the provisions of rule 51, the verbatim record of each meeting of the Security Council shall be made available to the representatives on the Security Council and to the representatives of any other States which have participated in the meeting not later than 10 a.m. of the first working day following the meeting.

Case 19

A note by the President of the Security Council dated 22 May 1990,¹¹³ referred to the understanding reached in informal consultations among the members of the Council that a meeting of the Council would be held at the United Nations Office at Geneva on 25 May 1990, and stated that the members of the Council had also agreed to waive the requirement laid down in rule 49 regarding the time of issuance of the verbatim

¹⁰⁶ Ibid., pp. 6-12.

¹⁰⁷ Ibid., pp. 18-37.

¹⁰⁸ Ibid., pp. 37-41.

¹⁰⁹ Ibid., p. 42.

¹¹⁰ Ibid., pp. 51-52.

¹¹¹ Proposal adopted by 9 votes in favour to 2 against (Cuba and Yemen), with 4 abstentions (China, Ecuador, India and Zimbabwe).

¹¹² S/22237.

¹¹³ S/21310.

record of the meeting. The verbatim record would, accordingly, be issued in New York at a later date.¹¹⁴

Rule 51

The Security Council may decide that for a private meeting the record shall be made in a single copy alone. This record shall be kept by the Secretary-General. The representatives of the States which have participated in the meeting shall, within a period of ten days, inform the Secretary-General of any corrections they wish to have made in this record.

Case 20

At its 2977th meeting, held on 13 February 1991 in connection with the situation between Iraq and Kuwait, the Council decided to continue the meeting in

private, without having resort to the provisions of rule 51. The representative of the United Kingdom stated that his delegation's proposal to continue the meeting in private was not intended "to limit participation or restrict knowledge of the proceedings", adding that "the normal verbatim record would be taken and circulated".¹¹⁵ Opposing the proposal, the representative of Yemen pointed out that the verbatim record would in any event be available on the day after the meeting.¹¹⁶ Supporting the proposal, the representative of the United States noted that it would permit all who wished to do so to express their views in an appropriate setting, while allowing them to get their statements on record.¹¹⁷

The verbatim record of the second part of the 2977th meeting, held in private, was prepared and distributed in the same way as the record of a public meeting.¹¹⁸

¹¹⁴ The meeting was held to consider the item entitled "The situation in the occupied Arab territories: letter dated 21 May 1990 from the Permanent Representative of Bahrain to the United Nations addressed to the President of the Security Council (S/21300)"; see S/PV.2923.

¹¹⁵ S/PV.2977 (Part I), p. 4. See case 18 above.

¹¹⁶ S/PV.2977 (Part I), p. 7.

¹¹⁷ *Ibid.*, p. 42.

¹¹⁸ S/PV.2977 (Part II) (closed) and resumption 1-5 (closed).

Chapter II

Agenda

Contents

	<i>Page</i>
Introductory note	25
Part I. The provisional agenda (rules 6-8 and 12)	26
Note	26
Preparation of the provisional agenda (rule 7)	26
Part II. Adoption of the agenda (rule 9)	27
Note	27
Precedence of the decision on adoption of the agenda	27
Part III. The agenda: matters of which the Security Council is seized (rules 10 and 11)	28
Note	28
Retention and deletion of items from the summary statements by the Secretary-General on matters of which the Security Council is seized (rule 11)	29
A. Items added to the list of matters of which the Security Council was seized during the period 1989-1992	30
B. Items that appeared in previous volumes of the <i>Repertoire</i> on which new action by the Security Council was reported in summary statements issued during the period 1989-1992	45
C. Items that were deleted from the list of matters of which the Security Council was seized during the period 1989-1992	50

Introductory note

The present chapter concerns the interpretation and application of rules 6 to 12 of the provisional rules of procedure of the Security Council, relating to the agenda. The chapter is divided into three parts: Part I, The provisional agenda (rules 6-8 and rule 12); Part II, Adoption of the agenda (rule 9); and Part III, The agenda: matters of which the Security Council is seized (rules 10 and 11).

Part I provides information concerning the preparation of the provisional agenda (rule 7). No material was found relating to the circulation of communications by the Secretary-General (rule 6) or the communication of the provisional agenda (rules 8 and 12).

Part II contains material relating to the precedence of the decision on the adoption of the agenda. During the period under review, no other material was found for inclusion under rule 9.

Part III relates to the list of matters of which the Council is seized. There was no discussion concerning the application of rule 10 during the period under review. The table appearing under rule 11 supplements those contained in the previous volumes of the *Repertoire*. It indicates the changes that have since occurred in the list of matters of which the Council is seized.

Part I

The provisional agenda (rules 6-8 and 12)

Note

The provisional agenda, prepared by the Secretary-General and approved by the President of the Security Council in accordance with rule 7, includes those items that have been brought to the attention of the Council under rule 6. Under that rule, “the Secretary-General shall immediately bring to the attention of all representatives on the Security Council all communications from States, organs of the United Nations, or the Secretary-General concerning any matter for the consideration of the Security Council in accordance with the provisions of the Charter”. Effect is normally given to this rule by the distribution of communications as documents in the S/— series. Communications from regional arrangements or agencies received pursuant to Article 54 of the Charter are also circulated in the S/— series of documents. During the period under review, no material was found for inclusion under rule 6.¹

Rule 7 entrusts the drawing up of the provisional agenda for each meeting to the Secretary-General, subject to the approval of the President of the Security Council. The Secretary-General’s discretion with respect to the inclusion of new items is restricted to those items that have been brought to the attention of the Council under rule 6. In addition to the express provisions of rule 7, the Secretary-General also has to take into account whether a specific request to include the item has been made. During the period under review, there was one instance in which the subject of

¹ While the application of rule 6 was not discussed, a complaint was made at the 2928th meeting, on 15 June 1990, relating to the circulation of letters and statements. At that meeting, the representative of Cyprus referred to the “unacceptable practice of the representative of Turkey to the United Nations, repeated many times, of requesting circulation and having circulated as United Nations documents letters and statements emanating from and expressing the views of the pseudo-State [the “Turkish Republic of Northern Cyprus”] which was strongly and unequivocally condemned by the Security Council in resolutions 541 (1983) and 550 (1984)”. See S/PV.2928, p. 21; see also letters from the representative of Turkey addressed to the Secretary-General (S/20821, S/20845 and S/20903).

the preparation of the provisional agenda gave rise to a discussion (case 1).

Rule 8 concerns communication of the provisional agenda, and rule 12, paragraph 1, concerns such communication for periodic meetings. No material relating to these rules was found during the period under review.

Preparation of the provisional agenda (rule 7)

Case 1

The provisional agenda for the 2959th meeting of the Security Council,² held on 27 November 1990 in connection with the situation between Iraq and Kuwait, read as follows:

- “1. Adoption of the agenda
- “2. The situation between Iraq and Kuwait”.

Speaking on a point of order at the outset of the meeting, the representative of Cuba proposed that an additional item be added to the provisional agenda, so that the Council could consider a draft resolution on the situation in the territories occupied by Israel.³ He explained that his delegation was obliged to submit this proposal at the formal meeting of the Council since, contrary to the Council’s usual practice, the meeting had not been preceded by informal consultations to consider the provisional agenda. He added that it had been a week since four members of the Council had asked the President to convene a meeting to consider the draft resolution in question, and that they had not yet received a response.

The President (United States) stated that no informal meeting had been held in the present case because the Council was resuming consideration of an item. In such circumstances, it was the Council’s standard practice to hold meetings without prior consultations. The President added that, as he had indicated to a representative of the group sponsoring the draft resolution to which Cuba referred, he was

² S/Agenda/2959.

³ Draft resolution submitted by Colombia, Cuba, Malaysia and Yemen (S/21933/Rev.1).

prepared to hold informal consultations on the matter immediately after the presentation that morning by the representative of Kuwait. There followed a discussion concerning the delay in convening a meeting to discuss

the draft resolution.⁴ The original agenda was thereupon adopted without objection.

⁴ See also chapter I, case 1.

Part II Adoption of the agenda (rule 9)

Note

Under rule 9, the first item on the provisional agenda for each meeting of the Security Council is the adoption of the agenda.⁵ It has been the practice of the Council to adopt the provisional agenda without a vote, either with or without amendments, unless an objection is raised. As in previous volumes of the *Repertoire*, this part is devoted to the proceedings of the Council on those occasions when objection was raised to the adoption of the agenda or other discussion took place in connection with the adoption of the agenda.

Two case histories have been included concerning the precedence of the decision on the adoption of the agenda (cases 2 and 3).

During the period under review, participation in discussions related to the adoption of the agenda was limited to members of the Council.

⁵ During the period under review, there were instances in which, in accordance with past practice, the President of the Council made preliminary remarks before the adoption of the agenda. These included expressions of thanks, congratulations, tributes and expressions of sympathy (see S/PV.2835, S/PV.2885, S/PV.2886, S/PV.2894 and S/PV.3019). At the 2922nd meeting, on 23 May 1990, the President called attention to a note verbale from the Secretary-General regarding the formation of a single sovereign State called the Republic of Yemen and expressed, on behalf of the Council, congratulations and best wishes to the Republic of Yemen on its unification (see S/PV.2922, p. 2). At the 2870th meeting on 6 July 1989, following a tribute by the President, the representative of the Union of Soviet Socialist Republics made a statement (see S/PV.2870, pp. 3-5). At the 2989th meeting, on 24 May 1991, following a tribute by the President, the representative of India made a statement (see S/PV.2989, pp. 2-3).

Precedence of the decision on adoption of the agenda

Case 2

At the 2970th meeting (part I), held on 20 December 1990 in connection with the situation in the occupied Arab territories, the President called upon the representative of the United Kingdom immediately following the adoption of the agenda. The representative of the United Kingdom noted that he had actually asked to speak on a point of order before the adoption of the agenda.⁶

Case 3

The provisional agenda for the 2976th meeting,⁷ held on 31 January 1991 in connection with the situation between Iran and Iraq, read as follows:

- “1. Adoption of the agenda
- “2. The situation between Iran and Iraq

“Report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group”.

Prior to the adoption of the agenda, the representative of Cuba stated that his delegation could not vote in favour of adopting the provisional agenda without voicing its deep dissatisfaction that the Council had not been able to consider a serious problem that was of concern to the entire world.⁸ In agreeing to consider item 2 of the provisional agenda, his delegation wished to express its view that the Council had a basic obligation to discuss the war situation prevailing in the Gulf and to hear the ideas and proposals Member States wished to put forth.

⁶ S/PV.2970, p. 2.

⁷ S/Agenda/2976.

⁸ For the concerns expressed concerning the delay in convening a formal meeting on the situation in the Gulf, see chapter I, case 2.

The representative of the United States, speaking on a point of order, said that unless the representative of Cuba wished to make a proposal with respect to the provisional agenda currently before the Council, the debate into which he was entering was “completely out of order”.

The President (Zaire) stated that, if the representative of Cuba wished to raise a point of order, he would be obliged to ask the members of the Council to take an immediate decision on his ruling with regard to the adoption of the provisional agenda.

The representative of Cuba replied that he was addressing item 1 of the provisional agenda, entitled “Adoption of the agenda”, and that his delegation had “every right to express its disagreement with the manner in which attempts [were] being made to muzzle the Council”. That was the point of order that should be before the members of the Council.

The President reminded the Council that it was now proceeding pursuant to rule 9 of the provisional rules of procedure, which stipulated: “The first item of the provisional agenda for each meeting of the Security Council shall be the adoption of the agenda”. If a member objected to the adoption of the provisional agenda, he would be obliged to put that challenge to the vote.

On the point of order raised by the representative of the United States, the representative of Yemen remarked that there was nothing in rule 9 or any other

rule that precluded any delegation’s request to make a statement before the adoption of the agenda.

The President reiterated that, if the representatives of Yemen and Cuba were challenging the agenda, he would be obliged to put that challenge to the vote.

The representative of Yemen repeated his view that rule 9 did not preclude a statement by any member of the Council before the adoption of the agenda, and that the representative of Cuba had the right to make a statement. He added that he also wished to make a short statement.

The President noted that: “Nowhere in the provisional rules of procedure [was] it stipulated that statements may be made before the agenda is adopted”. The Council therefore had to adopt the agenda first, and then, if there were any challenge to his ruling, he would request members to take a decision on that challenge.

The representative of Yemen indicated that he had not challenged what the President had said about rule 9. The Council could therefore proceed and adopt the provisional agenda. Nonetheless, the representative of Cuba believed that he had been “entirely in order”.⁹

The agenda was adopted without objection.

⁹ S/PV.2976, pp. 2-3 and 7 (Cuba); p. 3 (United States); pp. 3-7 (President); and pp. 6-7 (Yemen); see also p. 17 (Cuba).

Part III

The agenda: matters of which the Security Council is seized (rules 10 and 11)

Note

Rule 10 of the provisional rules of procedure was designed to enable the Security Council to continue, at its next meeting, the consideration of an item of unfinished business without subjecting that item to

renewed debate in connection with the adoption of the agenda. No discussion concerning the application of that rule occurred during the period under review. On many occasions, separate consecutive meetings were held on the same agenda item. In other instances, the meeting was suspended and resumed until the Council

had completed that stage of its consideration of the item.¹⁰

In previous volumes of the *Repertoire*, it was noted that items on the agenda of the Council had remained on the summary statement by the Secretary-General on matters of which the Security Council is seized and on the stage reached in their consideration (rule 11) when the tenor of the Council's discussion or its specific decisions revealed a continuing concern with the matter. Additional evidence supporting such retention was provided when the President of the Council announced, upon conclusion of the debate, that the Council remained seized of a question.

During the period under review, all items remained on the list of matters of which the Security Council was seized unless the Council had formally concluded its consideration of them or the Secretary-General deleted them at the request of the parties concerned and with the consent of the Council members.

¹⁰ See 2970th meeting on the situation in the occupied Arab territories, held on 19 December 1990 and resumed on 20 December; 2977th meeting on the situation between Iraq and Kuwait, held in public on 13 February 1991, and resumed in private on 14, 15, 16, 23 and 25 February and 2 March; and 3059th meeting on the situation between Iraq and Kuwait, held on 11 March 1992 and resumed on 11 and 12 March.

The table appearing under rule 11 supplements those contained in the previous volumes of the *Repertoire*. It indicates the changes that have since occurred in the list of matters of which the Council is seized.

Retention and deletion of items from the summary statements by the Secretary-General on matters of which the Security Council is seized (rule 11)

This table follows the format adopted in the *Supplement* for the period 1969-1971 and in subsequent *Supplements*. Section A indicates items added to the list of matters of which the Council was seized during the period under review; section B indicates items appearing on previous lists for which new action by the Security Council was reported in the summary statements during that period; and section C indicates items deleted from the list during the same period. The table shows that, during the period under review, the Council included 64 new items in the list of matters of which it was seized and deleted 6 items. Of the deleted items, one was deleted by the Secretary-General, with the consent of the Council, pursuant to a request by the Member States parties to the issue in question. The five other items were deleted after conclusion of their consideration by the Council.

A. Items added to the list of matters of which the Security Council was seized during the period 1989-1992

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 4 January 1989 from the representative of the Libyan Arab Jamahiriya addressed to the President of the Security Council	2835th meeting 5 January 1989	S/20370 11 January 1989	Failed to adopt draft resolution S/20378 2841st meeting 11 January 1989	
Letter dated 4 January 1989 from the representative of Bahrain addressed to the President of the Security Council				
Letter dated 25 April 1989 from the representative of Panama addressed to the President of the Security Council	2861st meeting 28 April 1989	S/20370/Add.16 2 May 1989	Adopted agenda, heard statements, viewed videotape and adjourned without fixing a date for another meeting 2874th meeting 11 August 1989	
Marking of plastic or sheet explosives for the purpose of detection	2869th meeting 14 June 1989	S/20370/Add.23 21 June 1989	Adopted resolution 635 (1989) 2869th meeting 14 June 1989	S/20370/Add.23 21 June 1989
Central America: efforts towards peace	2871st meeting 27 July 1989	S/20370/Add.29 3 August 1989	Adopted resolution 644 (1989) 2890th meeting 7 November 1989	
The question of hostage-taking and abduction	2872nd meeting 31 July 1989	S/20370/Add.30 10 August 1989	President made a statement (S/PV.2872, pp. 2-5) and Council adopted resolution 638 (1989) 2872nd meeting 31 July 1989	

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 27 November 1989 from the representative of El Salvador addressed to the President of the Security Council;	2896th meeting 30 November 1989	S/20370/Add.47 14 December 1989	President issued a statement (S/21011) 2897th meeting 8 December 1989	
Letter dated 28 November 1989 from the representative of Nicaragua addressed to the President of the Security Council				
The situation in Panama	2899th meeting 20 December 1989	S/20370/Add.50 12 January 1990	Failed to adopt draft resolution (S/21048) 2902nd meeting 23 December 1989	
Letter dated 3 January 1990 from the representative of Nicaragua addressed to the President of the Security Council	2905th meeting 17 January 1990	S/21100/Add.2 2 February 1990	Failed to adopt draft resolution (S/21084) 2905th meeting 17 January 1990	S/21100/Add.2 2 February 1990
Letter dated 2 February 1990 from the representative of Cuba addressed to the President of the Security Council	2907th meeting 9 February 1990	S/21100/Add.5 16 February 1990	Adjourned without fixing a date for another meeting 2907th meeting 9 February 1990	
United Nations peacekeeping operations	2924th meeting 30 May 1990	S/21100/Add.21 7 June 1990	President made a statement (S/21323) 2924th meeting 30 May 1990	
The situation between Iraq and Kuwait	2932nd meeting 2 August 1990	S/21100/Add.30 10 August 1990	President made a statement (S/23663) 3058th meeting 28 February 1992	
The situation in Cambodia	2941st meeting 20 September 1990	S/21100/Add.37 26 October 1990	President made a statement (S/25003) 3153rd meeting 22 December 1992	

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 7 December 1990 from the President of the Trusteeship Council addressed to the President of the Security Council	2972nd meeting 22 December 1990	S/21100/Add.50 31 December 1990	Adopted resolution 683 (1990) 2972nd meeting 22 December 1990	S/21100/Add.50 31 December 1990
The situation in Liberia	2974th meeting 22 January 1991	S/22110/Add.3 and Corr.1 1 February 1991	President issued a statement (S/22133) 2974th meeting 22 January 1991	
Letter dated 2 April 1991 from the representative of Turkey addressed to the President of the Security Council	2982nd meeting 5 April 1991	S/22110/Add.13 25 April 1991	Adopted resolution 688 (1991) 2982nd meeting 5 April 1991	
Letter dated 4 April 1991 from the representative of France addressed to the President of the Security Council				
Letter dated 17 May 1991 from the representative of Angola addressed to the President of the Security Council	2991st meeting 30 May 1991	S/22110/Add.21 22 July 1991	Adopted resolution 696 (1991) 2991st meeting 30 May 1991	
Report of the Secretary-General on the United Nations Angola Verification Mission				
Letter dated 19 September 1991 from the representative of Austria addressed to the President of the Security Council	3009th meeting 25 September 1991	S/22110/Add.38 9 October 1991	Adopted resolution 713 (1991) 3009th meeting 25 September 1991	
Letter dated 19 September 1991 from the representative of Canada addressed to the President of the Security Council				

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 20 September 1991 from the representative of Hungary addressed to the President of the Security Council				
Letter dated 24 September 1991 from the representative of Yugoslavia addressed to the President of the Security Council				
Letter dated 30 September 1991 from the representative of Haiti addressed to the President of the Security Council	3011th meeting 3 October 1991	S/22110/Add.39 22 October 1991	Adopted agenda and heard statements	
Letter dated 24 November 1991 from the Secretary-General addressed to the President of the Security Council	3018th meeting 27 November 1991	S/22110/Add.47 9 December 1991	Adopted resolution 721 (1991) 3018th meeting 27 November 1991	
Letter dated 21 November 1991 from the representative of Germany addressed to the President of the Security Council				
Letter dated 26 November 1991 from the representative of France addressed to the President of the Security Council				
Report of the Secretary-General pursuant to Security Council resolution 721 (1991)	3023rd meeting 15 December 1991	S/22110/Add.50 3 January 1992	Adopted resolution 724 (1991) 3023rd meeting 15 December 1991	
Oral report of the Secretary-General pursuant to his report of 5 January 1992	3027th meeting 7 January 1992	S/2370/Add.1 17 January 1992	President issued a statement (S/23389) 3027th meeting 7 January 1992	

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Further report of the Secretary-General pursuant to Security Council resolution 721 (1991)	3028th meeting 8 January 1992	S/23370/Add.1 17 January 1992	Adopted resolution 727 (1992) 3028th meeting 8 January 1992	
Letters dated 20 and 23 December 1991	3033rd meeting 21 January 1992	S/23370/Add.3 7 February 1992	Adopted resolution 731 (1992) 3033rd meeting 21 January 1992	
Letter dated 20 January 1992 from the representative of Somalia addressed to the President of the Security Council	3039th meeting 23 January 1992	S/23370/Add.3 7 February 1992	Adopted resolution 733 (1992) 3039th meeting 23 January 1992	
The responsibility of the Security Council in the maintenance of international peace and security	3046th meeting 31 January 1992	S/23370/Add.4 10 February 1992	President issued a statement (S/23500) 3046th meeting 31 January 1992	S/23370/Add.4 10 February 1992
(a) The situation between Iraq and Kuwait ^a	3059th meeting 11 and 12 March 1992	S/23370/Add.10 and Corr.1 26 March 1992	President issued a statement (S/23709) 3059th meeting 12 March 1992	
(b) Letter dated 2 April 1991 from the representative of Turkey addressed to the President of the Security Council				
Letter dated 4 April 1991 from the representative of France addressed to the President of the Security Council				
Letter dated 5 March 1992 from the representative of Belgium addressed to the President of the Security Council				
The situation in Somalia	3060th meeting 17 March 1992	S/23370/Add.11 27 March 1992	Adopted resolution 746 (1992) 3060th meeting 17 March 1992	

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Further report of the Secretary-General on the United Nations Angola Verification Mission	3062nd meeting 24 March 1992	S/23370/Add.12 31 March 1992	Adopted resolution 747 (1992) 3062nd meeting 24 March 1992	
(a) Letters dated 20 and 23 December 1991 ^b	3063rd meeting 31 March 1992	S/23370/Add.13 21 April 1992	Adopted resolution 748 (1992) 3063rd meeting 31 March 1992	
(b) Report by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992)				
(c) Further report by the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992)				
Letter dated 2 April 1992 from the representative of Venezuela addressed to the President of the Security Council	3064th meeting 2 April 1992	S/23370/Add.13 21 April 1992	President issued a statement (S/23772) 3064th meeting 2 April 1992	
Report of the Secretary-General pursuant to Security Council resolution 743 (1992)	3066th meeting 7 April 1992	S/23370/Add.14 22 April 1992	President issued a statement (S/23802) 3068th meeting 10 April 1992	
Letter dated 23 April 1992 from the representative of Austria addressed to the President of the Security Council;	3070th meeting 24 April 1992	S/23370/Add.16 11 May 1992	President issued a statement (S/23842) 3070th meeting 24 April 1992	
Letter dated 24 April 1992 from the representative of France addressed to the President of the Security Council				
The situation relating to Nagorny-Karabakh	3072nd meeting 12 May 1992	S/23370/Add.19 15 June 1992	President issued a statement (S/23904) 3072nd meeting 12 May 1992	

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Further report of the Secretary-General pursuant to Security Council resolution 749 (1992)	3075th meeting 15 May 1992	S/23370/Add.19 15 June 1992	Adopted resolution 752 (1992) 3075th meeting 15 May 1992	
Letter dated 27 April 1992 from the representative of Cuba addressed to the President of the Security Council	3080th meeting 21 May 1992	S/23370/Add.20 and Corr.1 16 June 1992	Concluded consideration of the item after receiving draft resolution by Cuba (S/23990) and hearing statements	S/23370/Add.20 and Corr.1 16 June 1992
Report of the Secretary-General pursuant to Security Council resolution 752 (1992)	3082nd meeting 30 May 1992	S/23370/Add.21 19 June 1992	Adopted resolution 757 (1992) 3082nd meeting 30 May 1992	
Letter dated 26 May 1992 from the representative of Canada addressed to the President of the Security Council				
Letter dated 27 May 1992 from the Minister for Foreign Affairs of Bosnia and Herzegovina addressed to the President of the Security Council				
Report of the Secretary-General pursuant to Security Council resolution 757 (1992)	3083rd meeting 8 June 1992	S/23370/Add.23 23 June 1992	Adopted resolution 758 (1992) 3083rd meeting 8 June 1992	
Report of the Secretary-General pursuant to paragraph 15 of Security Council resolution 757 (1992) and paragraph 10 of Security Council resolution 758 (1992)	3086th meeting 18 June 1992	S/23370/Add.24 June 1992	Adopted resolution 760 (1992) 3086th meeting 18 June 1992	

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Oral reports by the Secretary-General on 26 and 29 June 1992 pursuant to Security Council resolution 758 (1992)	3087th meeting 29 June 1992	S/23370/Add.26 27 July 1992	Adopted resolution 761 (1992) 3087th meeting 29 June 1992	
Further report of the Secretary-General pursuant to Security Council resolution 752 (1992)	3088th meeting 30 June 1992	S/23370/Add.26 27 July 1992	Adopted resolution 762 (1992) 3088th meeting 30 June 1992	
An agenda for peace: preventive diplomacy, peacemaking and peacekeeping	3089th meeting 30 June 1992	S/23370/Add.26 27 July 1992	President issued a statement (S/24210) 3089th meeting 30 June 1992	
Further report of the Secretary-General pursuant to Security Council resolutions 757 (1992), 758 (1992) and 761 (1992)	3093rd meeting 13 July 1992	S/23370/Add.28 29 July 1992	Adopted resolution 764 (1992) 3093rd meeting 13 July 1992	
Letter dated 11 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council	3097th meeting 17 July 1992	S/23370/Add.28 29 July 1992	President made a statement (S/24307) 3097th meeting 17 July 1992	
Letter dated 12 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council				
Letter dated 13 July 1992 from the representative of Bosnia and Herzegovina addressed to the President of the Security Council				
Letter dated 13 July 1992 from the representative of Slovenia addressed to the President of the Security Council				

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 17 July 1992 from the representatives of Belgium, France and the United Kingdom addressed to the President of the Security Council				
Report of the Secretary-General on the situation in Bosnia and Herzegovina	3100th meeting 24 July 1992	S/23370/Add.29 30 July 1992	President made a statement (S/24346) 3114th meeting 14 September 1992	
Letter dated 4 August 1992 from the representative of the United States addressed to the President of the Security Council	3103rd meeting 4 August 1992	S/23370/Add.31 13 August 1992	President made a statement (S/24378) 3103rd meeting 4 August 1992	
Letter dated 4 August 1992 from the representative of Venezuela addressed to the President of the Security Council				
Report of the Secretary-General pursuant to Security Council resolution 762 (1992)	3104th meeting 7 August 1992	S/23370/Add.31 13 August 1992	Adopted resolution 769 (1992) 3104th meeting 4 August 1992	
Letter dated 7 August 1992 from the representative of Belgium addressed to the President of the Security Council	3105th meeting 11 August 1992	S/23370/Add.32 19 August 1992	Adopted agenda and heard statements	
Letter dated 7 August 1992 from the representative of France addressed to the President of the Security Council				
Letter dated 7 August 1992 from the representative of the United Kingdom addressed to the President of the Security Council				

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 7 August 1992 from the representative of the United States addressed to the President of the Security Council				
Letter dated 10 August 1992 from the representative of Bosnia and Herzegovina addressed to the President of the Security Council	3106th meeting 13 August 1992	S/23370/Add.32 19 August 1992	Adopted resolutions 770 (1992) and 771 (1992) 3106th meeting 13 August 1992	
Letter dated 10 August 1992 from the representative of Turkey addressed to the President of the Security Council				
Letter dated 10 August 1992 from the representative of the Islamic Republic of Iran addressed to the President of the Security Council				
Letter dated 10 August 1992 from the representative of Malaysia addressed to the President of the Security Council				
Letter dated 11 August 1992 from the representative of Senegal addressed to the President of the Security Council				
Letter dated 11 August 1992 from the representative of Saudi Arabia addressed to the President of the Security Council				

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 10 August 1992 from the representative of Kuwait addressed to the President of the Security Council				
Letter dated 11 August 1992 from the representative of Pakistan addressed to the President of the Security Council				
Letter dated 12 August 1992 from the representative of Egypt addressed to the President of the Security Council				
Letter dated 13 August 1992 from the representative of the United Arab Emirates addressed to the President of the Security Council				
Letter dated 13 August 1992 from the representative of Bahrain addressed to the President of the Security Council				
Letter dated 13 August 1992 from the representative of the Comoros addressed to the President of the Security Council				
Letter dated 13 August 1992 from the representative of Qatar addressed to the President of the Security Council				
Letter dated 28 August 1992 from the Secretary-General addressed to the President of the Security Council	3111th meeting 2 September 1992	S/23370/Add.35 7 September 1992	President made a statement (S/24510) 3111th meeting 2 September 1992	

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 24 August 1992 from the Secretary-General addressed to the President of the Security Council	3112th meeting 2 September 1992	S/23370/Add.35 7 September 1992	President made a statement (S/24511) 3112th meeting 2 September 1992	
The situation in Bosnia and Herzegovina	3113th meeting 9 September 1992	S/23370/Add.36 14 September 1992	President made a statement (S/24539) 3113th meeting 9 September 1992	
Report of the Secretary-General on the situation in Bosnia and Herzegovina	3114th meeting 14 September 1992	S/23370/Add.37 21 September 1992	Adopted resolution 776 (1992) 3114th meeting 9 September 1992	
Draft resolution contained in document S/24570	3116th meeting 19 September 1992	S/23370/Add.37 21 September 1992	Adopted resolution 777 (1992) 3116th meeting 19 September 1992	
Further report of the Secretary-General pursuant to Security Council resolutions 743 (1992) and 762 (1992)	3118th meeting 6 October 1992	S/23370/Add.40 12 October 1992	Adopted resolution 779 (1992) 3118th meeting 6 October 1992	
Letter dated 10 August 1992 from the representative of Bosnia and Herzegovina addressed to the President of the Security Council	3119th meeting 6 October 1992	S/23370/Add.40 12 October 1992	Adopted resolution 780 (1992) 3119th meeting 6 October 1992	
Letter dated 10 August 1992 from the representative of Turkey addressed to the President of the Security Council				
Letter dated 10 August 1992 from the representative of the Islamic Republic of Iran addressed to the President of the Security Council				

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 10 August 1992 from the representative of Malaysia addressed to the President of the Security Council				
Letter dated 11 August 1992 from the representative of Senegal addressed to the President of the Security Council				
Letter dated 11 August 1992 from the representative of Saudi Arabia addressed to the President of the Security Council				
Letter dated 10 August 1992 from the representative of Kuwait addressed to the President of the Security Council;				
Letter dated 11 August 1992 from the representative of Pakistan addressed to the President of the Security Council				
Letter dated 12 August 1992 from the representative of Egypt addressed to the President of the Security Council				
Letter dated 13 August 1992 from the representative of the United Arab Emirates addressed to the President of the Security Council				
Letter dated 13 August 1992 from the representative of Bahrain addressed to the President of the Security Council				

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 13 August 1992 from the representative of Comoros addressed to the President of the Security Council				
Letter dated 13 August 1992 from the representative of Qatar addressed to the President of the Security Council				
Letter dated 5 October 1992 from the representatives of Egypt, the Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey addressed to the President of the Security Council ^e				
Oral report of the Secretary-General on the United Nations Angola Verification Mission (UNAVEM II)	3120th meeting 6 October 1992	S/23370/Add.40 12 October 1992	President made a statement (S/24623) 3120th meeting 6 October 1992	
The situation in Georgia	3121st meeting 8 October 1992	S/23370/Add.40 12 October 1992	President made a statement (S/24637) 3121st meeting 8 October 1992	
The situation in Mozambique	3123rd meeting 13 October 1992	S/23370/Add.41 19 October 1992	Adopted resolution 797 (1992) 3149th meeting 16 December 1992	
Letter dated 27 October 1992 from the Secretary-General addressed to the President of the Security Council	3126th meeting 27 October 1992	S/23370/Add.43 2 November 1992	President made a statement (S/24720) 3126th meeting 27 October 1992	
Letter dated 29 October 1992 from the Secretary-General addressed to the President of the Security Council	3130th meeting 30 October 1992	S/23370/Add.43 2 November 1992	Adopted resolution 785 (1992) 3130th meeting 30 October 1992	

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
The situation in Tajikistan	3131st meeting 30 October 1992	S/23370/Add.43 2 November 1992	President made a statement (S/24742) 3131st meeting 30 October 1992	
(a) The situation between Iraq and Kuwait ^d	3139th meeting, 23 and 24 November 1992			
(b) Letter dated 2 April 1991 from the representative of Turkey addressed to the President of the Security Council				
Letter dated 4 April 1991 from the representative of France addressed to the President of the Security Council				
Letter dated 5 March 1992 from the representative of Belgium addressed to the President of the Security Council				
Letter dated 3 August 1992 from the representative of Belgium addressed to the President of the Security Council				
Letter dated 19 November 1992 from the representative of Belgium addressed to the President of the Security Council				
Report of the Secretary-General on the former Yugoslav Republic of Macedonia	3147th meeting 11 December 1992	S/23370/Add.49 14 December 1992	Adopted resolution 795 (1992) 3147th meeting 11 December 1992	

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 18 December 1992 from the Secretary-General addressed to the President of the Security Council	3152nd meeting 22 December 1992	S/23370/Add.51 29 December 1992	President made a statement (S/25002) 3152nd meeting 22 December 1992	

^a “The situation between Iraq and Kuwait” (part (a) of the present agenda item) was first considered at the 2932nd meeting, on 2 August 1990. The first two letters of part (b) comprised the agenda for the 2982nd meeting, on 5 April 1991.

^b “Letters dated 20 and 23 December 1991” (part (a) of the item) was first considered at the 3033rd meeting, on 21 January 1992.

^c The first 13 letters of this item constituted the agenda for the 3106th meeting, on 13 August 1992. At the 3119th meeting, the addition of the letter dated 5 October 1992 created a new composite agenda item.

^d Previously, part (a) and the first three letters of part (b) constituted the agenda for the 3059th meeting, on 11 and 12 March 1992. At the 3139th meeting, the addition of the letters dated 3 August and 19 November 1992 created a new composite agenda item.

B. Items that appeared in previous volumes of the *Repertoire on which new action by the Security Council was reported in summary statements issued during the period 1989-1992*

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
The situation in Namibia	1387th meeting 25 January 1968	S/8367 30 January 1968	President made a statement (S/20974) 2893rd meeting 20 November 1989	
The situation relating to Afghanistan	2828th meeting 31 October 1988	S/19420/Add.44 8 November 1988	Adopted resolution 647 (1990) 2904th meeting 11 January 1990	
The situation between Iran and Iraq	2247th meeting 26 September 1980	S/13737/Add.38 3 October 1980	Adopted resolution 685 (1991) 2976th meeting 31 January 1991	
The situation concerning Western Sahara	1849th meeting 20 October 1975	S/11593/Add.42 29 October 1975	Adopted resolution 725 (1991) 3025th meeting 31 December 1991	
The situation in the occupied Arab territories	1916th meeting 4 May 1976	S/11935/Add.18 11 May 1976	President made a statement (S/23783) 3065th meeting 4 April 1992	

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
The question of South Africa	1988th meeting 21 March 1977	S/12269/Add.12 31 March 1977	Adopted resolution 772 (1992) 3107th meeting 17 August 1992	
The situation in the Middle East	1341st meeting 24 May 1967	S/7913 29 May 1967	Adopted resolution 790 (1992) and President issued a statement (S/24846) 3141st meeting 25 November 1992	
The situation in Cyprus	1779th meeting 16 July 1974	S/11185/Add.28 24 July 1974	Adopted resolution 796 (1992) 3148th meeting 14 December 1992	
Admission of new Members^c				
Democratic People's Republic of Korea and Republic of Korea	409th meeting 15 February 1949	S/1263 21 February 1949	Recommended 3001st meeting 8 August 1991	S/22110/Add.31 26 August 1991
Republic of Namibia	2917th meeting 17 April 1990	S/21100/Add.15 1 May 1990	Recommended 2918th meeting 17 April 1990	S/21100/Add.15 1 May 1990
Principality of Liechtenstein	2935th meeting 13 August 1990	S/21100/Add.32 18 October 1990	Recommended 2936th meeting 14 August 1990	S/21100/Add.32 18 October 1990
Micronesia (Federated States of)	2999th meeting 6 August 1991	S/22110/Add.31 26 August 1991	Recommended 3002nd meeting 9 August 1991	S/22110/Add.31 26 August 1991
Marshall Islands	3000th meeting 6 August 1991	S/22110/Add.31 26 August 1991	Recommended 3003rd meeting 9 August 1991	S/22110/Add.31 26 August 1991
Estonia	3006th meeting 10 September 1991	S/22110/Add.36 7 October 1991	Recommended 3007th meeting 12 September 1991	S/22110/Add.36 7 October 1991
Latvia	3006th meeting 10 September 1991	S/22110/Add.36 7 October 1991	Recommended 3007th meeting 12 September 1991	S/22110/Add.36 7 October 1991
Lithuania	3006th meeting 10 September 1991	S/22110/Add.36 7 October 1991	Recommended 3007th meeting 12 September 1991	S/22110/Add.36 7 October 1991

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Kazakhstan	3034th meeting 23 January 1992	S/23370/Add.3 7 February 1992	Recommended 3034th meeting 23 January 1992	S/23370/Add.3 7 February 1992
Armenia	3035th meeting 23 January 1992	S/23370/Add.3 7 February 1992	Recommended 3041st meeting 29 January 1992	S/23370/Add.4 10 February 1992
Kyrgyzstan	3036th meeting 23 January 1992	S/23370/Add.3 7 February 1992	Recommended 3042nd meeting 29 January 1992	S/23370/Add.4 10 February 1992
Uzbekistan	3037th meeting 23 January 1992	S/23370/Add.3 7 February 1992	Recommended 3043rd meeting 29 January 1992	S/23370/Add.4 10 February 1992
Tajikistan	3038th meeting 23 January 1992	S/23370/Add.3 7 February 1992	Recommended 3044th meeting 29 January 1992	S/23370/Add.4 10 February 1992
Republic of Moldova	3045th meeting 29 January 1992	S/23370/Add.4 10 February 1992	Recommended 3047th meeting 5 February 1992	S/23370/Add.5 12 February 1992
Turkmenistan	3048th meeting 5 February 1992	S/23370/Add.5 12 February 1992	Recommended 3050th meeting 7 February 1992	S/23370/Add.5 12 February 1992
Azerbaijan	3051st meeting 11 February 1992	S/23370/Add.6 19 February 1992	Recommended 3052nd meeting 14 February 1992	S/23370/Add.6 19 February 1992
San Marino	3056th meeting 25 February 1992	S/23370/Add.8 4 March 1992	Recommended 3056th meeting 25 February 1992	S/23370/Add.8 4 March 1992
Croatia	3076th meeting 18 May 1992	S/23370/Add.20 and Corr.1 16 June 1992	Recommended 3076th meeting 18 May 1992	S/23370/Add.20 and Corr.1 16 June 1992
Slovenia	3077th meeting 18 May 1992	S/23370/Add.20 and Corr.1 16 June 1992	Recommended 3077th meeting 18 May 1992	S/23370/Add.20 and Corr.1 16 June 1992
Bosnia and Herzegovina	3078th meeting 20 May 1992	S/23370/Add.20 and Corr.1 16 June 1992	Recommended 3079th meeting 20 May 1992	S/23370/Add.20 and Corr.1 16 June 1992

Repertoire of the Practice of the Security Council

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Georgia	3091st meeting 6 July 1992	S/23370/Add.27 28 July 1992	Recommended 3091st meeting 6 July 1992	S/23370/Add.27 28 July 1992
International Court of Justice^f				
Date of elections to fill a vacancy in the International Court of Justice	2838th meeting 9 January 1989	S/20370/Add.1 25 January 1989	Adopted resolution 627 (1989) 2838th meeting 9 January 1989	S/20370/Add.1 25 January 1989
Election of members of the International Court of Justice: 1989	2854th meeting 18 April 1989	S/20370/Add.15 26 April 1989	Recommended one candidate to fill a vacancy 2854th meeting 18 April 1989	S/20370/Add.15 26 April 1989
Election of members of the International Court of Justice: 1990	2955th meeting 15 November 1990	S/21100/Add.45 27 November 1990	Recommended four candidates to fill vacancies 2955th meeting 15 November 1990 Recommended one other candidate to fill remaining vacancy 2956th meeting 15 November 1990	S/21100/Add.45 27 November 1990
Date of election to fill a vacancy in the International Court of Justice	3005th meeting 28 August 1991	S/22110/Add.34 5 September 1991	Adopted resolution 708 (1991) 3005th meeting 28 August 1991	S/22110/Add.34 5 September 1991
Election of a member of the International Court of Justice	3021st meeting 5 December 1991	S/22110/Add.48 10 December 1991	Recommended one candidate to fill vacancy 3021st meeting 5 December 1991	S/22110/Add.48 10 December 1991

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Appointment of the Secretary-General^e				
Recommendation regarding the appointment of the Secretary-General of the United Nations	3017th meeting 21 November 1991 (private)	S/22110/Add.46 26 November 1991	Adopted resolution 720 (1991) recommending that Mr. Boutros Boutros-Ghali be appointed Secretary-General for a term of office from 1 January 1992 to 31 December 1996	S/22110/Add.46 26 November 1991
Consideration of the draft report of the Security Council to the General Assembly^h				
Report covering period 16 June 1988-15 June 1989	2892nd meeting 17 November 1989 (private)	S/20370/Add.45 11 December 1989	Adopted draft report	S/20370/Add.45 11 December 1989
Report covering period 16 June 1989-15 June 1990	2958th meeting 23 November 1990 (private)	S/21100/Add.46 5 December 1990	Adopted draft report	S/21100/Add.46 5 December 1990
Report covering period 16 June 1990-15 June 1991	3020th meeting 29 November 1991	S/22110/Add.47 9 December 1991	Adopted draft report	S/22110/Add.47 9 December 1991

^e During the period under review, the Security Council completed consideration of 21 applications for membership under the item "Admission of new Members". See also chapter VII.

^f While Security Council action related to the International Court of Justice does not fall under an item of which the Security Council is seized, such action is described in introductory material contained in the summary statement by the Secretary-General on matters of which the Security Council is seized. It is included in this table for the convenience of the reader.

^g While the recommendation regarding the appointment of the Secretary-General of the United Nations is not listed as an item of which the Security Council is seized, Security Council action related to such a recommendation is described in introductory material contained in the summary statement by the Secretary-General on matters of which the Security Council is seized. It is included in this table for the convenience of the reader.

^h While action related to consideration by the Security Council of its draft report to the General Assembly is not listed as an item of which the Security Council is seized, Security Council action related to such consideration is described in introductory material contained in the summary statement by the Secretary-General on matters of which the Security Council is seized. It is included in this table for the convenience of the reader.

C. Items that were deleted from the list of matters of which the Security Council was seized during the period 1989-1992

<i>Item</i>	<i>First inclusion in the agenda</i>	<i>First entry in summary statement</i>	<i>Last action of the Council as at 31 December 1992</i>	<i>Final entry in summary statement as at 31 December 1992</i>
Letter dated 3 September 1964 from the representative of Malaysia addressed to the President of the Security Council	1144th meeting 9 September 1964	S/5967	Failed to adopt draft resolution (S/5973) 1152nd meeting 17 September 1964	S/20370 11 January 1989 (item 49) ⁱ
Marking of plastic or sheet explosives for the purpose of detection	2869th meeting 14 June 1989	S/20370/Add.23 21 June 1989	Adopted resolution 635 (1989) 2869th meeting 14 June 1989	S/20370/Add.23 21 June 1989
Letter dated 3 January 1990 from the representative of Nicaragua addressed to the President of the Security Council	2905th meeting 17 January 1990	S/21100/Add.2 2 February 1990	Failed to adopt draft resolution (S/21084) 2905th meeting 17 January 1990	S/21100/Add.2 2 February 1990
Letter dated 7 December 1990 from the President of the Trusteeship Council addressed to the President of the Security Council	2972nd meeting 22 December 1990	S/21100/Add.50 31 December 1990	Adopted resolution 683 (1990) 2972nd meeting 22 December 1990	S/21100/Add.50 31 December 1990
The responsibility of the Security Council in the maintenance of international peace and security	3046th meeting 31 January 1992	S/23370/Add.4 10 February 1992	President issued a statement (S/23500) 3046th meeting 31 January 1992	S/23370/Add.4 10 February 1992
Letter dated 27 April 1992 from the representative of Cuba addressed to the President of the Security Council	3080th meeting 21 May 1992	S/23370/Add.20 and Corr.1 16 June 1992	Concluded consideration of the item after receiving draft resolution by Cuba (S/23990) and hearing statements	S/23370/Add.20 and Corr.1 16 June 1992

ⁱ This item was deleted from the list by the Secretary-General, with the consent of the Security Council, pursuant to the request contained in a letter dated 15 September 1989 from the representatives of Indonesia and Malaysia (see S/21100, 24 January 1990, para. 4).

Chapter III

Participation in the proceedings of the Security Council

Contents

	<i>Page</i>
Introductory note	53
Part I. Basis of invitations to participate	54
Note	54
A. Invitations extended under rule 37 (States Members of the United Nations)	54
B. Invitations extended under rule 39 (members of the Secretariat or other persons) ..	55
C. Invitations not expressly extended under rule 37 or rule 39	58
D. Requests for invitations denied or not acted upon	59
Part II. Procedures relating to participation	60
Note	60
A. Stage at which those invited to participate are heard	60
B. Limitations on participation	61
Annexes	
I. Invitations extended under rule 37 (1989-1992)	63
II. Invitations extended under rule 39 (1989-1992)	79

Introductory note

This chapter considers the Security Council's practice in extending invitations to participate in its proceedings. Part I concerns the basis on which invitations were extended. Part II considers procedures relating to participation after an invitation was extended.

Articles 31 and 32 of the Charter and rules 37 and 39 of the provisional rules of procedure of the Security Council provide for invitations to be extended to non-members of the Security Council in the following circumstances: (a) when a Member of the United Nations brings a dispute or situation to the attention of the Council in accordance with Article 35 (1) of the Charter (rule 37); (b) when a Member of the United Nations or a State that is not a member of the United Nations is "a party to a dispute" (Article 32); (c) when the interests of a Member of the United Nations are "specially affected" (Article 31 and rule 37); and (d) when "members of the Secretariat or other persons" are invited to supply information or give other assistance (rule 39). Only in the second instance ((b) above) does the Security Council have an obligation to extend an invitation.

In practice, in extending invitations, the Council has continued to refrain from referring explicitly to the relevant Charter articles. It has continued to make no distinction between a complaint involving a "dispute" within the meaning of Article 32, a "situation", or a matter of another nature. Invitations during the period 1989-1992 were usually extended "under the relevant provisions of the Charter" and either rule 37 or rule 39 of the Council's provisional rules of procedure. The classification of invitations in part I reflects this practice. It is based on the relevant rules of procedure where this was indicated. Those instances in which the Council decided to extend invitations to participate in its proceedings without pronouncing itself on the basis for such invitations are treated separately. Part II — on procedures relating to participation — includes several cases concerning the stage at which invited States and representatives were heard and the order in which they were called upon to speak.

Part I

Basis of invitations to participate

Note

The Council's practice in connection with the extension of invitations is dealt with in this part in four sections. Section A deals with invitations extended under rule 37 of the Council's provisional rules of procedure, which was the basis on which Member States not members of the Council were invited to participate in the Council's proceedings. The section describes the Council's general practice in this regard. It also includes one case in which there was a vote and discussion concerning a proposal to extend an invitation, and another unusual case in which the delegation of an invited participant was joined by a number of witnesses who spoke. Section B considers the Council's practice in extending invitations under rule 39. This was the basis on which "members of the Secretariat or other persons" were invited to provide the Council with information or other assistance. The section focuses on identifying the "other persons" invited to participate under rule 39. They included the following: representatives of United Nations organs, subsidiary bodies or agencies;¹ representatives of regional and other international organizations; and other individuals. Section C concerns those invitations that were not expressly extended under either rule 37 or rule 39. Such invitations were extended to two individuals. This practice is described in two case studies. Lastly, section D considers requests for invitations denied or not acted upon.

A. Invitations extended under rule 37 (States Members of the United Nations)

During the period under consideration, States Members of the United Nations not members of the Security Council who were invited to participate in the Council's proceedings were usually invited "under the relevant provisions of the Charter and rule 37 of the

¹ The term "agencies" is used broadly in the present context, to include specialized agencies, United Nations programmes and funds, and affiliated autonomous organizations, such as the International Atomic Energy Agency.

Council's provisional rules of procedure", without explicit reference being made to the relevant Charter articles. Rule 37 provides:

Any Member of the United Nations which is not a member of the Security Council may be invited, as the result of a decision of the Security Council, to participate, without vote, in the discussion of any question brought before the Security Council when the Security Council considers that the interests of that Member are specially affected, or when a Member brings a matter to the attention of the Security Council in accordance with Article 35 (1) of the Charter.

In practice, such invitations were usually extended as a matter of course and without discussion. They were requested in letters from the State concerned addressed to the President of the Council. The President informed the Council at the beginning or during the course of its meetings of the receipt of such letters and proposed that, with the consent of the Council, the invitations be extended. Usually, there being no objection, it was so decided. A table showing invitations extended under rule 37 is contained in annex I to this chapter.

There was one instance during this period when the decision to extend an invitation to a Member State was taken by vote, and gave rise to discussion. The circumstances concerned the extension of an invitation to a Member State before it was known who would represent that State. This is included as a case below (case 1). Also included as a case is an unusual instance in which an invited participant announced, in the course of his statement, that his delegation was joined by a number of witnesses, who subsequently spoke (case 2).

Case 1

At the 2901st meeting, held on 21 December 1989 in connection with the situation in Panama, the President stated that it was his understanding, on the basis of prior consultations, that members of the Council wished to invite Panama to participate in the

discussion.² At the request of the representative of the United States of America, the proposal to invite Panama was put to the vote. It was adopted by 14 votes in favour to none against, with 1 abstention (United States). Speaking after the vote, the representative of the United States explained that, while his country had no objection to the State of Panama being represented in the debate on this particular issue, it considered that, before dealing with the question of participation, they should know who would be representing Panama before the Council. The representatives of Canada and the United Kingdom of Great Britain and Northern Ireland stressed that their favourable votes were without prejudice to the question of who should represent Panama. The representative of France noted that his delegation's approval of Panama's participation was meaningful only if agreement were subsequently reached on the appointment of a legitimately validated representative to speak on behalf of the Government of Panama.³ The President then informed Council members that he had received two separate requests to participate in the Council's debate in the capacity as representative of Panama. He stated his understanding that the Council wished to ask the Secretary-General to prepare a report on credentials under rules 14 and 15 of the Council's provisional rules of procedure. It was so decided. At the 2902nd meeting, on 23 December 1989, the Council took note of the Secretary-General's report.⁴ The President then informed the Council that both requests for participation had been withdrawn.⁵

Case 2

At the 2959th meeting, held on 27 November 1990, to consider the situation between Iraq and Kuwait, the representative of Kuwait, who had been invited under rule 37, announced in the course of his statement that his country's delegation had been joined by "some brothers and sisters who [would] speak before the Council of their experiences under the occupation, and its effects on individuals, the economy and virtually everything in Kuwait". He then introduced a number of "witnesses", who subsequently spoke.⁶

² S/PV.2901, p. 2.

³ Ibid., p. 6 (United States); and pp. 6-7 (Canada, France, United Kingdom).

⁴ S/21047. See also, on the credentials issue, chapter I.

⁵ S/PV.2902, pp. 3-5.

⁶ S/PV.2959, pp. 22-56.

B. Invitations extended under rule 39 (members of the Secretariat or other persons)

During the period under review, the Security Council invited a wide range of individuals to participate in its proceedings, to brief it on issues under consideration. These invitations were extended under rule 39, which states:

The Security Council may invite members of the Secretariat or other persons, whom it considers competent for the purpose, to supply it with information or to give other assistance in examining matters within its competence.

During this period, those senior Secretariat officials invited to participate under rule 39 included the Under-Secretary-General for Humanitarian Affairs, who gave a briefing in connection with the item "The situation between Iraq and Kuwait".⁷ The "other persons" invited to participate under rule 39 included the following:

Representatives of United Nations organs, subsidiary bodies,⁸ or agencies;⁹

Representatives of regional or other international organizations;

Other individuals — such as experts, representatives of certain organizations or entities, or individuals specifically invited in their "personal capacity".

⁷ 3139th meeting, 23 November 1992.

⁸ Representatives of subsidiary organs who were Member States but non-members of the Council were sometimes invited under rule 37. Thus, for example, at the 2911th meeting, the representative of Senegal, who had been invited under rule 37, prefaced her remarks by saying, "In my dual capacity as representative of Senegal and Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People ..." (S/PV.2911, p. 21). In two instances in 1989, the Chairman of that Committee was already seated on the Council as the representative of Senegal, and therefore no invitation was issued when she spoke in her dual capacity (see S/PV.2863, p. 41 and S/PV.2888, p. 12).

⁹ The term "agencies" is used broadly in the present context to include specialized agencies, United Nations programmes and funds, and affiliated autonomous organizations such as IAEA.

Tables showing invitations under rule 39 are contained in annex II to this chapter.

Some general aspects of the Council's practice under rule 39 may be noted. Invitations to representatives of United Nations organs and subsidiary bodies were extended as a matter of course and without any formal discussion.¹⁰ Letters of request from the body concerned were read into the record of the meeting by the President of the Council and were not issued as documents of the Security Council.

The period under consideration saw the first invitations extended to the Director General of the International Atomic Energy Agency (IAEA) and the Executive Chairman of the United Nations Special Commission — both at Council meetings on the situation between Iraq and Kuwait;¹¹ and, in the humanitarian sphere, to the United Nations High Commissioner for Refugees.¹² In the case of the Executive Chairman of the Special Commission — a subsidiary organ of the Council itself — an invitation was issued in accordance with the understanding reached in the Council's informal consultations prior to the meeting. The invitations to the Director General of IAEA and the High Commissioner were extended on the same basis.

Invitations to representatives of regional and other international organizations, on the other hand, were extended at the request of a Member State, on behalf of the proposed participant. Such requests were invariably granted without any formal discussion.¹³

Other individuals, too, were invited at the request of a Member State. In some instances, the President

made it clear at the start of the formal meeting of the Council that members of the Council had agreed in prior consultations to extend an invitation to a particular individual. That was the practice followed by the Council in extending invitations to, for example, two individuals to participate in meetings regarding the situation in Cyprus,¹⁴ and to the Co-Chairmen of the International Conference on the former Yugoslavia to participate in a meeting concerning the situation in Bosnia and Herzegovina.¹⁵

The capacity in which individuals were invited gave rise to comment or discussion in the following three cases, which involved the representatives of certain South African organizations or entities (case 3), and two special rapporteurs of the Commission on Human Rights (cases 4 and 5).

Case 3

At the 3095th meeting held on 15 July 1992 in connection with the question of South Africa, the Council extended invitations under rule 39, at the request of the representative of South Africa, to, among others, Mr. Mangosuthu G. Buthelezi, Mr. Lucas M. Mangope and Mr. Oupe J. Gqozo. At the 3096th meeting, held on 16 July 1992 in connection with the same item, an invitation was also extended under rule 39, at the request of the representative of India, to Mr. Bantu Holomisa. Before giving the floor to Mr. Buthelezi, the President (Cape Verde) stated that Mr. Buthelezi would be "speaking in his personal capacity" and that the invitation extended to him "did not in any way entail the recognition by the Council or any of its members of the organization or entity he claimed to represent".¹⁶ The President made similar remarks when he called on Messrs. Mangope, Gqozo and Holomisa to speak.¹⁷

Case 4

By separate letters dated 7 August 1992 addressed to the President of the Security Council,¹⁸ the representatives of Belgium, France, the United Kingdom and the United States requested the

¹⁰ See, for example, invitations extended to the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, at meetings on the situation in the occupied Arab territories (2845th, 2849th, 2923rd, 2945th and 2954th meetings); to the Chairman of the Special Committee against Apartheid, at a meeting on the question of South Africa (3095th meeting); and to the Chairman of the United Nations Council for Namibia, at a meeting on the admission of new Members: Namibia (2918th meeting).

¹¹ At the 3059th and 3139th meetings.

¹² In relation to the situation in Bosnia and Herzegovina (3134th meeting).

¹³ Invitations were extended, for example, to representatives of the League of Arab States, the Organization of the Islamic Conference and the Organization of African Unity.

¹⁴ At the 2868th, 2898th, 2928th, 2969th, 2992nd and 3022nd meetings.

¹⁵ At the 3134th meeting.

¹⁶ S/PV.3096, p. 35.

¹⁷ *Ibid.*, pp. 58, 67 and 137, respectively.

¹⁸ S/24393, S/24394, S/24395 and S/24396, respectively.

convening of an urgent meeting of the Council to consider the repression of the civilian population in parts of Iraq. They stated that their Governments were of the view that the work of the Council would be greatly assisted by the participation of Mr. Max van der Stoel under rule 39 of the provisional rules of procedure of the Council, and therefore requested that the Council extend an invitation to him under rule 39. One of the representatives noted that Mr. van der Stoel's interim report on the human rights situation in Iraq had been distributed as a document of the Security Council.¹⁹

At the 3105th meeting, held on 11 August 1992 in connection with the situation between Iraq and Kuwait, the President of the Council (China) drew attention to this request by the four Council members. He stated that the question to be decided by the Council was "an invitation under rule 39 of the Council's provisional rules of procedure to Mr. van der Stoel in his personal capacity".²⁰ The representatives of India, Ecuador, Zimbabwe and China expressed reservations about the appropriateness of the Security Council extending an invitation to Mr. van der Stoel, on the ground that matters relating to human rights did not fall within the competence of the Security Council. They believed that such matters should be discussed by the Commission on Human Rights and the General Assembly.²¹ They pointed out that Mr. van der Stoel had been appointed as Special Rapporteur on the human rights situation in Iraq and that his appointment had been made by the Commission on Human Rights, a subsidiary body of the Economic and Social Council. As the Security Council did not have competence in the matter, it would not be possible for it either to examine his report or to take a stand on it. At the same time, however, the representatives of India, Ecuador and Zimbabwe noted the explanations given by the sponsors of the request, as well as the statement made by the President of the Council, to the effect that Mr. van der Stoel was being invited strictly in his personal capacity and not in any representative capacity. The President stated that the observations that had been made would be reflected in the records of the Security Council.²² The Council then

decided to extend an invitation to Mr. van der Stoel to participate in the meeting under rule 39.

A similar discussion took place in connection with a proposed further invitation to Mr. van der Stoel to participate in the 3139th meeting, held on 23 November 1992 in connection with the situation between Iraq and Kuwait. The representatives of China and Zimbabwe reiterated their reservations.²³ The President of the Council (now Hungary) noted that the observations that had been made would appear in the records of the Security Council.²⁴ Mr. van der Stoel was then invited to participate under rule 39, without the President mentioning that he was invited in his personal capacity.

Case 5

A similar discussion had occurred earlier in November 1992, in relation to a proposal by the representatives of Belgium and France²⁵ that Mr. Tadeusz Mazowiecki (also a Special Rapporteur appointed by the Commission on Human Rights) should be invited to participate in the 3134th meeting of the Council, held on 23 November 1992 to consider the situation in Bosnia and Herzegovina. One of the requesting States noted that Mr. Mazowiecki was the author of two reports on the human rights situation in the territory of the former Yugoslavia, the first of which had already been distributed as a document of the Security Council.²⁶ At the same meeting, the representatives of China and Zimbabwe expressed their reservations about the appropriateness of inviting Mr. Mazowiecki to address the Council, for the same reasons as they had cited in relation to participation by Mr. van der Stoel.²⁶ The President (Hungary) noted the observations, and stated that they would be reflected in the verbatim records of the Security Council.²⁸ The Council then extended an invitation to Mr. Mazowiecki

¹⁹ S/24386, annex.

²⁰ S/PV.3105, p. 5.

²¹ *Ibid.*, pp. 6-7 (India); pp. 7-10 (Ecuador); pp. 11-12 (Zimbabwe); and p. 12 (China).

²² *Ibid.*, p. 12.

²³ S/PV.3139, p. 3 (China); and pp. 4-5 (Zimbabwe). The Chinese delegation also expressed reservations about the references to the interim report of the Special Rapporteur on human rights and to the Council's public meeting with Mr. van der Stoel contained in the text of the statement about to be read by the President of the Council (S/24836).

²⁴ S/PV.3139, p. 6.

²⁵ S/24785 and S/24786, respectively.

²⁶ S/24516 of 3 September 1992.

²⁶ S/PV.3134, pp. 9-10 (China); and p. 11 (Zimbabwe).

²⁸ *Ibid.*, p. 11.

under rule 39, without the President mentioning that he was invited in his personal capacity.

C. Invitations not expressly extended under rule 37 or rule 39

During the period under review, there were two instances of the Council extending an invitation to participate in its proceedings without referring to either rule 37 or rule 39: it did so in inviting the Permanent Observer of Palestine (case 6); and Mr. Ilija Djukic, Minister for Foreign Affairs of the Federal Republic of Yugoslavia (Serbia and Montenegro) — at a time when that State was not a Member of the United Nations (case 7).

Case 6

In January 1989, the Permanent Observer of Palestine for the first time directly submitted a request to participate in the proceedings of the Security Council — instead of, as previously, a Member State conveying a request on behalf of the Palestine Liberation Organization (PLO).²⁹ The occasion was the 2841st meeting of the Council, held on 11 January 1989 in connection with an agenda item relating to the Libyan Arab Jamahiriya.³⁰ The President (Malaysia) informed the Council that he had received a letter dated 9 January 1989 from the Alternate Permanent Observer of Palestine to the United Nations³¹ in which he requested that, in accordance with its previous practice, the Security Council invite him to participate in the consideration of the item. The President stated: “The request is not made pursuant to rule 37 or rule 39 of the provisional rules of procedure of the Security Council but, if it is approved, the Council will invite the

Alternate Permanent Observer of Palestine to participate, not under rule 37 or rule 39, but with the same rights of participation as under rule 37”.³²

The representative of the United States raised two objections to the terms of the proposed invitation. First, it was a long-standing practice that observers did not have the right to speak in the Security Council at their own request; rather, a request had to be made on the observer’s behalf by a Member State. His Government saw no justification for any departure from existing practice. Second, the only legal basis on which the Council might grant a hearing to persons speaking on behalf of non-governmental entities, such as the PLO, was rule 39. For four decades, the United States had supported a generous interpretation of rule 39 and would not have objected had this matter been appropriately raised under that rule. It was opposed, however, to special ad hoc departures from orderly procedure. The United States consequently opposed extending to the PLO the same rights to participate in the proceedings of the Security Council as if that organization represented a State Member of the United Nations.

The request of the Alternate Permanent Observer of Palestine was thereupon put to the vote. It was approved by 11 votes in favour, 1 against (United States) and 3 abstentions (Canada, France and the United Kingdom). Speaking in explanation of vote, the representative of Canada stated that he had abstained because the request did not conform to the procedure followed in the past, when the proposal was made by a sponsor country. Drawing attention to General Assembly resolution 43/177 on the question of Palestine,³³ he stated that that resolution did not change the procedure; its paragraph 3 was explicit in that respect. He stressed that while Canada did not oppose the Observer of Palestine’s being heard in United Nations bodies, it believed that the past procedure should continue to be followed. He and the

²⁹ From 1975 to 1988, requests for participation by the PLO were submitted by a Member State, in accordance with the initial decision at the Council’s 1859th meeting, on 4 December 1975 (see S/PV.1859, p. 1 ff).

³⁰ The item was entitled “Letter dated 4 January 1989 from the Chargé d’affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council; and letter dated 4 January 1989 from the Chargé d’affaires a.i. of the Permanent Mission of Bahrain to the United Nations addressed to the President of the Security Council”. It concerned the question of the downing of two Libyan reconnaissance aircraft over international waters.

³¹ S/20392.

³² S/PV.2841, pp. 4-5. This was the same basis on which the PLO was invited to participate from 1975 to 1988.

³³ By resolution 43/177, adopted on 15 December 1988, the General Assembly decided that, effective as from 15 December 1988, the designation “Palestine” should be used in place of the designation “Palestine Liberation Organization” in the United Nations system. It did so “without prejudice to the observer status and functions of the Palestine Liberation Organization within the United Nations system, in conformity with relevant United Nations resolutions and practice” (para. 3).

representative of the United Kingdom emphasized that their abstention did not mean that their respective countries had recognized the State of Palestine proclaimed on 15 November 1988 in Algiers. The representative of Finland, speaking in support of the proposal, observed: "For good or ill, the practice of granting an invitation to participate in Council debates without the right to vote has been given very wide application in recent years. In our view, it should follow from today's decision that States which are not Members of the United Nations must also be entitled to have their requests to participate submitted to the Council for a decision without intermediaries".³⁴

Invitations were thereafter extended, throughout the period under review, to the Permanent Observer of Palestine, on his direct request. They were explicitly granted "not under rule 37 or rule 39, but with the same rights of participation as under rule 37". Prior to December 1992, the invitations were granted in each instance after a procedural vote on the matter.³⁵

Case 7

At the 3135th meeting, held on 13 November 1992 in connection with the situation in Bosnia and Herzegovina, the President (Hungary) stated that he had received a request dated 11 November 1992 from "His Excellency Foreign Minister Ilija Djukic" to address the Council. He continued: "With the consent of the Council, I would propose to invite him to address the Council in the course of the discussion of the item before it."³⁶ There being no objection, it was so decided. That meeting was adjourned before Mr. Djukic was called upon to speak. The Council continued its consideration of the item at the 3137th meeting, on 16 November 1992. In accordance with the decision taken at the 3135th meeting, the President invited "His Excellency Mr. Ilija Djukic, Minister for Foreign Affairs, to take a place at the Council table and to make his statement."³⁷ Mr. Djukic began his statement by saying, "As the Minister for Foreign Affairs of the Federal Republic of Yugoslavia, I have been entrusted by my Government with the task of addressing today's Security Council meeting".³⁸ At that

³⁴ S/PV.2841, pp. 4-10.

³⁵ The occasions and votes are recorded in chapter IV.

³⁶ S/PV. 3135, p. 3.

³⁷ S/PV.3137, p. 66.

³⁸ *Ibid.*, p. 67.

time, the Federal Republic of Yugoslavia was not a Member of the United Nations.³⁹

D. Requests for invitations denied or not acted upon

No request from a Member State for an invitation to participate in the proceedings of the Security Council was formally denied during the period under consideration. However, such requests were not acted upon in circumstances where the Council did not hold a formal meeting. A request by the representative of Azerbaijan, for example, to participate in a meeting on the Armenian-Azerbaijani conflict was not acted upon, as the Security Council did not convene a formal meeting (case 8). In another instance, the Council convened a private meeting, not a public meeting, as requested. One of the requesting States, Mauritania, transmitted the text of a statement it would have made had the Council agreed to the holding of a public meeting (case 9).

Case 8

By a letter dated 11 June 1992 addressed to the President of the Security Council,⁴⁰ the representative of Azerbaijan requested that, as the initiator of the sending of a United Nations fact-finding mission to the region of the Armenian-Azerbaijani conflict, he should be afforded, "in accordance with Article 32 of the Charter of the United Nations the opportunity of participating in and addressing the Security Council meeting to discuss the report on the results of the visit". In the event, the Security Council did not formally convene to discuss the report of the mission of experts, which was transmitted by the Secretary-

³⁹ By its resolution 777 (1992) of 19 September 1992, the Security Council stated that it considered that the State formerly known as the Socialist Federal Republic of Yugoslavia had ceased to exist; and that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations. The Council therefore recommended to the General Assembly that it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it should not participate in the work of the General Assembly. For further details, see chapter VII.

⁴⁰ S/24103.

General in a note to the Security Council dated 24 July 1992.⁴¹

Case 9

In a letter dated 23 January 1991 addressed to the President of the Security Council,⁴² the representative of Mauritania, together with the other States members of the Arab Maghreb Union (Algeria, Libyan Arab Jamahiriya, Tunisia), requested the convening of “an urgent meeting of the Security Council to consider the grave situation in the Gulf region”. In a letter dated 15 February 1991,⁴³ the representative of Mauritania referred to that request for “an official, public meeting”. Noting that it had not met with a positive

response from the Council, he transmitted “the text of the statement that we would have made had the Council agreed to the holding of such a public meeting”. At its 2977th meeting, on 13 February, the Council had included in its agenda the situation between Iraq and Kuwait, including the above-mentioned letter dated 23 January 1991. The Council then decided to hold private meetings to consider this item, with the understanding that attendance and requests for participation would be treated in the normal manner for public meetings, that rule 51 of the provisional rules of procedure would not be involved and that the normal verbatim record of the meeting would be taken and circulated. Upon the resumption of its 2977th meeting on 14 February, the Council met in six private sessions, on that day and on 15, 16, 23 and 25 February and 2 March. Neither Mauritania, nor the other States members of the Arab Maghreb Union, made a formal request to participate in the discussion.

⁴¹ S/24344.

⁴² S/22135.

⁴³ S/22236.

Part II

Procedures relating to participation

Note

Part II is concerned with procedures relating to the participation of invited States or individuals after an invitation has been extended. Section A concerns the stage at which those invited to participate are heard. The Council has generally followed the practice whereby the parties to the conflict situation under consideration speak first, immediately after the adoption of the agenda. One case included here relates to the question of not hearing an invited representative before the vote on a draft resolution (case 10). Another case concerns a proposal put forward by a non-member of the Council concerning the speaking order (case 11). Also included, although they do not fit neatly, are two instances in which non-members of the Council, whether formally invited or not, submitted in writing the statements they would have made at the meetings had there been a general debate (cases 12 and 13). Section B deals with limitations on participation. It includes such matters as the duration of participation of those invited to participate; the right to submit proposals and draft resolutions, but not to have them put to a vote (rule 38 of the provisional rules of

procedure); and limitations on the matters invited participants may discuss.

A. Stage at which those invited to participate are heard

Case 10

At the 2938th meeting, held on 25 August 1990 in connection with the situation between Iraq and Kuwait, the representative of Iraq was called upon to speak after the vote on a draft resolution which was adopted as resolution 665 (1990). He stated that he had asked to speak before the vote in order to show the “illegality” of the resolution in question under the Charter, but that the President, “without citing a precedent or procedure”, had denied him that privilege.⁴⁴ The point was not discussed further.

Case 11

At the 2898th meeting, held on 14 December 1989 in connection with the situation in Cyprus, the

⁴⁴ S/PV.2938, p. 66.

representative of Greece, who had been invited to participate under rule 37, suggested that the President of the Security Council might wish to place before the members of the Council a procedural proposal: namely, that — in the light of Security Council resolutions 541 (1983) and 550 (1984), and bearing in mind rules 27, 29, 37 and 39 of the Council's provisional rules of procedure — precedence should be given to representatives of Member States who wished to address the Council over persons entitled to address the Council under rule 39.⁴⁵ The speaking order in the discussion had been as follows: the representative of Cyprus; the representative of Greece; Mr. Ozer Koray, under rule 39; the representative of Turkey; and the representative of Greece making his procedural proposal. No action was taken in response to the proposal at that meeting.

Case 12

In a letter dated 10 August 1992 addressed to the President of the Security Council,⁴⁶ the representative of Bosnia and Herzegovina requested an “urgent emergency meeting of the Security Council, with formal debate”, to consider the situation in his country. At the 3106th meeting, held on 13 August 1992 to consider items relating to the situation in the former Yugoslavia, the President referred to a letter from the representative of Bosnia and Herzegovina requesting an invitation to participate in the discussion; with the consent of the Council, he extended the invitation.⁴⁷

Council members had previously met informally in consultations and had convened the 3106th meeting for the purpose of voting on two draft resolutions (which were adopted as resolutions 770 (1992) and 771 (1992)). At the meeting, the Council thus proceeded directly to the vote, without debate, and consequently only Council members spoke, in explanation of vote. A letter dated 13 August 1992 from the representative of Bosnia and Herzegovina addressed to the President,⁴⁸ transmitting the text of a speech he had prepared for

delivery to the Security Council but had not delivered “due to the fact that I have not been asked to speak before the Security Council today”, was circulated to the members of the Council.

At the same meeting, the representative of Venezuela, a member of the Council, read out a portion of the speech that the representative of Bosnia and Herzegovina “would have wished to make at this meeting”.⁴⁹

The President of the Council also drew attention to letters from the representatives of Egypt, the Islamic Republic of Iran and Pakistan, which similarly contained the texts of speeches that the respective representatives said they would have delivered had there been a “general debate”.⁵⁰

Case 13

In a letter dated 21 September 1992 addressed to the President of the Security Council,⁵¹ the representative of Yugoslavia transmitted the text of the statement that he “unfortunately could not deliver” at the 3116th meeting of the Security Council held on 19 September 1992. At that meeting — at which the Council met to consider the item entitled “the draft resolution contained in document S/24570” concerning membership in the United Nations of the former Socialist Federal Republic of Yugoslavia — no invitations to participate were extended and the Council agreed to proceed to the vote on the draft resolution before it.⁵² In a statement before the vote, the representative of Zimbabwe noted that “one would have thought that the elementary principles of fairness demand that when the Council is about to take such a momentous decision on the fate of a State, that State should at least be afforded the opportunity to state its case.”⁵³

B. Limitations on participation

During the period under review, no discussion arose regarding the question of duration of the participation of those invited to participate. The

⁴⁵ S/PV.2898, p. 40. In the resolutions referred to, the Council called upon all States not to recognize any Cypriot State other than the Republic of Cyprus, and specifically not the purported State of the “Turkish Republic of Northern Cyprus”.

⁴⁶ S/24401.

⁴⁷ S/PV.3106, p. 3.

⁴⁸ The letter was distributed in photocopy form in the meeting and later distributed as S/24434.

⁴⁹ S/PV.3106, p. 40.

⁵⁰ *Ibid.*, p. 4, citing documents S/24438, S/24432 and S/24437, respectively.

⁵¹ S/24577.

⁵² S/PV.3116.

⁵³ *Ibid.*, pp. 9-10.

practice was generally maintained whereby the President, when consideration of a question was extended over several meetings, renewed the invitation at each consecutive meeting immediately after the adoption of the agenda.

With regard to limitations on the scope of participation, one of the cases mentioned above (case 11) demonstrates the right of a non-member of the

Council to make a proposal, but not to have it put to the vote (rule 38 of the provisional rules of procedure). The Council continued to follow its general practice of not permitting invited representatives to discuss procedural matters, such as the adoption of the agenda, the extension of invitations and the postponement of consideration of a question. No question arose during the period under review concerning such limitations.

Annex I

Invitations extended under rule 37 (1989-1992)

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council	Bahrain	2835th meeting (2836th, 2837th and 2939th-2841st meetings)
	Burkina Faso	"
	Cuba	"
	Libyan Arab Jamahiriya	"
	Syrian Arab Republic	"
Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Bahrain to the United Nations addressed to the President of the Security Council	Tunisia	"
	Afghanistan	2836th meeting (2837th and 2839th-2841st meetings)
	Democratic Yemen	"
	Islamic Republic of Iran	"
	Lao People's Democratic Republic	"
	Madagascar	"
	Mali	"
	Nicaragua	"
	Sudan	"
	Uganda	"
	Pakistan	2837th meeting (2839th-2841st meetings)
	Zimbabwe	"
	Bangladesh	2839th meeting (2840th and 2841st meetings)
	India	"
Morocco	"	
Czechoslovakia	German Democratic Republic	2840th meeting (2841st meeting)
	Malta	"
	Poland	"
	Romania	"
	United Arab Emirates	"
	Yemen	"
	Bulgaria	2841st meeting
	Byelorussian Soviet Socialist Republic	"
Mongolia	"	

Repertoire of the Practice of the Security Council

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
The situation in Namibia	Angola	2876th meeting (2877th-2882nd meetings)
	Cameroon	"
	Cuba	"
	Egypt	"
	Ghana	"
	Mali	"
	Nigeria	"
	South Africa	"
	United Republic of Tanzania	"
	Zambia	"
	Burundi	2877th meeting (2878th-2882nd meetings)
	Guatemala	"
	India	"
	Indonesia	"
	Bangladesh	2878th meeting (2879th-2882nd meetings)
	Nicaragua	"
	Pakistan	"
	Uganda	"
	Congo	2879th meeting (2880th-2882nd meetings)
	Federal Republic of Germany	"
	Libyan Arab Jamahiriya	"
	Mauritania	"
	Afghanistan	2880th meeting (2881st and 2882nd meetings)
Zimbabwe	2880th meeting	
The situation between Iran and Iraq	Iran	2844th meeting
	Iraq	"
	Iran	2885th meeting
	Iraq	"
	Iran	2916th meeting
	Iraq	"
Iran	2944th meeting	
Iraq	"	
Iran	2961st meeting	
Iraq	"	

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Iran	2976th meeting
	Iraq	"
The situation in the occupied Arab territories	Egypt	2845th meeting (2846th, 2847th, 2849th and 2850th meetings)
	Israel	"
	Jordan	"
	Kuwait	"
	Syrian Arab Republic	"
	Tunisia	"
	Yemen	"
	Bahrain	2846th meeting (2847th, 2849th and 2850th meetings)
	Democratic Yemen	"
	Lebanon	"
	Pakistan	"
	Qatar	"
	Sudan	"
	Zimbabwe	"
	Afghanistan	2847th meeting (2849th and 2850th meetings)
	Bangladesh	"
	Czechoslovakia	"
	German Democratic Republic	"
	Indonesia	"
	Islamic Republic of Iran	"
	Japan	"
	Libyan Arab Jamahiriya	"
	Nicaragua	"
	Turkey	"
	Ukrainian Soviet Socialist Republic	"
	Cuba	2849th meeting (2850th meeting)
	India	"
	Lao People's Democratic Republic	"
	Morocco	"
	Panama	"
	United Arab Emirates	2850th meeting
	Bahrain	2863rd meeting (2864th-2867th meetings)
	Egypt	"
	Jordan	"
	Saudi Arabia	"

Repertoire of the Practice of the Security Council

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Syrian Arab Republic	"
	Tunisia	"
	Yemen	"
	Democratic Yemen	2864th meeting (2865th-2867th meetings)
	Israel	"
	Kuwait	"
	Pakistan	"
	Qatar	"
	Bangladesh	2865th meeting (2866th and 2867th meetings)
	Cuba	"
	Japan	"
	Ukrainian Soviet Socialist Republic	"
	Afghanistan	2866th meeting (2867th meeting)
	German Democratic Republic	"
	Libyan Arab Jamahiriya	"
	Mauritania	"
	Zimbabwe	"
	Israel	2870th meeting
	Israel	2883rd meeting
	Israel	2887th meeting (2888th and 2889th meetings)
	Kuwait	"
	Saudi Arabia	"
	Islamic Republic of Iran	2888th meeting (2889th meeting)
	Israel	2910th meeting (2911th, 2912th, 2914th, 2915th and 2920th meetings)
	Jordan	"
	Senegal	"
	Algeria	2912th meeting (2914th, 2915th and 2920th meetings)
	Bahrain	"
	Egypt	"
	India	"
	Indonesia	"
	Iraq	"
	Libyan Arab Jamahiriya	"
	Pakistan	"
	Qatar	"

Chapter III. Participation in the proceedings of the Security Council

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Saudi Arabia	"
	Syrian Arab Republic	"
	Tunisia	"
	Ukrainian Soviet Socialist Republic	"
	Yemen	"
	Yugoslavia	"
	Bangladesh	2914th meeting (2915th and 2920th meetings)
	Morocco	"
	United Republic of Tanzania	"
	Afghanistan	2915th meeting (2920th meeting)
	Islamic Republic of Iran	"
	Kuwait	"
	Nicaragua	"
	Greece	2920th meeting
	Turkey	"
	Bahrain	2923rd meeting (2926th meeting)
	Bangladesh	"
	Egypt	"
	Gabon	"
	India	"
	Islamic Republic of Iran	"
	Iraq	"
	Israel	"
	Jordan	"
	Kuwait	"
	Lebanon	"
	Morocco	"
	Qatar	"
	Saudi Arabia	"
	Sri Lanka	"
	Syrian Arab Republic	"
	Tunisia	"
	Turkey	"
	United Arab Emirates	"
	Yugoslavia	"
	Japan	2926th meeting
	Pakistan	"
	Israel	2945th meeting (2946th-2949th, 2953rd, 2954th, 2957th, 2965th, 2966th and 2970th meetings)
	Libyan Arab Jamahiriya	"

Repertoire of the Practice of the Security Council

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Algeria	2946th meeting (2947th-2949th, 2953rd, 2954th, 2957th, 2965th, 2966th and 2970th meetings)
	Jordan	"
	Tunisia	"
	Yugoslavia	"
	Bangladesh	2947th (2948th, 2949th, 2953rd, 2954th, 2957th, 2965th, 2966th and 2970th meetings)
	Egypt	"
	Islamic Republic of Iran	"
	Iraq	"
	Kuwait	"
	Mauritania	"
	Morocco	"
	Pakistan	"
	Qatar	"
	Saudi Arabia	"
	Syrian Arab Republic	"
	United Arab Emirates	"
	India	2948th meeting (2949th, 2953rd, 2954th, 2957th, 2965th, 2966th, and 2970th meetings)
	Turkey	"
	Sudan	2949th meeting (2953rd, 2954th, 2957th, 2965th, 2966th and 2970th meetings)
	Lebanon	2953rd meeting (2954th, 2957th, 2965th, 2966th and 2970th meetings)
	Israel	2989th meeting
	Jordan	"
	Lebanon	"
	Malaysia	"
	United Arab Emirates	"
	Egypt	3026th meeting
	Israel	"
	Syrian Arab Republic	"
	Egypt	3151st meeting
	Israel	"
	Jordan	"
	Lebanon	"

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Syrian Arab Republic	"
The situation relating to Afghanistan	Afghanistan	2852nd meeting (2853rd, 2855th-2857th, 2859th and 2860th meetings)
	Pakistan	"
	Syrian Arab Republic	"
	Cuba	2853rd meeting (2855th-2857th, 2859th and 2860th meetings)
	Democratic Yemen	"
	German Democratic Republic	"
	Japan	"
	Mongolia	"
	Saudi Arabia	"
	Turkey	"
	India	2855th meeting (2856th, 2857th, 2859th and 2860th meetings)
	Lao People's Democratic Republic	"
	Madagascar	"
	Nicaragua	"
	United Republic of Tanzania	"
	Viet Nam	"
	Angola	2856th meeting (2857th, 2859th and 2860th meetings)
	Bulgaria	"
	Comoros	"
	Iraq	"
Bangladesh	2857th meeting (2859th and 2860th meetings)	
Burkina Faso	"	
Congo	"	
Czechoslovakia	"	
Hungary	"	
Poland	"	
Somalia	"	
Ukrainian Soviet Socialist Republic	"	
Libyan Arab Jamahiriya	2859th meeting (2860th meeting)	
Byelorussian Soviet Socialist Republic	"	

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
Items relating to the situation in Panama		
Letter dated 25 April 1989 from the Permanent Representative of Panama to the United Nations addressed to the President of the Security Council	Panama	2861st meeting (2984th meeting)
The situation in Panama	Nicaragua	2899th meeting (2900th-2902nd meetings)
	Cuba	2900th meeting (2901st and 2902nd meetings)
	El Salvador	"
	Libyan Arab Jamahiriya	"
	Peru	"
	Panama ^c	2901st meeting
Letter dated 3 January 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Nicaragua to the United Nations addressed to the President of the Security Council	Nicaragua	2905th meeting
The situation in Cyprus	Cyprus	2868th meeting
	Greece	"
	Turkey	"
	Cyprus	2898th meeting
	Greece	"
	Turkey	"
	Cyprus	2928th meeting
	Greece	"
	Turkey	"
	Cyprus	2969th meeting
Greece	"	
Turkey	"	
Cyprus	2992nd meeting	
Greece	"	
Turkey	"	
Canada	3022nd meeting	
Cyprus	"	

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Greece	"
	Turkey	"
Letter dated 27 November 1989 from the Permanent Representative of El Salvador to the United Nations addressed to the President of the Security Council;	El Salvador	2896th meeting
	Nicaragua	"
Letter dated 28 November 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council		
Admission of new Members (Namibia)	Brazil	2918th meeting
	Mali	"
	South Africa	"
The situation between Iraq and Kuwait	Iraq	2932nd meeting (2933rd, 2934th and 2937th-2939th meetings)
	Kuwait	"
	Oman	2934th meeting (2938th and 2939th meetings)
	Iraq	2940th meeting
	Italy	"
	Kuwait	"
	Kuwait	2943rd meeting
	Iraq	2950th meeting (2951st meeting)
	Kuwait	"
	Kuwait	2959th meeting [in accordance with decision taken at 2950th meeting]
	Bahrain	2959th meeting (2960th and 2962nd meetings)
	Egypt	"
	Saudi Arabia	"
	Qatar	2960th meeting (2962nd meeting)
	Bangladesh	2962nd meeting
	Islamic Republic of Iran	"
	United Arab Emirates	"
	Iraq	2963rd meeting

Repertoire of the Practice of the Security Council

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Kuwait	"
	Iraq	2978th meeting (2979th meeting)
	Kuwait	"
	Saudi Arabia	"
	Iraq	2981st meeting
	Kuwait	"
	Iraq	2983rd meeting
	Kuwait	"
	Iraq	2987th meeting
	Kuwait	"
	Iraq	2994th meeting
	Iraq	2995th meeting
	Iraq	3004th meeting
	Kuwait	"
	Iraq	3008th meeting
	Iraq	3012th meeting
	Iraq	3059th meeting
	Kuwait	"
	Iraq	3105th meeting
	Iraq	3139th meeting
	Kuwait	"
Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council;	Italy	2937th meeting (2938th and 2939th meetings)
	Turkey	2982nd meeting
Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council		
Letter dated 7 December 1990 from the President of the Trusteeship Council addressed to the President of the Security Council	New Zealand	2972nd meeting

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
The situation in Liberia	Liberia	2974th meeting
	Nigeria	"
	Benin	3838th meeting
	Burkina Faso	"
	Cote d'Ivoire	"
	Egypt	"
	Gambia	"
	Ghana	"
	Guinea	"
	Liberia	"
	Mauritius	"
	Nigeria	"
	Senegal	"
	Sierra Leone	"
Togo	"	
Items relating to the situation in Angola		
Letter dated 17 May 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Angola to the United Nations addressed to the Secretary-General	Angola	2991st meeting
	Portugal	"
Further report of the Secretary-General on the United Nations Angola Verification Mission	Angola	3062nd meeting
	Portugal	"
Other items relating to the situation in Angola	Angola	3092nd meeting
	Angola	3115th meeting
	Angola	3120th meeting
	Angola	3126th meeting
	Angola	3130th meeting
	Brazil	
	Portugal	
South Africa		
Angola	3152nd meeting	

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
Items relating to the situation in the former Yugoslavia		
Letter dated 19 September 1991 from the Permanent Representative of Austria to the United Nations addressed to the President of the Security Council;	Yugoslavia	3009th meeting
Letter dated 19 September 1991 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council;		
Letter dated 20 September 1991 from the Permanent Representative of Hungary to the United Nations addressed to the President of the Security Council;		
Letter dated 24 September 1991 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council		
Letter dated 24 November 1991 from the Secretary-General addressed to the President of the Security Council;	Yugoslavia	3018th meeting
Letter dated 21 November 1991 from the Permanent Representative of Germany to the United Nations addressed to the President of the Security Council;		
Letter dated 26 November 1991 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council		

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
Report of the Secretary-General pursuant to Security Council resolution 721 (1991)	Yugoslavia	3023rd meeting
Oral report of the Secretary-General pursuant to his report of 5 January 1992	Yugoslavia	3027th meeting
Further report of the Secretary-General pursuant to Security Council resolution 721 (1991)	Yugoslavia	3028th meeting
	Yugoslavia	3049th meeting
	Yugoslavia	3055th meeting
Report of the Secretary-General pursuant to Security Council resolution 743 (1992)	Yugoslavia	3066th meeting
Other items relating to the situation in the former Yugoslavia	Bosnia and Herzegovina	3093rd meeting
	Bosnia and Herzegovina	3097th meeting
	Bosnia and Herzegovina	3100th meeting
	Bosnia and Herzegovina	3103rd meeting
	Croatia	3104th meeting
	Bosnia and Herzegovina	3106th meeting
	Bosnia and Herzegovina	3111th meeting
	Bosnia and Herzegovina	3114th meeting
	Croatia	3118th meeting
	Bosnia and Herzegovina Croatia	3119th meeting "
	Bosnia and Herzegovina	3122nd meeting
	Bosnia and Herzegovina	3132nd meeting
	Albania	3134th meeting (3135th-3137th meetings)
	Azerbaijan	"
	Bosnia and Herzegovina	"
Canada	"	
Comoros	"	
Croatia	"	
Egypt	"	
Germany	"	
Indonesia	"	

Repertoire of the Practice of the Security Council

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Islamic Republic of Iran	"
	Italy	"
	Jordan	"
	Malaysia	"
	Pakistan	"
	Qatar	"
	Senegal	"
	Slovenia	"
	Turkey	"
	Afghanistan	3135th meeting (3136th and 3137th meetings)
	Kuwait	"
	Lithuania	"
	Norway	"
	Romania	"
	Tunisia	"
	Ukraine	"
	Greece	3136th meeting (3137th meeting)
	Malta	"
	United Arab Emirates	"
	Algeria	3137th meeting
	Bangladesh	"
	Bosnia and Herzegovina	3150th meeting
Letter dated 30 September 1991 from the Permanent Representative of Haiti to the United Nations addressed to the President of the Security Council	Canada	3011th meeting
	Haiti	"
	Honduras	"
Letters dated 20 and 23 December 1991 and reports of the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992)	Canada	3033rd meeting
	Congo	"
	Iraq	"
	Islamic Republic of Iran	"
	Italy	"
	Libyan Arab Jamahiriya	"
	Mauritania	"
	Sudan	"
	Yemen	"
	Iraq	3063rd meeting
	Jordan	"
	Libyan Arab Jamahiriya	"
	Mauritania	"
	Uganda	"

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
The situation in Somalia	Somalia	3039th meeting
	Italy	3060th meeting
	Kenya	"
	Nigeria	"
	Somalia	"
	Somalia	3069th meeting
	Somalia	3101st meeting
	Somalia	3110th meeting
Letter dated 27 April 1992 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council	Somalia	3145th meeting
	Cuba	3080th meeting
The question of South Africa	Algeria	3095th meeting (3096th meeting)
	Angola	"
	Antigua and Barbuda	"
	Australia	"
	Barbados	"
	Botswana	"
	Brazil	"
	Canada	"
	Congo	"
	Cuba	"
	Egypt	"
	Germany	"
	Indonesia	"
	Lesotho	"
	Malaysia	"
	Namibia	"
	Nepal	"
	Netherlands	"
	New Zealand	"
	Nigeria	"
	Norway	"
	Peru	"
	Philippines	"
	Portugal	"
	Senegal	"
	South Africa	"
	Spain	"
Suriname	"	
Sweden	"	

Repertoire of the Practice of the Security Council

<i>Question^a</i>	<i>State invited</i>	<i>Decision of the Council: invitations extended and renewed^b</i>
	Uganda	"
	Ukraine	"
	Republic of Tanzania	"
	Zaire	"
	Zambia	"
	Greece	3096th meeting
	Islamic Republic of Iran	"
	Italy	"
The situation in Georgia	Georgia	3121st meeting
The situation in Mozambique	Mozambique	3123rd meeting
	Mozambique	3149th meeting

^a This table is listed chronologically according to the first meeting held on each agenda item during the period under review. Items may appear to be out of order in instances where invitations were not extended at earlier meetings on the agenda item. Agenda items relating to the same peace and security issue have been grouped together.

^b The meetings at which the invitations were renewed are indicated in parentheses.

^c An invitation was extended to Panama, but the two competing requests to participate in the Council's discussion as representative of Panama were subsequently withdrawn (see case 1).

Annex II**Invitations extended under rule 39 (1989-1992)****A. Invitations under rule 39 to representatives of United Nations organs, subsidiary bodies or agencies**

<i>Person invited</i>	<i>Agenda item^a</i>	<i>Meeting</i>	<i>Date</i>
Delegation of the Committee on the Exercise of the Inalienable Rights of the Palestinian People	The situation in the occupied Arab territories	2845	10 February 1989
		2849	17 February 1989
Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People		2923	25, 26 May 1990
		2945	5 October 1990
		2954	9 November 1990
Acting President of the United Nations Council for Namibia	Admission of new Members (Namibia)	2918	17 April 1990
Mr. Hans Blix, Director General, International Atomic Energy Agency (IAEA)	The situation between Iraq and Kuwait	3059	11 March 1992
		3139	23 November 1992
Mr. Rolf Ekeus, Executive Chairman, United Nations Special Commission		3059	11 March 1992
		3139	23 November 1992
Chairman of the Special Committee against Apartheid	The question of South Africa	3095	15 July 1992
Mrs. Sadaka Ogata, United Nations High Commissioner for Refugees	Items relating to the situation in the former Yugoslavia: the situation in Bosnia and Herzegovina	3134	13 November 1992

^a The agenda items are arranged according to the date on which they were first taken up by the Council in the period under review.

B. Invitations under rule 39 to representatives of regional or other international organizations

<i>Person invited</i>	<i>Agenda item^a</i>	<i>Meeting</i>	<i>Date</i>
Mr. Samir Mansouri, Acting Permanent Observer, League of Arab States (LAS)	Letter dated 4 January 1989 from the Libyan Arab Jamahiriya addressed to the President of the Security Council;	2835	5 January 1989

Repertoire of the Practice of the Security Council

<i>Person invited</i>	<i>Agenda item^a</i>	<i>Meeting</i>	<i>Date</i>
	Letter dated 4 January 1989 from Bahrain addressed to the President of the Security Council		
Mr. A. Engin Ansay, Permanent Observer, Organization of the Islamic Conference (OIC)		2840	10 January 1989
Mr. Clovis Maksoud, Permanent Observer (LAS)		2841	11 January 1989
Mr. Clovis Maksoud (LAS)	The situation in the occupied Arab Territories	2845	10 February 1989
Mr. A. Engin Ansay (OIC)		2847	14 February 1989
Mr. Clovis Maksoud (LAS)		2863	6 June 1989
		2864	7 June 1989
Mr. A. Engin Ansay (OIC)		2863	6 June 1989
		2864	7 June 1989
Mr. Clovis Maksoud (LAS)		2887	6 November 1989
		2888	6 November 1989
		2910	15 March 1990
		2911	15 March 1990
Mr. A. Engin Ansay (OIC)		2912	27 March 1990
Mr. Nabil T. Maarouf, Assistant Secretary-General for Palestine and Al Quds of OIC		2923	25, 26 May 1990
Mr. Clovis Maksoud (LAS)		2923	25, 26 May 1990
Mr. Abdulmalek Ismail Mohamed, Chargé d'affaires, Office of the Permanent Observer of LAS		2947	9 October 1990
Mr. A. Engin Ansay (OIC)		2957	16 November 1990
Mr. A. Engin Ansay (OIC)	The situation relating to Afghanistan	2853	17 April 1989

<i>Person invited</i>	<i>Agenda item^a</i>	<i>Meeting</i>	<i>Date</i>
Mr. A. Engin Ansay (OIC)	The situation between Iraq and Kuwait	2959	27 November 1990
		2960	27 November 1990
Mr. Adnan Omran, Under-Secretary-General, LAS	Items relating to the Libyan Arab Jamahiriya	3033	21 January 1992
		3033	21 January 1992
Mr. A. Engin Ansay (OIC)		3063	31 March 1992
		3060	17 March 1992
Mr. A. Engin Ansay (OIC)	The situation in Somalia	3060	17 March 1992
Mr. Aboul Nasr, Permanent Observer, LAS		3060	17 March 1992
Mr. Salim A. Salim, Secretary-General, Organization of African Unity (OAU)	The question of South Africa	3095	15 July 1992

^a The agenda items are arranged according to the date on which they were first taken up by the Council in the period under review.

C. Invitations under rule 39 to other individuals (1989-1992)

<i>Person invited</i>	<i>Agenda item^a</i>	<i>Meeting</i>	<i>Date</i>
Mr. Leasona S. Makhanda, Secretary for Labour of the Pan Africanist Congress of Azania (PAC)	Letter dated 4 January 1989 from Libya addressed to the President of the Security Council; and Letter dated 4 January 1989 from Bahrain addressed to the President of the Security Council	2840	10 January 1989
Mr. Solly Simeland, Deputy Representative, African National Congress of South Africa (ANC)			
Mr. Ozer Koray	The situation in Cyprus	2868	9 June 1989
		2898	14 December 1989
		2928	15 June 1990
		2969	14 December 1990

Repertoire of the Practice of the Security Council

<i>Person invited</i>	<i>Agenda item^a</i>	<i>Meeting</i>	<i>Date</i>
Mr. Osman Ertug		2992	14 June 1991
		3022	12 December 1991
Mr. Kenneth M. Andrew, Democratic Party of South Africa	The question of South Africa	3095	15 July 1992
		3096	16 July 1992
Mr. Mangosuthu G. Buthelezi (in his personal capacity)		3095	15 July 1992
		3096	16 July 1992
Mr. Oupa J. Gqozo (in his personal capacity)		3095	15 July 1992
		3096	16 July 1992
Mr. Bantu Holomisa (in his personal capacity)		3096	16 July 1992
Mr. E. Joosab, National People's Party of South Africa		3095	15 July 1992
		3096	16 July 1992
Mr. Philip Mahlangu, Intando Yesizwe Party		3096	16 July 1992
Mr. Clarence Makwetu, President, PAC		3095	15 July 1992
Mr. Nelson Mandela, President, ANC		3095	15 July 1992
Mr. Lucas M. Mangope (in his personal capacity)		3095	15 July 1992
		3096	16 July 1992
Mr. E. E. Ngobeni, participant in the Convention for a Democratic South Africa		3095	15 July 1992
Mr. Essop Pahad, South African Communist Party		3096	16 July 1992
Mr. Manguenzi Zitha		3096	16 July 1992
Mr. Max van der Stoel (in his personal capacity)	The situation between Iraq and Kuwait	3105	11 August 1992
Mr. Max van der Stoel		3139	23 November 1992

<i>Person invited</i>	<i>Agenda item^a</i>	<i>Meeting</i>	<i>Date</i>
Mr. Cyrus Vance and Lord Owen, Co-Chairmen of the International Conference on the former Yugoslavia	Items relating to the situation in the former Yugoslavia: the situation in Bosnia and Herzegovina	3134	13 November 1992
Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights			

^a The agenda items are arranged according to the date on which they were first taken up by the Council in the period under review.

Chapter IV

Voting

Contents

	<i>Page</i>
Introductory note	87
Part I. Procedural and non-procedural matters	88
Note	88
A. Cases in which the vote indicated the procedural character of the matter	88
1. Suspension of a meeting	88
2. Invitation to participate in the proceedings	88
B. Cases in which the vote indicated the non-procedural character of the matter	89
In connection with matters considered by the Security Council under its responsibility for the maintenance of international peace and security	89
Part II. Proceedings of the Security Council regarding voting upon the question whether the matter was procedural within the meaning of Article 27, paragraph 2, of the Charter	90
Note	90
Part III. Abstention, non-participation or absence in relation to Article 27, paragraph 3, of the Charter	91
Note	91
A. Obligatory abstention	91
Consideration of abstention in accordance with the proviso to Article 27, paragraph 3	91
B. Voluntary abstention, non-participation or absence in relation to Article 27, paragraph 3	92
Certain cases in which permanent members abstained otherwise than in accordance with the proviso to Article 27, paragraph 3	93
Part IV. Adoption of resolutions and decisions without a vote	94
Note	94
A. Cases in which the Security Council adopted resolutions without a vote	94
B. Cases in which Security Council decisions were announced in presidential statements issued after being agreed upon by the members of the Council at consultations	95
1. Statements placed on record at meetings of the Security Council	95
2. Statements issued only as Security Council documents	99
C. Cases in which Security Council decisions were recorded in letters or notes from the President of the Security Council	100

Introductory note

The present chapter contains material relating to the practice of the Security Council on voting under Article 27 of the Charter and rule 40 of the provisional rules of procedure of the Council.¹ The arrangement of the material basically follows that of the corresponding chapter in earlier volumes of the *Repertoire*.

Part I presents evidence relating to the distinction between procedural and non-procedural matters. Most votes in the Council do not indicate by themselves whether the Council considers the matter voted upon as procedural or non-procedural: this is the case, for instance, when a proposal is adopted by a unanimous vote; when all permanent members vote in favour of a proposal; or when a proposal fails to obtain the necessary nine votes in its favour. Part I lists those instances in which the vote did indicate, respectively, the procedural or non-procedural nature of the decision. Part II contains no entries, as during the period 1989-1992 there was no material relating to the practice of the Council in voting upon the question whether a matter was procedural within the meaning of Article 27 (2). Part III is concerned with the abstention, non-participation or absence of a Council member in relation to the requirements of Article 27 (3). Part IV deals with decisions adopted without a vote.

Article 27

1. *Each member of the Security Council shall have one vote.*
2. *Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.*
3. *Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.*

¹ Material relating to voting in connection with the election of judges under Article 10 of the Statute of the International Court of Justice is included in chapter VI, part IV. Material on the voting procedure employed by the Council in connection with the applications for admission to membership in the United Nations is contained in chapter VII.

Part I Procedural and non-procedural matters

Note

Part I is divided into two sections. Section A comprises instances in which the vote indicated the procedural character of the matter under consideration. Section B lists instances in which the vote indicated the non-procedural character of the matter. There was no discussion on the procedural or non-procedural nature of the questions under consideration.

The record of voting may be conclusive where a proposal obtained nine or more votes, with one or more permanent members casting a negative vote. Adoption by the Council in such circumstances indicates the procedural character of the matter; rejection by the Council in such circumstances indicates the non-procedural character of the matter.

A. Cases in which the vote indicated the procedural character of the matter

1. Suspension of a meeting

<i>Agenda item</i>	<i>Meeting and date</i>	<i>Vote</i>	<i>Permanent members casting a negative vote</i>
The situation in the occupied Arab territories	2970 (part I), 19 December 1990	Proposal adopted by a vote of 9 to 6	2

2. Invitation to participate in the proceedings

<i>Agenda item</i>	<i>Person invited</i>	<i>Meeting and date</i>	<i>Vote (in each case the proposal was adopted)</i>	<i>Permanent members casting a negative vote</i>
Letter dated 4 January 1989 from the representative of the Libyan Arab Jamahiriya addressed to the President of the Security Council	Permanent Observer of Palestine ^a	2841, 11 January 1989	11-1-3	1
Letter dated 4 January 1989 from the representative of Bahrain addressed to the President of the Security Council				
The situation in the occupied Arab territories	As above	2845, 10 February 1989	11-1-3	1
	As above	2863, 6 June 1989	11-1-3	1
	As above	2870, 6 July 1989	11-1-3	1

<i>Agenda item</i>	<i>Person invited</i>	<i>Meeting and date</i>	<i>Vote (in each case the proposal was adopted)</i>	<i>Permanent members casting a negative vote</i>
	As above	2883, 30 August 1989	11-1-3	1
	As above	2887, 6 November 1989	11-1-3	1
	As above	2910, 15 March 1990	11-1-3	1
	As above	2923, 29 May 1990	11-1-3	1
	As above	2945, 5 October 1990	11-1-3	1
	As above	2973, 4 January 1991	11-1-3	1
	As above	2980, 27 March 1991	11-1-3	1
	As above	2989, 24 May 1991	11-1-3	1
	As above	3026, 6 January 1992	10-1-4	1
	As above	3065, 4 April 1992	10-1-4	1
	As above	3151, 18 December 1992	10-1-4	1
Items relating to the situation in the former Yugoslavia: the situation in Bosnia and Herzegovina	As above	3134, 13 November 1992	10-1-4	1

^a On the legal basis of participation of the Permanent Observer of Palestine, see chapter III, part I, sect. C.

B. Cases in which the vote indicated the non-procedural character of the matter

In connection with matters considered by the Security Council under its responsibility for the maintenance of international peace and security

<i>Agenda item</i>	<i>Meeting and date</i>	<i>Proposals (draft resolutions, etc.)</i>	<i>Submitted by</i>	<i>Vote (in each case, the proposal was defeated)</i>	<i>Permanent members casting a negative vote^b</i>
Letter dated 4 January 1989 from the representative of the Libyan Arab Jamahiriya addressed to the President of the Security Council	2841, 11 January 1989	S/20378	Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia	9-4-2	3
Letter dated 4 January 1989 from the representative of Bahrain addressed to the President of the Security Council					

Repertoire of the Practice of the Security Council

<i>Agenda item</i>	<i>Meeting and date</i>	<i>Proposals (draft resolutions, etc.)</i>	<i>Submitted by</i>	<i>Vote (in each case, the proposal was defeated)</i>	<i>Permanent members casting a negative vote^b</i>
The situation in the occupied Arab territories	2850, 17 February 1989	S/20463	As above	14-1-0	1
	2867, 9 June 1989	S/20677	As above	14-1-0	1
	2889, 7 November 1989	S/20945/ Rev.1	As above	14-1-0	1
	2926, 31 May 1990	S/21326	Colombia, Côte d'Ivoire, Cuba, Ethiopia, Malaysia, Yemen and Zaire	14-1-0	1
The situation in Panama	2902, 23 December 1989	S/21048	Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia	10-4-1	3
Letter dated 3 January 1990 from the representative of Nicaragua addressed to the President of the Security Council	2905, 17 January 1990	S/21084	Colombia, Côte d'Ivoire, Cuba, Democratic Yemen, Ethiopia, Malaysia and Zaire	13-1-1	1

^b For the context and explanations of vote, see the relevant case studies in chapter VIII.

Part II

Proceedings of the Security Council regarding voting upon the question whether the matter was procedural within the meaning of Article 27, paragraph 2, of the Charter

Note

On certain occasions the Security Council has found it necessary to decide, by vote, the question whether or not the matter under consideration was procedural within the meaning of Article 27 (2). This question has come to be termed, after the language used in the San Francisco Statement on Voting Procedure, “the preliminary question”.

There were no instances of voting on the preliminary question during the period under review.

Part III

Abstention, non-participation or absence in relation to Article 27, paragraph 3, of the Charter

Note

According to Article 27 (3) of the Charter, the affirmative vote of nine members for decisions on non-procedural (substantive) matters must include “the concurring votes of the permanent members”. Part III concerns the application of this requirement: (a) in the light of the proviso to Article 27 (3) (requiring abstention); and (b) in circumstances when a permanent member voluntarily abstains, does not participate in the vote, or is absent at the time of the vote.

A. Obligatory abstention

The proviso to Article 27 (3) states:

provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

In the period under review, there were no cases in which members abstained in accordance with the proviso to Article 27 (3). In three instances, however, the issue of obligatory abstention was considered (see cases 1-3 below).

Consideration of abstention in accordance with the proviso to Article 27, paragraph 3

Case 1

At the 2949th meeting, held on 24 October 1990 to consider the situation in the occupied Arab territories, the representative of Cuba commented on the definition of a “party to the dispute” within the meaning of Article 27 (3). Speaking before the vote on a draft resolution, which he urged be adopted unanimously, he stated that the permanent members of the Security Council had only one special prerogative under the Charter of the United Nations, and that came at the time of a vote. Even so, the Charter was careful to specify that that special authority did not prevail in all circumstances. It did not prevail on procedural issues, or when a permanent member was a party to a dispute. If a permanent member considered that a question the Council was about to take up was

particularly important and close to it, its prerogative could not be interpreted as meaning that it could block the effective action required of the Council under Article 24. If a member of the Council had such an intimate connection with a particular issue, that would come closest to the definition of “a party to a dispute” and, in that case, it would have neither the special power of the veto nor, strictly speaking, the right to take part in the vote. As Article 27 (3) stated, it should abstain from voting.² In the event, the resolution in question was adopted unanimously.³

Case 2

At the 3033rd meeting, held on 21 January 1992 to consider items relating to the Libyan Arab Jamahiriya, the representative of the Libyan Arab Jamahiriya stated that the legality of the Security Council’s work was subject to its observance and proper implementation of the provisions of the Charter. He maintained that that could not be achieved if the parties to the dispute in question were to participate in the voting on the draft resolution before the Council, submitted by France, the United Kingdom and the United States. He remarked: “[t]o disregard the legal nature of the dispute and to treat it as a political matter would constitute a flagrant violation of the explicit provisions of Article 27, paragraph 3, of the Charter.”⁴ In the event, all Council members did participate in the vote on the draft resolution in question, which was adopted unanimously as resolution 731 (1992). At the 3063rd meeting, on 31 March 1992, the representative of the Libyan Arab Jamahiriya claimed that the procedure the Council had followed in adopting that resolution had not taken into account the correct implementation of Article 27 (3), which provided that in the case of decisions adopted under Chapter VI, a party to a dispute shall abstain from voting. He contended that that was applicable to France, the United Kingdom and the United States.⁵

² S/PV.2949, pp. 58-61.

³ Resolution 673 (1990).

⁴ S/PV.3033, pp. 24-25.

⁵ S/PV.3063, p. 7.

By contrast, speaking after the vote at the 3033rd meeting, at which resolution 731 (1992) was adopted, the representative of the United States stated that the issue at hand was “not some difference of opinion or approach that could be mediated or negotiated”. It was, as the Security Council had just recognized, conduct threatening to all, and a direct threat to international peace and security. The mandate of the Council required that it squarely face up to its responsibilities in the case. It must not be distracted by Libyan attempts to convert what was an issue of international peace and security into one of bilateral differences.⁶ The representative of the United Kingdom observed that the Council was not, in the words of article 14 of the Montreal Convention, dealing with a dispute between two or more contracting parties concerning the interpretation or application of the Montreal Convention. It was concerned, rather, with the proper reaction of the international community to the situation arising from the failure of the Libyan Arab Jamahiriya, thus far, to respond effectively to the most serious accusations of State involvement in acts of terrorism.⁷

Case 3

At the 3046th meeting, on 31 January 1992, the Security Council convened for the first time at the level of Heads of State or Government to consider the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”. Addressing this issue, the Minister for Foreign Affairs of Zimbabwe and Personal Emissary of the President of Zimbabwe stated that, as the principles of the Charter must govern the global order, the process of creating a new world order should begin with a re-examination of the Charter itself in the context of the changing international circumstances. A

⁶ S/PV.3033, p. 79.

⁷ *Ibid.*, p. 104.

new world order could best be created by rectifying the flaws in the Charter, closing the gaps that had been revealed by recent developments, and updating those of its provisions that had been rendered obsolete. The Minister for Foreign Affairs observed, for example, that his country believed that a collective security system liable to veto by one or a few States was not reliable. It meant that the Security Council could not take any action in a conflict in which one of the permanent members had a direct interest. While that had undoubtedly been one of the considerations at San Francisco, he wondered whether it had not been overtaken by events. In that regard, Zimbabwe suggested that consideration could be given to extending Article 27 (3), of the Charter — which provided that, in decisions relating to the peaceful settlement of disputes under Chapter VI, a party to a dispute shall abstain from voting. Its proposal was that this limitation should also apply to Chapter VII, so that those who wielded the veto power could not block the imposition of sanctions or any other collective enforcement action when they were parties to a conflict.⁸

B. Voluntary abstention, non-participation or absence in relation to Article 27, paragraph 3

This section lists those instances in which permanent members voluntarily abstained from voting. In each case, in conformity with its consistent practice, the Security Council considered the resolution in question to have been adopted notwithstanding the abstention. During the period under review, there were no instances of non-participation of permanent members or of votes taken in their absence.

⁸ S/PV.3046, pp. 122 and 126.

Certain cases in which permanent members abstained otherwise than in accordance with the proviso to Article 27, paragraph 3

<i>Resolution number</i>	<i>Agenda item</i>	<i>Meeting and date</i>	<i>Vote</i>	<i>Abstaining</i>
636 (1989)	The situation in the occupied Arab territories	2870, 6 July 1989	14-0-1	United States
641 (1989)	As above	2883, 30 August 1989	14-0-1	United States
678 (1990)	Items relating to the situation between Iraq and Kuwait	2963, 29 November 1990	12-2-0	China
686 (1991)	As above	2978, 2 March 1991	11-1-3	China (and elected members India, Yemen)
688 (1991)	As above	2982, 5 April 1991	10-3-2	China (and elected member India)
748 (1992)	The situation relating to the Libyan Arab Jamahiriya	3063, 31 March 1992	10-0-5	China (and elected members Cape Verde, India, Morocco, Zimbabwe)
757 (1992)	Items relating to the situation in the former Yugoslavia	3082, 30 May 1992	13-0-2	China (and elected member Zimbabwe)
770 (1992)	As above	3106, 13 August 1992	12-0-3	China (and elected members India, Zimbabwe)
776 (1992)	As above	3114, 14 September 1992	12-0-3	China (and elected members India, Zimbabwe)
777 (1992)	As above	3116, 19 September 1992	12-0-3	China (and elected members India, Zimbabwe)
778 (1992)	Items relating to the situation between Iraq and Kuwait	3117, 2 October 1992	14-0-1	China
781 (1992)	Items relating to the situation in the former Yugoslavia: Bosnia and Herzegovina	3122, 9 October 1992	14-0-1	China
787 (1992)	As above	3137, 16 November 1992	13-0-2	China (and elected member Zimbabwe)
792 (1992)	The situation in Cambodia	3143, 30 November 1992	14-0-1	China

Part IV Adoption of resolutions and decisions without a vote

Note

Most procedural motions during this period were approved without a vote.⁹

Certain decisions of substance were also taken without a vote, as shown in the case of resolutions, in the table in section A below. In these particular cases, which all concerned the admission of new Members, the President, in accordance with the understanding reached in prior consultations, proposed “that the Council adopt without a vote” the draft resolution

contained in the relevant report of the Committee on the Admission of New Members.

No votes were taken on decisions that took the form of statements by the President on behalf of the Council or on behalf of the members of the Council. These “presidential statements” were issued after having been agreed upon by members of the Council during consultations. In some cases, they were announced at a formal meeting of the Council (section B.1); in others, they were simply issued in written form (section B.2).

In yet other instances, Security Council decisions were recorded in letters or notes from the President of the Council (section C), with no reference to a vote having been taken.

⁹ Exceptions were the votes on the suspension of a meeting and on certain invitations to participate; see the instances cited in part I above.

A. Cases in which the Security Council adopted resolutions without a vote

<i>Resolution number</i>	<i>Meeting and date</i>	<i>Agenda item</i>
		Admission of new Members to the United Nations
702 (1991)	3001, 8 August 1991	Applications of the Democratic People’s Republic of Korea and the Republic of Korea
703 (1991)	3002, 9 August 1991	Application of the Federated States of Micronesia
704 (1991)	3003, 9 August 1991	Application of the Republic of the Marshall Islands
709 (1991)	3007, 12 September 1991	Application of the Republic of Estonia
710 (1991)	3007, 12 September 1991	Application of the Republic of Latvia
711 (1991)	3007, 12 September 1991	Application of the Republic of Lithuania
732 (1992)	3034, 23 January 1992	Application of the Republic of Kazakhstan
735 (1992)	3041, 29 January 1992	Application of the Republic of Armenia
736 (1992)	3042, 29 January 1992	Application of the Republic of Kyrgyzstan
737 (1992)	3043, 29 January 1992	Application of the Republic of Uzbekistan
738 (1992)	3044, 29 January 1992	Application of the Republic of Tajikistan
739 (1992)	3047, 5 February 1992	Application of the Republic of Moldova
741 (1992)	3050, 7 February 1992	Application of the Republic of Turkmenistan

<i>Resolution number</i>	<i>Meeting and date</i>	<i>Agenda item</i>
742 (1992)	3052, 14 February 1992	Application of the Azerbaijani Republic
744 (1992)	3056, 25 February 1992	Application of the Republic of San Marino
753 (1992)	3076, 18 May 1992	Application of the Republic of Croatia
754 (1992)	3077, 18 May 1992	Application of the Republic of Slovenia
755 (1992)	3079, 20 May 1992	Application of the Republic of Bosnia and Herzegovina
763 (1992)	3091, 6 July 1992	Application of the Republic of Georgia

B. Cases in which Security Council decisions were announced in presidential statements issued after being agreed upon by the members of the Council at consultations

1. Statements placed on record at meetings of the Security Council

<i>Statement by the President</i>	<i>Meeting and date</i>	<i>Agenda item</i>
S/20554	2851, 31 March 1989	The situation in the Middle East
S/20602	2858, 24 April 1989	The situation in the Middle East
S/20659	2862, 30 May 1989	The situation in the Middle East
S/20682	2868, 9 June 1989	The situation in Cyprus
<i>Official Records of the Security Council, Forty-fourth Year, 2872nd meeting, para. 3</i>	2872, 31 July 1989	The question of hostage-taking and abduction
S/20758	2873, 31 July 1989	The situation in the Middle East
S/20790	2875, 15 August 1989	The situation in the Middle East
S/20855	2884, 20 September 1989	The situation in the Middle East
S/20952	2890, 7 November 1989	Central America: efforts towards peace
S/20953	2891, 7 November 1989	The situation in the Middle East
S/20974	2893, 20 November 1989	The situation in Namibia
S/20988	2894, 22 November 1989	The situation in the Middle East
S/20998	2895, 29 November 1989	The situation in the Middle East
S/21011	2897, 8 December 1989	Letter dated 27 November 1989 from the representative of El Salvador addressed to the President of the Security Council

Repertoire of the Practice of the Security Council

<i>Statement by the President</i>	<i>Meeting and date</i>	<i>Agenda item</i>
		Letter dated 28 November 1989 from the representative of Nicaragua addressed to the President of the Security Council
S/21026	2898, 14 December 1989	The situation in Cyprus
S/21056	2903, 27 December 1989	The situation in the Middle East
S/21172	2908, 27 February 1990	The situation between Iran and Iraq
S/21323	2924, 30 May 1990	United Nations peacekeeping operations
S/21331	2922, 23 May 1990	Central America: efforts towards peace
S/21338	2925, 31 May 1990	The situation in the Middle East
S/21361	2928, 15 June 1990	The situation in Cyprus
S/21400	2930, 19 July 1990	The situation in Cyprus
S/21418	2931, 31 July 1990	The situation in the Middle East
S/21974	2964, 30 November 1990	The situation in the Middle East
S/22027	2970, 20 December 1990	The situation in the occupied Arab territories
S/22046	2973, 4 January 1991	The situation in the occupied Arab territories
S/22133	2974, 22 January 1991	The situation in Liberia
S/22176	2975, 30 January 1991	The situation in the Middle East
S/22322	2979, 3 March 1991	Items relating to the situation between Iraq and Kuwait
S/22408	2980, 27 March 1991	The situation in the occupied Arab territories
S/22548	2985, 29 April 1991	Items relating to the situation between Iraq and Kuwait
S/22657	2990, 30 May 1991	The situation in the Middle East
S/22746	2996, 28 June 1991	Items relating to the situation between Iraq and Kuwait
S/22862	2997, 31 July 1991	The situation in the Middle East
S/23253	3019, 29 November 1991	The situation in the Middle East
S/23316	3024, 23 December 1991	The situation in Cyprus
S/23389	3027, 7 January 1992	Items relating to the situation in the former Yugoslavia
S/23495	3040, 29 January 1992	The situation in the Middle East

<i>Statement by the President</i>	<i>Meeting and date</i>	<i>Agenda item</i>
S/23500	3046, 31 January 1992	The responsibility of the Security Council in the maintenance of international peace and security
S/23610	3053, 19 February 1992	The situation in the Middle East
S/23663	3058, 28 February 1992	Items relating to the situation between Iraq and Kuwait
S/23699	3059, 11 March 1992	Items relating to the situation between Iraq and Kuwait
S/23709	3059 (resumed), 12 March 1992	Items relating to the situation between Iraq and Kuwait
S/23732	3061, 19 March 1992	Items relating to the situation between Iraq and Kuwait
S/23772	3064, 2 April 1992	Items relating to the Libyan Arab Jamahiriya
S/23783	3065, 4 April 1992	The situation in the occupied Arab territories
S/23802	3068, 10 April 1992	Items relating to the situation in the former Yugoslavia
S/23842	3070, 24 April 1992	Items relating to the situation in the former Yugoslavia
S/23886	3071, 7 May 1992	The situation in Liberia
S/23904	3072, 12 May 1992	The situation relating to Nagorny-Karabakh
S/24030	3081, 29 May 1992	The situation in the Middle East
S/24091	3085, 12 June 1992	The situation in Cambodia
S/24210	3089, 30 June 1992	An agenda for peace: preventive diplomacy, peacemaking and peacekeeping
S/24249	3092, 7 July 1992	Items relating to the situation in Angola
S/24271	3094, 13 July 1992	The situation in Cyprus
S/24307	3097, 17 July 1992	Items relating to the situation in the former Yugoslavia
S/24309	3098, 17 July 1992	Items relating to the situation between Iraq and Kuwait
S/24346	3100, 24 July 1992	Items relating to the situation in the former Yugoslavia
S/24362	3102, 30 July 1992	The situation in the Middle East
S/24378	3103, 4 August 1992	Items relating to the situation in the former Yugoslavia

Repertoire of the Practice of the Security Council

<i>Statement by the President</i>	<i>Meeting and date</i>	<i>Agenda item</i>
S/24456	3107, 17 August 1992	The question of South Africa
S/24510	3111, 2 September 1992	Items relating to the situation in the former Yugoslavia
S/24511	3112, 2 September 1992	Items relating to the situation between Iraq and Kuwait
S/24539	3113, 9 September 1992	Items relating to the situation in the former Yugoslavia
S/24573	3115, 18 September 1992	Items relating to the situation in Angola
S/24623	3120, 6 October 1992	Items relating to the situation in Angola
S/24637	3121, 8 October 1992	The situation in Georgia
S/24719	3125, 27 October 1992	The situation in Mozambique
S/24720	3126, 27 October 1992	Items relating to the situation in Angola
S/24721	3127, 27 October 1992	The situation relating to Nagorny-Karabakh
S/24728	3128, 29 October 1992	An agenda for peace: preventive diplomacy, peacemaking and peacekeeping
S/24742	3131, 30 October 1992	The situation in Tajikistan
S/24744	3132, 30 October 1992	Items relating to the situation in the former Yugoslavia
S/24836	3139, 23 November 1992	Items relating to the situation between Iraq and Kuwait
S/24839	3139 (resumed), 24 November 1992	Items relating to the situation between Iraq and Kuwait
S/24846	3141, 25 November 1992	The situation in the Middle East
S/24932	3146, 9 December 1992	Items relating to the situation in the former Yugoslavia
S/25002	3152, 22 December 1992	Items relating to the situation in Angola
S/25003	3153, 22 December 1992	The situation in Cambodia
S/25036	3145, 30 December 1992	An agenda for peace: preventive diplomacy, peacemaking and peacekeeping

2. Statements issued only as Security Council documents

<i>Statement by the President</i>	<i>Date</i>	<i>Agenda item</i>
S/20946	3 November 1989	The situation in Namibia
S/21160	22 February 1990	The situation in Cyprus
S/21309	22 May 1990	The situation in the occupied Arab territories
S/21310	22 May 1990	The situation in the occupied Arab territories
S/21363	19 June 1990	The situation in the occupied Arab territories
S/21934	9 November 1990	The situation in Cyprus
S/22415	28 March 1991	The situation in Cyprus
S/22744	28 June 1991	The situation in Cyprus
S/22904	6 August 1991	Items relating to the situation between Iraq and Kuwait
S/23107	2 October 1991	Items relating to the situation between Iraq and Kuwait
S/23284	12 December 1991	The situation in Cyprus
S/23305	20 December 1991	Items relating to the situation between Iraq and Kuwait
S/23360	3 January 1992	Central America: efforts towards peace
S/23517	5 February 1992	Items relating to the situation between Iraq and Kuwait
S/23609	19 February 1992	Items relating to the situation between Iraq and Kuwait
S/23761	27 March 1992	Items relating to the situation between Iraq and Kuwait
S/23803	10 April 1992	Items relating to the situation between Iraq and Kuwait
S/23818	16 April 1992	The situation relating to Afghanistan
S/23878	5 May 1992	Items relating to the situation in the former Yugoslavia
S/24010	27 May 1992	Items relating to the situation between Iraq and Kuwait
S/24058	3 June 1992	Central America: efforts towards peace
S/24113	17 June 1992	Items relating to the situation between Iraq and Kuwait

Repertoire of the Practice of the Security Council

<i>Statement by the President</i>	<i>Date</i>	<i>Agenda item</i>
S/24240	6 July 1992	Items relating to the situation between Iraq and Kuwait
S/24257	9 July 1992	Items relating to the situation in the former Yugoslavia
S/24352	27 July 1992	Items relating to the situation between Iraq and Kuwait
S/24379	4 August 1992	Items relating to the situation in the former Yugoslavia
S/24424	12 August 1992	Items relating to the Libyan Arab Jamahiriya
S/24425	12 August 1992	The situation relating to Afghanistan
S/24493	26 August 1992	The situation relating to Nagorny-Karabakh
S/24541	10 September 1992	The question of South Africa
S/24542	10 September 1992	The situation in Georgia
S/24584	24 September 1992	Items relating to the situation between Iraq and Kuwait
S/24674	16 October 1992	The situation in Somalia
S/24683	19 October 1992	Items relating to the situation in Angola
S/24843	24 November 1992	Items relating to the situation between Iraq and Kuwait
S/24872	30 November 1992	An agenda for peace: preventive diplomacy, peacemaking and peacekeeping
S/24884 (note transmitting statement by the President on the increasing number of attacks against United Nations personnel serving in peacekeeping operations)	2 December 1992	Items relating to the situation in Angola; items relating to the situation in Cambodia; items relating to the situation in the former Yugoslavia
S/24925	9 December 1992	Items relating to the Libyan Arab Jamahiriya

C. Cases in which Security Council decisions were recorded in letters or notes from the President of the Security Council

<i>Letter or note</i>	<i>Date</i>	<i>Agenda item</i>
S/20480	23 February 1989	The situation in Namibia
S/20658	26 May 1989	The situation in Namibia

<i>Letter or note</i>	<i>Date</i>	<i>Agenda item</i>
S/20769	3 August 1989	Items relating to the situation in Cambodia
S/20848	15 September 1989	The situation in Namibia
S/20857	20 September 1989	Central America: efforts towards peace
S/20872	28 September 1989	The situation in Namibia
S/20874	29 September 1989	The situation in Namibia
S/20906	17 October 1989	The situation in Namibia
S/20890	21 November 1989	Central America: efforts towards peace
S/20978	21 November 1989	The situation in the Middle East
S/20982	21 November 1989	Central America: efforts towards peace
S/21218	28 March 1990	The situation relating to Afghanistan
S/21233	5 April 1990	Central America: efforts towards peace
S/21262	20 April 1990	Central America: efforts towards peace
S/21718	6 September 1990	Central America: efforts towards peace
S/21826	24 September 1990	Items relating to the situation between Iraq and Kuwait
S/21833	24 September 1990	The situation in the Middle East
S/21847	5 October 1990	Items relating to the situation in Haiti
S/22033	21 December 1990	Items relating to the situation between Iraq and Kuwait
S/22280	28 February 1991	The situation between Iran and Iraq
S/22334	6 March 1991	Items relating to the situation between Iraq and Kuwait
S/22361	19 March 1991	Items relating to the situation between Iraq and Kuwait
S/22398	21 March 1991	Items relating to the situation between Iraq and Kuwait
S/22400, annex	22 March 1991	Items relating to the situation between Iraq and Kuwait
S/22479	10 April 1991	Items relating to the situation between Iraq and Kuwait
S22485	11 April 1991	Items relating to the situation between Iraq and Kuwait
S/22489	12 April 1991	Items relating to the situation between Iraq and Kuwait
S/22509	19 April 1991	Items relating to the situation between Iraq and Kuwait
S/22528	24 April 1991	Central America: efforts towards peace
S/22566	3 May 1991	The situation in the Middle East
S/22593	13 May 1991	Items relating to the situation between Iraq and Kuwait

Repertoire of the Practice of the Security Council

<i>Letter or note</i>	<i>Date</i>	<i>Agenda item</i>
S/22717	18 June 1991	Items relating to the situation in Angola
S/22735	24 June 1991	The situation concerning Western Sahara
S/22752	1 July 1991	Central America: efforts towards peace
S/22772	9 July 1991	The situation concerning Western Sahara
S/22798	16 July 1991	Items relating to the situation in Angola
S/22946	14 August 1991	The situation in Cambodia
S/22955	16 August 1991	Items relating to the situation in Angola
S/22978	26 August 1991	Items relating to the situation between Iraq and Kuwait
S/23009	4 September 1991	The situation concerning Western Sahara
S/23044	17 September 1991	The situation concerning Western Sahara
S/23070	25 September 1991	Items relating to the situation between Iraq and Kuwait
S/23118	7 October 1991	Items relating to the situation between Iraq and Kuwait
S/23187	31 October 1991	The situation in Cambodia
S/23206	11 November 1991	The situation in Cambodia
S/23208	11 November 1991	The situation in Cambodia
S/23217	14 November 1991	The situation in Cambodia
S/23272	9 December 1991	Items relating to the situation in Angola
S/23415	13 January 1992	The situation in Cambodia
S/23429	15 January 1992	The situation in Cambodia
S/23434	17 January 1992	Central America: efforts towards peace
S/23440	17 January 1992	The situation in the Middle East
S/23459	24 January 1992	The situation in Cambodia
S/23485	28 January 1992	The situation in the Middle East
S/23522	5 February 1992	Central America: efforts towards peace
S/23525	5 February 1992	Items relating to the situation in Somalia
S/23557	7 February 1992	Items relating to the situation in Angola
S/23647	26 February 1992	Items relating to the situation in the former Yugoslavia
S/23649	26 February 1992	Items relating to the situation in the former Yugoslavia
S/23696	11 March 1992	The situation in Cambodia

<i>Letter or note</i>	<i>Date</i>	<i>Agenda item</i>
S/23698	11 March 1992	Items relating to the situation in the former Yugoslavia
S/23753	25 March 1992	The situation in Cyprus
S/23755	25 March 1992	The situation concerning Western Sahara
S/23775	2 April 1992	The situation in Cambodia
S/23789	6 April 1992	Items relating to the situation between Iraq and Kuwait
S/23852	28 April 1992	Items relating to the situation in Somalia
S/23861	30 April 1992	Items relating to the situation in the former Yugoslavia
S/23928	14 May 1992	The situation in Cambodia
S/23986	20 May 1992	Items relating to the situation in Angola
S/23988	20 May 1992	Central America: efforts towards peace
S/24059	3 June 1992	The situation concerning Western Sahara
S/24098	15 June 1992	Items relating to the situation between Iraq and Kuwait
S/24178	25 June 1992	Items relating to the situation in Somalia
S/24181	25 June 1992	Items relating to the situation in Somalia
S/24234	2 July 1992	Items relating to the situation in the former Yugoslavia
S/24315	20 July 1992	The question of South Africa
S/24361	29 July 1992	Items relating to the situation between Iraq and Kuwait
S/24398	7 August 1992	The situation in Cambodia
S/24452	14 August 1992	Items relating to the situation in Somalia
S/24504	31 August 1992	The situation concerning Western Sahara
S/24532	8 September 1992	Items relating to the situation in Somalia
S/24534	8 September 1992	Items relating to the situation in Somalia
S/24550	12 September 1992	Items relating to the situation in the former Yugoslavia
S/24580	21 September 1992	The situation concerning Western Sahara
S/24594	28 September 1992	The situation in Cyprus
S/24625	6 October 1992	Items relating to the situation in the former Yugoslavia
S/24639	8 October 1992	Items relating to the situation in Angola
S/24645	8 October 1992	The situation concerning Western Sahara
S/24649	9 October 1992	Items relating to the situation between Iraq and Kuwait

Repertoire of the Practice of the Security Council

<i>Letter or note</i>	<i>Date</i>	<i>Agenda item</i>
S/24707	23 October 1992	The situation in Cambodia
S/24715	26 October 1992	Items relating to the situation in Somalia
S/24835	23 November 1992	The situation in Liberia
S/24850	24 November 1992	Items relating to the situation in Somalia
S/24852	25 November 1992	Items relating to the situation in the former Yugoslavia
S/24924	9 December 1992	Items relating to the situation in the former Yugoslavia
S/24951	11 December 1992	The situation in the Middle East

Chapter V

Subsidiary organs of the Security Council

Contents

	<i>Page</i>
Introductory note	107
Part I. Subsidiary organs of the Security Council established or continuing during the period 1989-1992	108
A. Standing committees/ad hoc committees	108
B. Investigative bodies	108
C. Peacekeeping missions	109
D. Security Council committees	156
E. Ad hoc commissions/Coordinator for the Return of Property	161
Part II. Subsidiary organs of the Security Council whose mandate was completed or terminated during the period 1989-1992	171
Part III. Subsidiary organs of the Security Council proposed but not established	171

Introductory note

This chapter covers procedures of the Security Council relating to the establishment and control of subsidiary organs deemed necessary for the performance of its functions under the Charter of the United Nations. The Council's power to establish subsidiary organs is set out in Article 29 of the Charter and reflected in rule 28 of the provisional rules of procedure as follows:

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Rule 28

The Security Council may appoint a commission or committee or a rapporteur for a specified question.

The period 1989 to 1992 saw a considerable expansion in the number of subsidiary organs established by the Council. The Council mandated the establishment of 11 new peacekeeping operations and established four new committees to oversee the implementation of measures adopted pursuant to Article 41 of the Charter. It also created a number of ad hoc commissions in the aftermath of the Iraq-Kuwait conflict. In addition, the Council authorized the establishment of a commission of experts to examine reported violations of international humanitarian law in the former Yugoslavia.

Part I of this chapter considers these new organs, together with those established prior to 1989 and continuing during part or all of the period under review. The organs are divided into five main categories, reflecting their main character or functions: standing and ad hoc committees; investigative bodies; peacekeeping missions; committees to oversee the implementation of measures adopted pursuant to Article 41; and ad hoc commissions. Six peacekeeping missions were terminated during the period under review. This is reflected in Part II. Part III considers four instances in which a subsidiary organ was formally proposed but not established.

Part I

Subsidiary organs of the Security Council established or continuing during the period 1989-1992

A. Standing committees/ad hoc committees

During the period from 1989 to 1992, the Committee of Experts on Rules of Procedure and the Committee on Council Meetings away from Headquarters continued to exist but did not meet.

The Committee on the Admission of New Members was asked to consider the applications for admission to membership in the United Nations of 22 States, referred to it by the Council under rule 59 of the provisional rules of procedure. The recommendations made by the Committee and the Council concerning admission are considered in chapter VII. Another body concerned with membership, the Committee of Experts established by the Council at the 1506th meeting, concerning the question of associate membership, continued to exist but did not meet.

Other ad hoc subsidiary organs established prior to 1989 which continued to exist during the period under review included the Committee established by Security Council resolution 446 (1979), concerning the situation in the occupied Arab territories; and the Ad Hoc Committee established under Security Council resolution 507 (1982), concerning the Seychelles. There was no activity during the period under review on the part of either body.

B. Investigative bodies

During the period under review, the Security Council authorized the Secretary-General to establish a Commission of Experts to investigate grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia.

Commission of Experts established pursuant to resolution 780 (1992) to examine reported violations of international humanitarian law in the former Yugoslavia

By resolution 780 (1992) of 6 October 1992, the Security Council requested the Secretary-General to

establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse evidence relating to grave breaches of the Geneva Conventions of 12 August 1949 and other violations of international humanitarian law committed in the territory of the former Yugoslavia.¹ The Council also requested the Secretary-General to report to it on the establishment and conclusions of the Commission of Experts, and to take account of those conclusions in any recommendations for further appropriate steps called for by resolution 771 (1992).

On 14 October 1992, the Secretary-General submitted to the Council a report on the establishment of the Commission of Experts.² He noted that the Council's request to establish such a Commission to some extent duplicated an initiative of another United Nations organ, the Commission on Human Rights, which had requested its Chairman two months earlier to appoint a special rapporteur for the former Yugoslavia.³ Therefore, in establishing the Commission of Experts, he had taken into account the mandate and work of the Special Rapporteur, with a view to minimizing duplication, maximizing the efficient use of scarce resources, and reducing costs. The Secretary-General stated that the Commission, which would be located at the United Nations Office at

¹ Prior to the adoption of that resolution, the Security Council, by resolution 771 (1992) of 13 August 1992, had called upon States and, as appropriate, international humanitarian organizations to collate substantiated information in their possession or submitted to them related to such violations and to make that information available to the Council. In resolution 780 (1992), the Council again requested States, United Nations bodies and other relevant organizations to make such information available, and to provide other appropriate assistance to the Commission of Experts.

² S/24657.

³ Pursuant to Commission on Human Rights resolution 1992/S-1/1, adopted on 14 August 1992, the mandate of the Special Rapporteur was to investigate first hand the human rights situation in the territory of the former Yugoslavia, in particular within Bosnia and Herzegovina, and to receive relevant, credible information on the human rights situation there from Governments, individuals and intergovernmental and non-governmental organizations.

Geneva, would consist initially of five members serving in their personal capacity and would be assisted by a small secretariat, which would rely on the resources already made available to the Special Rapporteur.⁴

By resolution 787 (1992) of 16 November 1992, the Security Council welcomed the establishment of the Commission of Experts and requested it to pursue actively its investigations with regard to grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia, in particular the practice of “ethnic cleansing”.⁵

C. Peacekeeping missions

During the four years under review, the Security Council mandated the establishment of 11 new peacekeeping missions — in Western Sahara, Angola, Somalia, South Africa, Mozambique, Central America, El Salvador, Iraq/Kuwait, the former Yugoslavia, Namibia and Cambodia — of which the two last mentioned were complex, integrated missions. It also authorized significant changes and expansion in some of their mandates. In a presidential statement made at the conclusion of the Council’s summit meeting on 31 January 1992, the members of the Council noted the increased breadth of the tasks assigned to peacekeeping missions:

“The members of the Council note that United Nations peacekeeping tasks have increased and broadened considerably in recent years. Election monitoring, human rights verification and the repatriation of refugees have in the settlement of some regional conflicts, at the request or with the agreement of the parties concerned, been integral parts of the Security Council’s efforts to maintain international peace and security. The members of the Council welcome these developments.”⁶

The Council also continued to oversee the work of a number of peacekeeping missions established

during an earlier period,⁷ most of which served the more traditional role of an interposition force or military observers.

Those peacekeeping missions are considered below, by geographic region, in the order in which they were established.⁸

Africa

1. United Nations Angola Verification Mission established pursuant to Security Council resolution 626 (1988)

The United Nations Angola Verification Mission (UNAVEM I) was established on 20 December 1988 by Security Council resolution 626 (1988) to monitor the withdrawal of Cuban troops and equipment from Angola in accordance with a timetable agreed between the Governments of Angola and Cuba.⁹ Beginning with an advance party of 18 military observers deployed to Luanda on 3 January 1989, UNAVEM I reached a strength of 70 military observers by 25 May 1991, the date on which, according to a final report by the Secretary-General dated 6 June 1991,¹⁰ the Mission completed its task. In his report, the Secretary-General observed that thereafter, all of the resources of UNAVEM I would be concentrated on the new tasks assigned by resolution 696 (1991) of 30 May 1991 to the United Nations Angola Verification Mission, which was thereafter to be known as UNAVEM II.¹¹

⁷ In Africa, the United Nations Angola Verification Mission I; in Asia, the United Nations Military Observer Group in India and Pakistan and the United Nations Good Offices Mission in Afghanistan and Pakistan; in Europe, the United Nations Peacekeeping Force in Cyprus; in the Middle East, the United Nations Troop Supervision Organization, the United Nations Disengagement Observer Force, the United Nations Interim Force in Lebanon and the United Nations Iran-Iraq Military Observer Group.

⁸ For further details concerning these peacekeeping operations, see *The Blue Helmets: A Review of United Nations Peacekeeping* (3rd edition, 1996).

⁹ S/20345, annex. Shortly thereafter, in a parallel move, the Security Council established the United Nations Transition Assistance Group in Namibia (see sect. 2 below).

¹⁰ S/22678. The five previous reports of the Secretary-General on UNAVEM I were S/20625, S/20783, S/20955, S/21246 and Add.1, and S/21860.

¹¹ On UNAVEM II, see sect. 4 below.

⁴ On 26 October 1992, the Secretary-General appointed Professor Frits Kalshoven (Netherlands) as Chairman of the Commission of Experts, and Professor M. Cherif Bassiouni (Egypt), Mr. William J. Fenrick (Canada), Judge Kéba Mbaye (Senegal) and Professor Torkel Opsahl (Norway) as its members.

⁵ See para. 8 of the resolution.

⁶ S/23500.

2. United Nations Transition Assistance Group established pursuant to Security Council resolutions 435 (1978) and 629 (1989)

Establishment

When the Security Council sought to implement the settlement plan for the independence of Namibia, through free elections under the supervision and control of the United Nations, it established the United Nations Transition Assistance Group (UNTAG) to assist the Special Representative of the Secretary-General in that endeavour. The Council created UNTAG by resolution 435 (1978) of 29 September 1978, in which it approved the Secretary-General's report of 29 August 1978 and his explanatory statement of 28 September 1978.¹² As the peace plan of 1978 failed, however, UNTAG did not become operational at that time. Following progress in the peace process in 1988,¹³ the Council, on 16 January 1989, unanimously adopted resolution 629 (1989), by which it decided that 1 April 1989 would be the date on which the implementation of resolution 435 (1978) would begin. The Council called upon South Africa to reduce the size of its police forces in Namibia with a view to achieving a reasonable balance between those forces and UNTAG so as to ensure effective monitoring by the latter. It also requested the Secretary-General to prepare an updated report on the implementation of resolution 435 (1978), taking into account all relevant developments since the adoption of that resolution, and seeking cost-saving measures which would not prejudice the effectiveness of the operation.

In a report dated 23 January 1989,¹⁴ the Secretary-General set out his recommendations for the implementation of resolution 435 (1978) with effect from 1 April 1989, and the requirements for UNTAG. He noted that a number of agreements and understandings which had been reached by the parties since the adoption of resolution 435 (1978) now also formed part of the United Nations plan for Namibia. They included a 1982 agreement that UNTAG would monitor the bases of the South West Africa People's Organization (SWAPO) in Angola and Zambia, and

obligations on the part of South Africa to ensure free and fair elections in Namibia. In an explanatory statement of 9 February,¹⁵ the Secretary-General addressed concerns raised by various parties about some of the recommendations contained in his report. By resolution 632 (1989) of 16 February 1989, the Security Council approved the Secretary-General's report and his explanatory statement, and decided to implement resolution 435 (1978) "in its original and definitive form". The Council requested the Secretary-General to keep it fully informed on the implementation of the resolution.

Mandate/composition

The mandate of UNTAG, as set out in resolution 435 (1978), was to assist the Special Representative of the Secretary-General to carry out the mandate conferred upon him, namely, "to ensure the early independence of Namibia through free elections under the supervision and control of the United Nations".

Under the plan approved by the Council in 1978,¹⁶ it was envisaged that UNTAG would consist of a civilian component and a military component, both of which would be under the overall direction of the Special Representative of the Secretary-General.¹⁷ The civilian component would consist of two elements: an electoral element and police monitors. The electoral element would assist the Special Representative in implementing the various stages of the electoral process. He would have to satisfy himself at each stage as to the fairness and appropriateness of all measures affecting the political process before such measures took effect. In his report of 23 January 1989,¹⁸ the Secretary-General proposed to maintain the initial complement of 800 electoral supervisors. He proposed an increase, on the other hand, in the number of police monitors from the 360 stipulated in 1978 to 500, in the light of the increase in the size of the South African police forces in Namibia.

With regard to the military component, the Secretary-General referred to the serious concern which had been expressed to him, particularly by the

¹² See S/12827 and S/12869, respectively.

¹³ On 13 December 1988, the Governments of Angola, Cuba and South Africa signed the Brazzaville Protocol, by which the parties agreed to recommend that 1 April 1989 be established as the date for the implementation of Security Council resolution 435 (1978).

¹⁴ S/20412.

¹⁵ S/20457.

¹⁶ S/12827 and S/12869.

¹⁷ Pursuant to Security Council resolution 431 (1978), the Secretary-General had appointed Mr. Martti Ahtisaari as his Special Representative.

¹⁸ S/20412.

permanent members of the Security Council, regarding its size and likely cost. Under the plan approved by the Council in 1978, the military component would have accounted for more than 75 per cent of the cost of the mission. The Movement of Non-Aligned Countries, the Organization of African Unity (OAU), front-line States and SWAPO, on the other hand, had told him of their strong opposition to any reduction in its size. In those circumstances, the Secretary-General proposed that the authorized upper limit for the military component of UNTAG should remain at 7,500 but that the force should initially be deployed with a strength of only 4,650.¹⁹ If his Special Representative reported a real need for additional military personnel, the Secretary-General would deploy as many of the reserve battalions as he judged to be necessary, subject to there being no objection from the Security Council. In the meantime, the Secretary-General proposed a concept of operations under which the military component would concentrate on certain specific tasks, namely: monitoring the disbandment of the citizen forces, commando units and ethnic forces, including the South West African Territorial Force; monitoring South African Defence Force troops in Namibia, as well as SWAPO forces in neighbouring countries; and securing installations in the northern border area. Other tasks approved under resolution 435 (1978), such as monitoring the cessation of hostile acts by all parties, and keeping the borders under surveillance and preventing infiltration, would not, however, be eliminated. Some of them would instead be done by military monitors or observers, whose numbers were to be increased from 200 to 300.

The estimated cost of the civilian and military components of UNTAG would thus be approximately \$416 million, excluding the cost of the repatriation and resettlement operation of the Office of the United Nations High Commissioner for Refugees (UNHCR), for which a separate appeal would be launched.

In an explanatory statement of 9 February 1989,²⁰ the Secretary-General stated that, following representations made to him by a number of delegations, he had decided to make an exception to standard peacekeeping practice; he had given the Force

Commander of UNTAG discretion to authorize the military observers to carry weapons of a defensive character, as and when necessary. As approved in resolution 435 (1978), the military component of UNTAG would not use force except in self-defence.²¹

Implementation/enlargement

On 16 March 1989, in an addendum to his 23 January report,²² the Secretary-General transmitted to the Council the text of the agreement signed in New York on 10 March between the United Nations and the Republic of South Africa, on the status of UNTAG. On 30 March, in a second addendum,²³ he reported that both South Africa and SWAPO had agreed in writing to his proposal that a formal ceasefire should commence on 1 April 1989.

Through an exchange of letters between the Secretary-General and the President of the Council, dated 24 and 26 May 1989,²⁴ the members of the Council agreed to the Secretary-General's proposal to increase the number of UNTAG civilian police monitors to 1,000, on the recommendation of his Special Representative in Namibia.

By resolution 640 (1989) of 28 August 1989, the Security Council demanded strict compliance by all parties concerned, especially South Africa, with the terms of resolutions 435 (1978) and 632 (1989). It also demanded the disbandment of all paramilitary and ethnic forces and commando units, in particular Koevoet, as well as the dismantling of their command structures, as required by resolution 435 (1978). The Council called upon the Secretary-General to review the actual situation on the ground with a view to determining the adequacy of the military component of UNTAG in relation to its ability to carry out its responsibilities as authorized under resolutions 435 (1978) and 632 (1989) and to inform the Security Council. It also invited him to review the adequacy of the number of police monitors in order to undertake the process for any appropriate increase that he might deem necessary for the effective fulfilment of the responsibilities of UNTAG. In addition, the Council requested the Secretary-General, in his supervision and control of the electoral process, to ensure that all

¹⁹ For the list of countries contributing to the UNTAG military component, see the following exchanges of letters between the Secretary-General and the President of the Council: S/20479 and S/20480; S/20847 and S/20848.

²⁰ S/20457, para. 6.

²¹ S/12827.

²² S/20412/Add.1.

²³ S/20412/Add.2.

²⁴ S/20657 and S/20658, respectively.

legislation concerning the electoral process was in conformity with the provisions of the settlement plan; that all proclamations conformed with internationally accepted norms for the conduct of free and fair elections and, in particular, that the proclamation on the Constituent Assembly also respected the sovereign will of the people of Namibia; and that strict impartiality was observed in the provision of media facilities to all parties for the dissemination of information concerning the election. The Council requested the Secretary-General to report to it before the end of September on the implementation of the resolution.

Through an exchange of letters between the Secretary-General and the President of the Council dated 26 and 28 September 1989,²⁵ the members of the Council agreed to the Secretary-General's proposal to further increase the number of UNTAG civilian police monitors to 1,500. Through an exchange of letters between the Secretary-General and the President of the Council dated 10 and 17 October 1989,²⁶ the members of the Council also agreed to the Secretary-General's proposal to increase the number of electoral supervisors to 1,395. In doing so, they expressed their concern that expenditures for UNTAG should continue to be carefully monitored at a time of increasing demands on peacekeeping resources.

In a report dated 6 October 1989,²⁷ the Secretary-General addressed the various issues raised in resolution 640 (1989), as well as some other important aspects of the implementation of the settlement plan. In his concluding observations, the Secretary-General stated that he had continuing concerns about the presence of ex-members of the counter-insurgency unit known as Koevoet in the South West Africa Police and referred to the problems concerning the latter's cooperation with UNTAG police monitors. He also referred to the difficulties encountered by UNTAG in verifying the confinement to base of SWAPO combatants in Angola. He stressed that the continuing cooperation of all the parties involved was essential, not least because UNTAG had no powers to enforce the provisions of the settlement plan.

²⁵ S/20871 and S/20872, respectively.

²⁶ S/20905 and S/20906, respectively.

²⁷ S/20883 and Add.1. (The addendum contains the report of the United Nations Mission on Detainees, which the Special Representative of the Secretary-General had sent to Angola and Zambia from 2 to 21 September 1989.)

By resolution 643 (1989) of 31 October 1989, the Council reiterated its demand for the complete disbandment of all remaining paramilitary and ethnic forces and commando units, in particular Koevoet and the South West African Territorial Force, as well as the complete dismantling of their command structures, and requested the Secretary-General to pursue his efforts to ensure the immediate replacement of the remaining South African Defence Force personnel. The Council also demanded that the South West Africa Police fully cooperate with the UNTAG civil police in carrying out the tasks assigned to it under the settlement plan, and invited the Secretary-General to keep under constant review the adequacy of the number of UNTAG police monitors. The Council mandated the Secretary-General to ensure that all necessary arrangements were made in accordance with the settlement plan to safeguard the territorial integrity and security of Namibia in order to ensure a peaceful transition to national independence, and to assist the Constituent Assembly in the discharge of responsibilities entrusted to it under the settlement plan. It also requested him to prepare appropriate plans for mobilizing all forms of assistance for the people of Namibia during the period following the elections for the Constituent Assembly until the country's accession to independence. The Council requested the Secretary-General to report on the implementation of the resolution as soon as possible.

In a report dated 3 November 1989,²⁸ the Secretary-General addressed the issues raised in resolution 643 (1989) and described the latest developments relating to certain other aspects of the implementation of the United Nations plan for Namibia. He observed that after a careful evaluation of the situation, his Special Representative had concluded that, on balance, he was satisfied that conditions existed that would permit the holding of free and fair elections in Namibia at that time. Based on all the information available to him, the Secretary-General had endorsed that conclusion. On 14 November 1989, the Secretary-General submitted a further report on the implementation of resolution 435 (1978).²⁹ The report contained the results of the elections held in Namibia from 7 to 11 November 1989, which had been certified by his Special Representative as free and fair, thus paving the way for the convening of a Constituent Assembly and Namibia's independence.

²⁸ S/20943.

²⁹ S/20967.

In a statement made on 20 November 1989 by the President of the Council on behalf of its members,³⁰ Council members welcomed the successful conclusion of the elections in Namibia certified by the Special Representative of the Secretary-General as free and fair. They reaffirmed the continuing role of the United Nations during the transition period in ensuring the full implementation of the settlement plan until independence and adoption by the Constituent Assembly of a Constitution that would accord sovereignty to Namibia. They also requested the Secretary-General to provide the Constituent Assembly with all necessary assistance to carry out its responsibility. On 16 March 1990, the Secretary-General submitted an addendum to his further report,³¹ which contained the full text of the Constitution of the Republic of Namibia approved by the Constituent Assembly on 9 February 1990. He informed the Council that the Constitution would enter into force on Independence Day, 21 March 1990.

Termination

On 28 March 1990, the Secretary-General submitted a final report on the implementation of resolution 435 (1978),³² in which he concluded that, with the accession of Namibia to independence on 20/21 March 1990, the mandate entrusted to UNTAG by the Security Council had come to an end.

3. United Nations Mission for the Referendum in Western Sahara established pursuant to Security Council resolution 690 (1991)

Establishment

In a report dated 18 June 1990,³³ the Secretary-General recommended the establishment of a United Nations Mission for the Referendum in Western Sahara (MINURSO) to implement the settlement proposals that he had made jointly with the Chairman of the Assembly of Heads of State and Government of OAU³⁴

and which had been accepted in principle by Morocco and the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente Polisario) on 30 August 1988. The main elements of the proposed settlement were a ceasefire and a referendum by which the people of Western Sahara would choose between independence and integration with Morocco. The implementation plan contained in the report was based on recommendations made by a Technical Commission established on 30 June 1989. It provided for a transitional period, lasting from the entry into force of the ceasefire to the announcement of the results of the referendum, during which the Special Representative of the Secretary-General for Western Sahara would have sole responsibility over all matters relating to the referendum. The Special Representative would be assisted in his tasks by an integrated group of United Nations civilian, military and civil police personnel, to be known as MINURSO. By resolution 658 (1990) of 27 June 1990, the Security Council approved the report of the Secretary-General; welcomed his intention to dispatch a technical mission to Western Sahara and neighbouring countries, to refine the administrative aspects of the outlined plan; and requested him to transmit as soon as possible a further detailed report, containing in particular an estimate of the cost of MINURSO, on the basis of which it would authorize the establishment of the Mission.

On 19 April 1991, the Secretary-General submitted a further report,³⁵ containing detailed proposals with regard to the composition, strength and duration of the Mission, and recommending that the Mission should now be established and should be operational by the start of the transitional period, approximately 16 weeks after the General Assembly approved the MINURSO budget. By resolution 690 (1991) of 29 April 1991, the Council decided to establish MINURSO, under its authority, in accordance with the Secretary-General's report of 19 April 1991; decided that the transitional period would begin no later than 16 weeks after the General Assembly approved the budget for the Mission; and requested the Secretary-General to keep it regularly informed of the implementation of his settlement plan.

³⁰ S/20974.

³¹ S/20967/Add.2. See also S/20967/Add.1 of 29 November 1989, annexed to which was the text of the Constituent Assembly Proclamation for Namibia and the exchange of letters between the Special Representative of the Secretary-General and the Administrator-General concerning its promulgation.

³² S/21215.

³³ S/21360.

³⁴ The implementation plan was to be carried out in

cooperation with OAU, whose representatives would be associated with the process throughout as official observers.

³⁵ S/22464 and Corr.1

Mandate/composition

Pursuant to resolutions 658 (1990) and 690 (1991), by which the Council approved the Secretary-General's reports of 18 June 1990 and 19 April 1991,³⁶ MINURSO would undertake the following tasks: (a) monitor the ceasefire; (b) verify the reduction of Moroccan troops in Western Sahara; (c) monitor the confinement of Moroccan and Frente Polisario troops to designated areas; (d) take steps with the parties to ensure the release of all Western Saharan political prisoners or detainees; (e) oversee the exchange of prisoners of war under the auspices of the International Committee of the Red Cross; (f) implement the repatriation programme under the auspices of UNHCR; (g) identify and register qualified voters; and (h) organize and ensure a free and fair referendum and proclaim the results.

MINURSO would consist of three units: a civilian unit of approximately 900 personnel, including the personnel of an Identification Commission,³⁷ a Referendum Commission and a component to implement the repatriation programme; a security unit of about 300 police officers; and a military unit with a strength of approximately 1,700 personnel, including 550 military observers, an infantry battalion of 700, an air support unit of 110 and a logistics battalion of 200.³⁸

Through an exchange of letters between the Secretary-General and the President of the Security Council, dated 21 and 24 June 1991,³⁹ the Council approved the Secretary-General's proposal to appoint Major General Armand Roy (Canada) as the force commander of the military unit of MINURSO. Through a further exchange of letters, dated 3 and 9 July 1991,⁴⁰ the Council agreed to the composition of the military unit proposed by the Secretary-General.

The mission area included the Territory of Western Sahara and designated locations in

neighbouring countries, where a number of Western Saharans were known to be living. In accordance with the timetable proposed by the Secretary-General, MINURSO would complete its main tasks within 36 weeks.⁴¹

As recommended by the Secretary-General in his report of 19 April 1991, the overall cost of the operation, estimated at approximately \$200 million, was to be considered an expense of the Organization to be borne by Member States in accordance with Article 17 (2) of the Charter, except for the cost of the repatriation programme, estimated at some \$35 million, which would be funded through voluntary contributions.

Implementation

By a letter dated 8 July 1991 addressed to the President of the Council,⁴² the Secretary-General informed the Council that he had written to Morocco and the Frente Polisario proposing that a formal ceasefire should commence on 6 September 1991, to which both parties had agreed. By a letter dated 3 September 1991 addressed to the President of the Council,⁴³ the Secretary-General transmitted a note regarding the implementation of the ceasefire. He stated that, concerned at recent developments along the international frontier, he had decided that all efforts of the Mission should be concentrated, at that stage, in the areas referred to in the note. He intended to deploy, as of 6 September 1991, about 100 military observers to verify the ceasefire and the cessation of hostilities in those areas. By a letter dated 4 September 1991,⁴⁴ the President informed the Secretary-General that the members endorsed his action. Through an exchange of letters between the Secretary-General and the President of the Council dated 13 and 17 September 1991,⁴⁵ it was agreed that 100 additional military observers and the staff necessary for command and control functions, logistical support, communications, air transport and medical transport should be deployed to those areas.

In a report dated 19 December 1991,⁴⁶ the Secretary-General reported that the Mission's timetable

³⁶ S/21360 and S/22464.

³⁷ The Identification Commission would be charged with the central task of identifying and registering all Western Saharans eligible to vote in the referendum.

³⁸ Police officers were to carry arms only in cases where they were so authorized and resort to their use only in self-defence. For the military unit, the normal rules in United Nations peacekeeping operations for the bearing and use of arms would apply.

³⁹ S/22734 and S/22735.

⁴⁰ S/22771 and S/22772.

⁴¹ See S/22464.

⁴² S/22779.

⁴³ S/23008.

⁴⁴ S/23009.

⁴⁵ S/23043 and S/23044.

⁴⁶ S/23299.

had to be adjusted. The parties had divergent views and different interpretations of some of the key elements of the settlement plan, including those with regard to the question of criteria for eligibility to vote in the referendum. There was likely to be a delay of some months while consultations continued with the parties on those matters. During that time, efforts would be made to reduce costs. In particular, the civilian and military staff not required to support the consultations and verify the ceasefire would be withdrawn. The Security Council approved the report in resolution 725 (1991) of 31 December 1991, and requested the Secretary-General to submit a further report as soon as possible, but in any event within two months.

In a report dated 28 February 1992,⁴⁷ the Secretary-General underlined that the primary function of MINURSO in its current limited deployment was to monitor the ceasefire. He stressed that the persistence of differences between the parties regarding the interpretation of the settlement plan made it difficult to establish a realistic timetable for the conduct of the referendum. He recommended that, if the outstanding issues could not be resolved within the next three months, alternative courses of action should be considered; he would accordingly report further to the Security Council before the end of May. In the meantime, he recommended maintaining the current level of MINURSO activity. He reported that a further streamlining of MINURSO was being undertaken to achieve maximum economy.

In a report dated 29 May 1992,⁴⁸ the Secretary-General reiterated that the role of the MINURSO military unit was limited to monitoring the ceasefire. Noting that both parties had agreed to reactivate the settlement plan, he recommended that the MINURSO mandate be extended for a further period of three months. By a letter dated 3 June 1992,⁴⁹ the President of the Security Council informed the Secretary-General that the members of the Council shared his view on the necessity of maintaining in place the existing deployment of MINURSO and requested him to submit a further progress report on the implementation of the plan at the earliest possible date.

⁴⁷ S/23662.

⁴⁸ S/24040.

⁴⁹ S/24059.

In a report dated 20 August 1992,⁵⁰ the Secretary-General noted that there had been a considerable decline in the number of ceasefire violations and that his Special Representative had undertaken talks with both sides aimed at overcoming the remaining obstacles to the holding of the referendum. The Secretary-General stated his intention to submit a further report before the end of September to inform the Council about the outcome of those talks. He recommended that the existing deployment and staffing of MINURSO be maintained until the end of that month. By a letter dated 31 August 1992,⁵¹ the President of the Security Council informed the Secretary-General that the Council members agreed with his proposal.

By a letter dated 2 October 1992 addressed to the President of the Council,⁵² the Secretary-General stated that the talks between his Special Representative and the parties had been inconclusive. He therefore proposed to postpone for six to eight weeks the submission of the report mentioned in his earlier report, pending further consultations. He recommended that, in the meantime, the existing deployment and staffing of MINURSO be maintained. By a letter dated 8 October 1992,⁵³ the President of the Council informed the Secretary-General that the members of the Council reiterated their full support for his efforts to overcome the obstacles which were impeding the implementation of the settlement plan and approved his proposal to maintain the existing deployment and staffing of MINURSO.

By a letter dated 16 November 1992 addressed to the President of the Security Council,⁵⁴ the Secretary-General stated that his report would have to be further postponed until the second week of December in order to await the results of a consultative meeting of tribal chiefs of Western Sahara to be held in Geneva. However, in a letter dated 22 December 1992 addressed to the President of the Council,⁵⁵ the Secretary-General stated that, due to the persisting differences among the parties, it had not been possible

⁵⁰ S/24464.

⁵¹ S/24504.

⁵² S/24644.

⁵³ S/24645.

⁵⁴ The letter (referred to in document S/25008) was circulated to Council members but not issued as a document of the Security Council.

⁵⁵ S/25008.

to hold the consultative meeting. He also stated that, despite the absence of agreement among all concerned on the major aspects of the settlement plan, he felt obliged to take concrete steps towards the holding of the referendum, in the expectation that both parties would fully cooperate with him. He would outline those steps in his forthcoming report, which he would submit to the Council in the second half of January 1993.

4. United Nations Angola Verification Mission established pursuant to Security Council resolution 696 (1991)

Establishment

By resolution 696 (1991) of 30 May 1991, the Security Council entrusted a new mandate to the United Nations Angola Verification Mission (hereafter to be known as UNAVEM II), which had completed its task of overseeing the withdrawal of Cuban troops from Angola on 25 May 1991. The Council approved the recommendations contained in the report of the Secretary-General dated 20 and 29 May 1991,⁵⁶ including that the mandate of UNAVEM be enlarged and prolonged in order to enable the Mission to carry out new verification tasks arising from the Peace Accords recently concluded by the Government of Angola and the National Union for the Total Independence of Angola (UNITA).⁵⁷ The tasks arising for the United Nations from the Peace Accords would include: (a) verification of the monitoring of the ceasefire and (b) participation in the monitoring of the Angolan police during the ceasefire period. The Secretary-General had further recommended that the new UNAVEM mandate last from 31 May 1991, the date on which the ceasefire was to enter into force, until the day following the completion of presidential and legislative elections, to be held between 1 September and 30 November 1992. In addition, the Secretary-General recommended that the full cost of the operation, approximately \$132.3 million, should be borne by Member States in accordance with Article 17 (2) of the Charter.

The Secretary-General had issued his report after having received a letter dated 17 May 1991 from the

⁵⁶ S/22627 and Add.1.

⁵⁷ The Accords were initialled at Estoril, Portugal, on 1 May 1991 by the respective heads of delegation, and signed in Lisbon on 31 May.

representative of Angola transmitting a letter dated 8 May from the Minister for External Relations of Angola.⁵⁸ The Minister had requested the Secretary-General to take action to ensure the participation of the United Nations in verifying the implementation of the Peace Accords, as agreed by both sides, and accordingly to inform the Security Council of the need to prolong the presence of UNAVEM in the country until the general elections had been held.

Mandate/composition

In his report of 20 and 29 May 1991,⁵⁹ the Secretary-General stated that UNAVEM II military observers would work closely with, but remain separate from, the joint ceasefire monitoring groups composed of representatives of the two Angolan parties.⁶⁰ UNAVEM II would closely observe their functioning, provide support in the investigation and resolution of alleged violations of the ceasefire, and assist in resolving problems that might arise within the monitoring groups. In accordance with the Peace Accords timetable, the monitoring groups would be operational by 15 June 1991, and United Nations verification capability would be fully deployed by 30 June, whereupon the troops of the two sides would begin to move to assembly areas. Such troop movements were to be completed by 1 August 1991. As regards the monitoring of the Angolan police, notwithstanding section III, paragraph 2.1 of the Estoril Protocol,⁶¹ UNAVEM II police observers, like their military colleagues, would work closely with the joint Angola-UNITA monitoring teams while maintaining a separate identity and remaining under the United Nations chain of command.

⁵⁸ S/22609.

⁵⁹ S/22627 and Add.1.

⁶⁰ In accordance with the Peace Accords (see S/22609), such groups would be subordinate to a Joint Verification and Monitoring Commission, composed of representatives of the two Angolan parties and representatives of Portugal, the Union of Soviet Socialist Republics and the United States as observers. A representative of the United Nations would be invited to the meetings of the Commission. That Commission would report to a Joint Political-Military Commission which would have a similar composition. A representative of the United Nations could be invited to the meetings of the Joint Political-Military Commission.

⁶¹ S/22609, p. 49.

It was envisaged that UNAVEM II would be under the overall command of the Chief Military Officer and consist of 350 military observers, up to 90 police observers, 14 military medical personnel, approximately 80 civilian personnel drawn from the Secretariat together with a similar number of locally recruited staff, and an air unit.⁶² The security of the United Nations personnel, who would be unarmed, would be the responsibility of the party that controlled the zone where they were present. As to the composition of the Mission, in his report of 20 and 29 May 1991,⁶³ the Secretary-General stated that after consultations with the two sides, his intention was to request the 10 Member States already contributing military observers to UNAVEM⁶⁴ to increase substantially the size of their contingents. However, given the proposed strength of the Mission, it would also be necessary to find additional contributors of military observers as well as of support units. In a letter dated 13 June 1991 addressed to the President of the Council,⁶⁵ the Secretary-General proposed that 24 States provide military observers for UNAVEM II.⁶⁶ In a reply dated 18 June,⁶⁷ the President informed the Secretary-General that Council members had agreed with his proposal.

Implementation/enlargement

Pursuant to Security Council resolution 696 (1991) of 30 May, the Secretary-General submitted to the Council a report dated 4 June 1991 on the

implementation of the mandate of UNAVEM II.⁶⁸ He informed the Council that following the signature of the Peace Accords in Lisbon on 31 May 1991, advance parties of United Nations observers had been deployed to five of the six regional headquarters of UNAVEM on 2 June 1991. By a report dated 6 June 1991,⁶⁹ the Secretary-General informed the Council that UNAVEM I had fully implemented the mandate entrusted to it by Council resolution 626 (1988) of 20 December 1988 and that henceforth, all its resources would be concentrated on the new tasks assigned to the Mission, redesignated UNAVEM II, by resolution 696 (1991) of 30 May 1991.

On 31 October 1991, the Secretary-General, in his report on the activities of UNAVEM II from 31 May to 25 October 1991,⁷⁰ informed the Security Council that by 30 September 1991, UNAVEM II had completed its deployment in all 46 areas at which the forces of the two sides were assembling, although not in the four assembly areas not yet in use. In addition, all 18 provincial capitals had a UNAVEM II police presence by the end of September. However, there had been serious delays in the movement of both sides' forces to the assembly areas. Moreover, owing to the delay in the establishment of the joint monitoring groups foreseen in the Peace Accords, UNAVEM II had increasingly taken the initiative, with the encouragement of both parties, of itself monitoring some aspects of the Accords, such as the regular counting of troops and weapons in the assembly areas. The failure of the two sides to establish the police monitoring teams foreseen in the Accords had prevented UNAVEM police monitors from carrying out the functions ascribed to them. It had been necessary to stress in this connection that United Nations police monitors were not responsible for the maintenance of law and order. As to the conditions in which UNAVEM II was fulfilling its mandate, the Secretary-General described them as being, in some cases, "among the most difficult that have ever been faced by United Nations peacekeeping personnel".

Through an exchange of letters between the Secretary-General and the President of the Council dated 3 and 9 December 1991,⁷¹ Council members agreed with the Secretary-General's proposal to

⁶² Through an exchange of letters between the Secretary-General and the President of the Council dated 11 and 16 July 1991 (S/22797 and S/22798), Council members agreed with the Secretary-General's proposal to appoint Major General Lawrence Uwumarogie (Nigeria) as Chief Military Observer of UNAVEM II. Subsequently, following a communication from the Nigerian authorities advising that he was no longer available, Major General Edward Ushie Unimna (Nigeria) was appointed as the new Chief Military Observer (see S/22954 and S/22955).

⁶³ S/22627 and Add.1.

⁶⁴ Algeria, Argentina, Brazil, Congo, Czechoslovakia, India, Jordan, Norway, Spain and Yugoslavia.

⁶⁵ S/22716.

⁶⁶ In addition to the 10 States already contributing observers to UNAVEM I, Canada, Egypt, Guinea-Bissau, Hungary, Ireland, Malaysia, Morocco, the Netherlands, New Zealand, Nigeria, Senegal, Singapore, Sweden and Zimbabwe became contributors of observers to UNAVEM II.

⁶⁷ S/22717.

⁶⁸ S/22672.

⁶⁹ S/22678.

⁷⁰ S/23191.

⁷¹ S/23271 and S/23272.

temporarily redeploy 25 Finnish military personnel to UNAVEM II from peacekeeping operations in the Middle East in order to carry out certain construction tasks which were urgently needed to improve the working and living conditions of the members of the Mission.

In a letter dated 6 February 1992 addressed to the President of the Council,⁷² the Secretary-General referred to the statement which his predecessor had made at an informal meeting of the Council, on 20 December 1991, about the request which he had received from the Government of Angola⁷³ that the United Nations should: (a) provide technical assistance to the Government to help prepare for the elections which were scheduled to take place in September 1992 and (b) send United Nations observers to follow the Angolan electoral procedure until its completion. The Secretary-General stated that, pursuant to that request, an agreement on technical assistance had already been signed with the Government of Angola. Regarding the monitoring of the elections, he would shortly be submitting the necessary operational plan to the Council, together with a recommendation to enlarge UNAVEM II to include an electoral division. He also informed the President that he would appoint Margaret Joan Anstee as his Special Representative for Angola and Chief of UNAVEM II to coordinate current and projected Mission activities. In a reply dated 7 February,⁷⁴ the President stated that the Council members had welcomed the Secretary-General's decision to appoint Ms. Anstee.

On 3 and 20 March 1992, the Secretary-General submitted a further report to the Security Council on UNAVEM II⁷⁵ recommending an operational plan for the observation of the elections in Angola and the enlargement of the Mission. The recommendations were based on the report of his Special Representative and a survey team which visited Angola from 17 to 20 February 1992. The Secretary-General noted that internationally supervised elections constituted a central element in the implementation of the Peace Accords and in accordance with the Accords, "the United Nations role would be to observe and verify the elections, not to organize them". The monitoring would

cover the entire electoral process, including the voter registration, electoral campaign and polling. In view of the expanded responsibilities of UNAVEM, he recommended that the Mission be enlarged to include an office of the Special Representative in Luanda; an Electoral Division, with six regional offices, headed by a Chief Electoral Officer; and approximately 141 international and 68 local staff. One hundred of the 400 electoral observers required during polling would come from the Mission's existing staff.⁷⁶ The Secretary-General estimated that the additional cost for the Mission's expanded activities, for the period from 15 March to 31 October 1992, would be approximately \$18.8 million.

At its 3062nd meeting, on 24 March 1992, the Security Council adopted resolution 747 (1992), whereby it approved the recommendations contained in the report of the Secretary-General of 3 and 20 March and decided to enlarge the mandate of UNAVEM II for the remainder of its existing mandate period. The Council underlined the necessity, recalled in paragraph 18 of the report, for the United Nations electoral mission to have the explicit agreement of the two parties to the Peace Accords for Angola. It urged the parties to establish as soon as possible a precise timetable for the electoral process in Angola so that elections could take place at the date fixed, and requested the Secretary-General to extend his cooperation to that end. In addition, the Council requested the Secretary-General to keep it informed of developments and to submit a further report within three months of the adoption of the resolution.

Through an exchange of letters between the Secretary-General and the President of the Council dated 14 and 20 May,⁷⁷ Council members agreed with the Secretary-General's recommendation to increase the UNAVEM police strength from 90 to 126 officers and to expand the tasks assigned to the police contingent to include a role in the Mission's electoral functions.

Pursuant to resolution 747 (1992) of 24 March, the Secretary-General submitted a further report, dated

⁷² S/23556.

⁷³ The letter was circulated to the members of the Council, but not issued as a document of the Council.

⁷⁴ S/23557.

⁷⁵ S/23671 and Add.1.

⁷⁶ Of the remaining requirement of 300 observers, 100 would be selected from the United Nations Development Programme, other United Nations agency personnel in Angola and volunteers from selected non-governmental organizations; 100 would be drawn from the Secretariat; and 100 would be contributed by Member States.

⁷⁷ S/23985 and S/23986.

24 June 1992, on the activities of UNAVEM II.⁷⁸ He reported that a timetable for the electoral process had been established. His Special Representative was coordinating all United Nations technical assistance on electoral matters to the Government of Angola as well as the humanitarian assistance, which, although outside the mandate of UNAVEM, was vital to the success of the peace process. UNAVEM II military observers were continuing to perform their verification tasks. However, confinement of both sides' troops to assembly areas continued to suffer from problems, as did the demobilization of troops, which was also running behind schedule. While the joint police monitoring teams were finally established in all 18 provinces, the police monitoring system was almost entirely dependent on UNAVEM II resources for transport and communication, which were not intended, or sufficient, for those purposes. In his concluding observations, the Secretary-General noted that the Security Council might wish to keep under review the need for continuing support for Angola during what would inevitably be "a difficult and delicate period of political transition after the elections".

At the 3092nd meeting of the Council, on 7 July 1992, following consultations, the President made a statement on behalf of the Security Council,⁷⁹ whereby, *inter alia*, the Council looked forward to a further report by the Secretary-General at the beginning of the electoral campaign.

On 9 September 1992, pursuant to the statement made by the President on 7 July, the Secretary-General reported that UNAVEM II had started verifying the voter registration process which had ended on 10 August, monitoring the electoral campaign which had officially begun on 29 August, and putting into place an operational plan for observing the voting on 29 and 30 September 1992. Regarding the doubts expressed by one party about the effectiveness and impartiality of the Mission, he had given his assurance that all the matters raised would be thoroughly investigated. The specific examples obtained by his Special Representative mainly reflected a misunderstanding of the role of UNAVEM and an overestimation of the United Nations capacity and mandate. The Secretary-General also noted that the

Government of Angola and UNITA had referred publicly to the possibility of UNAVEM II being asked to remain in Angola during the period of transition after the elections.⁸⁰

At the 3115th meeting on 18 September 1992, the President made a statement on behalf of the Security Council,⁸¹ by which the Council expressed concern at the doubts expressed in Angola about the effectiveness and impartiality of UNAVEM and welcomed the decision of the Secretary-General to investigate thoroughly all matters raised in that regard. The Council expressed strong support for the Secretary-General, his Special Representative and UNAVEM II personnel. In addition, it took note of a reported agreement between the Government of Angola and UNITA that the United Nations should be asked to extend the UNAVEM presence in Angola and indicated that it would be prepared to consider such a request if it was based on wide support in Angola and if it proposed for UNAVEM a mandate which was clearly defined in scope and time. The Council looked forward to a further report by the Secretary-General after the elections.

By a letter dated 24 September 1992,⁸² the representative of Angola transmitted to the Secretary-General a letter from the Minister for External Relations of Angola, requesting an extension of the mandate of UNAVEM II, which would expire on 30 October 1992, until 31 December 1992, in view of the possibility of a second electoral round in the presidential elections and a delay in the conclusion of the democratization process under way in Angola.

Following presidential and parliamentary elections in Angola on 29 and 30 September 1992, the Security Council, at its 3120th meeting on 6 October, included in its agenda an oral report of the Secretary-General on UNAVEM II. At the same meeting, the President made a statement on behalf of the Council,⁸³ in which the Council expressed concern at the reports it had received, according to which one of the parties to the Peace Accords was contesting the validity of the elections, and at the announcement made by certain Generals belonging to that same party of their intention to withdraw from the new Angolan armed forces. The

⁷⁸ S/24145 and Corr.1.

⁷⁹ S/24249.

⁸⁰ S/24556.

⁸¹ S/24573.

⁸² S/24585.

⁸³ S/24623.

Council stated that it had decided to send to Angola as quickly as possible an ad hoc commission composed of its members to support the implementation of the Peace Accords, in close cooperation with the Special Representative. In a note dated 8 October 1992,⁸⁴ the President stated that, following consultations, the members of the Council had agreed that the ad hoc commission would comprise Cape Verde, Morocco, the Russian Federation and the United States.

The ad hoc commission visited Angola from 11 to 14 October 1992 and presented an oral report to the members of the Council on 19 October. On the same day, the President made a statement to the media on behalf of the members of the Council,⁸⁵ by which they welcomed the Commission's contribution to reducing the tension in Angola and to finding a solution to the difficulties that had arisen after the elections. The members of the Council noted with satisfaction that the Special Representative of the Secretary-General had certified that, with all deficiencies taken into account, the elections could be considered to have been generally free and fair, and also that the leaders of the two parties to the Peace Accords had agreed to start a dialogue with a view to the completion of the presidential elections. They looked forward to the recommendations of the Secretary-General on the contribution of the United Nations to ensuring the completion of the presidential elections and expressed their readiness to act without delay on the basis of those recommendations.

At the 3126th meeting on 27 October 1992, following consultations, the President made a statement on behalf of the Council,⁸⁶ in which the Council stated that it had taken note of the letter of the same date from the Secretary-General addressed to the President of the Council,⁸⁷ and called on UNITA and the other parties in the electoral process to respect the results of the elections, which the Special Representative had certified as being generally free and fair. The Council strongly condemned "the attacks and baseless accusations" made by the UNITA radio station against the Special Representative and UNAVEM II, called for the immediate cessation of those attacks and accusations, and reiterated its full support for the

Special Representative and for the Mission. It urged the leaders of the two parties to engage in a dialogue without delay so as to enable the second round of the presidential elections to be held, and reiterated its readiness to act without delay on the basis of recommendations that the Secretary-General might make concerning the contribution of the United Nations to the completion of the electoral process.

In a letter dated 29 October 1992 addressed to the President of the Security Council,⁸⁸ the Secretary-General recalled that on 22 September 1992 the Government of Angola had conveyed its request⁸⁹ for an extension of the activities of UNAVEM II until 31 December 1992. However, he had deferred making a recommendation to the Council about the request in view of the "uncertainties" that had arisen following the elections. In the present circumstances, the Secretary-General stated he saw no alternative but to recommend the extension of the existing UNAVEM mandate for an interim period of 31 days, until 30 November. The Secretary-General expressed his hope that, with the cooperation of the two parties to the Peace Accords, he would then be in a better position to make a substantive recommendation on the future mandate and strength of UNAVEM II.

At its 3130th meeting, on 30 October 1992, the Security Council adopted resolution 785 (1992), whereby it approved the recommendation contained in the Secretary-General's letter and endorsed the statement by the Special Representative that the elections had been generally free and fair. In addition, the Council requested the Secretary-General to submit by 30 November a detailed report on the situation in Angola together with long-term recommendations, accompanied by the financial implications thereof, on the mandate and strength of the Mission.

On 25 and 30 November 1992, pursuant to the statement made by the President of the Council on 18 September⁹⁰ and resolution 785 (1992), the Secretary-General submitted a further report,⁹¹ in which he informed the Council that since the elections UNAVEM II had undertaken a number of tasks which extended beyond its original mandate. Following the outbreak of heavy fighting between the Government

⁸⁴ S/24639.

⁸⁵ S/24683 (statement to the media).

⁸⁶ S/24720.

⁸⁷ The letter was circulated to the members of the Council, but not issued as a document of the Council.

⁸⁸ S/24736.

⁸⁹ S/24585.

⁹⁰ S/24573.

⁹¹ S/24858 and Add.1.

and UNITA forces, the Mission had kept its military, police and civilian presence intact at 67 locations throughout the country and worked to maintain a newly brokered ceasefire, patrolling trouble spots and using its good offices to foster dialogue between the parties.⁹² On 5 November, the Secretary-General had sent the Under-Secretary-General for Peacekeeping Operations, Mr. Marrack Goulding, to assist his Special Representative in her continuing efforts to help implement the ceasefire, put the peace process back on track, and explore what the future role of UNAVEM might be. Both sides had agreed on the need for an enlarged UNAVEM presence in order to create, over a period of six months or so, conditions in which the second round of presidential elections could take place and the peace process could be brought to a successful conclusion.

In his report, the Secretary-General stressed that he had made clear to both sides that he would not be prepared to recommend an enlargement of the mandate of UNAVEM or an increase of its strength, or even its continuation at its present strength, unless they could convince him of their genuine adherence to and fulfilment of the Peace Accords, especially the key provisions relating to the dissolution of the existing armies and the creation of unified and non-partisan military and police forces. It would also be necessary for the parties to agree on a clear timetable and on formal evaluation at regular intervals of their fulfilment of their commitments. Therefore, he was not yet in a position to provide the Security Council with the long-term recommendations requested in resolution 785 (1992). He recommended the extension of the Mission's existing mandate for a further period of two months, until 31 January 1993, and stated that he would submit a further report before that date. In the meantime, he proposed to take urgent steps, with the cooperation of the Member States concerned, to restore the Mission's strength of military and police observers, which had fallen to 210 and 77, respectively, to the authorized levels of 350 and 126, in expectation of the termination of the Mission's mandate. This would both demonstrate the international community's continuing commitment to the peace process and be a practical measure to improve the security of the Mission's personnel in the field and strengthen their ability to

consolidate the ceasefire. The Secretary-General estimated that the additional cost associated with the two-month extension of the Mission's mandate would amount to some \$12.4 million, which should be borne by Member States in accordance with Article 17 (2) of the Charter.

At its 3144th meeting on 30 November 1992, the Security Council adopted resolution 793 (1992), by which it approved the above recommendation of the Secretary-General. The Council appealed to the two parties to engage in a dialogue aimed at national reconciliation and at the participation of all parties in the democratic process, and to agree on a clear timetable for the fulfilment of their commitments under the Peace Accords. In addition, it requested the Secretary-General to submit by 31 January 1993 a further report on the situation in Angola together with his longer-term recommendations for the further role of the United Nations in the peace process, which it said should be clearly defined in scope and time and based on a wide degree of support in Angola.

In a letter dated 18 December 1992 addressed to the President of the Security Council,⁹³ and pursuant to resolution 793 (1992) of 30 November 1992, the Secretary-General stated that unless the situation in Angola rapidly improved, he would not be in a position to recommend the enlargement of the United Nations presence in Angola, which both sides said they wanted. He added that although the two sides had agreed in principle on the need to enlarge the mandate of UNAVEM II and increase its strength on the ground, including the provision of armed troops, differences still existed between them, especially on the extent to which the Mission should in future exercise a good offices or mediation function, and the extent to which it should be involved in the organization and conduct of the second round of presidential elections. In that context and in an effort to get the peace process back on track, he suggested that the Council might wish to appeal to the two leaders to accept his invitation to a joint meeting in Geneva, or in another United Nations location such as Addis Ababa.

At the 3152nd meeting on 22 December 1992, the President made a statement on behalf of the Council,⁹⁴ by which the Council expressed its full support for the action of the Secretary-General aimed at resolving the

⁹² The ceasefire, which came officially into effect on 2 November, was the result of the Secretary-General's own efforts, supported by Member States.

⁹³ S/24996.

⁹⁴ S/25002.

crisis and appealed to President dos Santos and Dr. Savimbi to accept the Secretary-General's invitation to attend, under his auspices, a joint meeting at an agreed location, to confirm that real progress had been made in the reactivation of the Bicesse [Peace] Accords with a view to their full implementation and that agreement had been reached on a continuing United Nations presence in Angola.

5. United Nations Operation in Somalia established pursuant to Security Council resolution 751 (1992)

Establishment

On 3 March 1992, the Interim President, Ali Mahdi Mohamed, and General Mohamed Farah Aidid signed an Agreement on the Implementation of a Ceasefire, by which they agreed to "the implementation of measures aimed at stabilizing the ceasefire by means of a United Nations monitoring mechanism".⁹⁵ The two sides also agreed that a United Nations technical team would visit Mogadishu to formulate such measures.

In a report to the Security Council dated 11 March 1992,⁹⁶ the Secretary-General stated his intention to dispatch a technical team as soon as possible to prepare an operational plan for a United Nations monitoring mechanism. He added that he intended to request the technical team to also look into possible mechanisms to ensure the unimpeded delivery of humanitarian assistance to the displaced persons in and around Mogadishu. Observing that the latter exercise represented an innovation that might require careful consideration by the Security Council, he noted that its objective had already been anticipated by the understanding reached with the two factions that United Nations civilian police would be required to assist in the delivery of humanitarian aid in and around Mogadishu. By resolution 746 (1992) of 17 March 1992, the Security Council strongly supported the Secretary-General's decision urgently to dispatch a technical team to Somalia. It asked that the technical team also develop a "high priority plan to establish mechanisms to ensure the unimpeded delivery of humanitarian assistance".

⁹⁵ S/23693, annex III.

⁹⁶ S/23693.

On 27 and 28 March 1992, agreements were signed with the two parties in Mogadishu to (a) deploy United Nations observers to monitor the ceasefire; and (b) deploy United Nations security personnel to protect its personnel and safeguard its activities in continuing to provide humanitarian and other relief assistance in and around Mogadishu. In a report to the Council dated 21 April 1992,⁹⁷ the Secretary-General recommended the establishment of a United Nations Operation in Somalia (UNOSOM), for an initial period of six months, along the following lines. The mission would comprise 50 unarmed military observers to monitor the ceasefire, and a 500-strong infantry unit to "provide the United Nations convoys of relief supplies with a sufficiently strong military escort to deter attack and to fire effectively in self-defence if deterrence should not prove effective". The security personnel would be based on a ship at the Mogadishu port. The infantry would be lightly armed and would undertake patrols in light vehicles, with a small armoured car element held in reserve for use in emergencies. Administrative and support services would be provided by a civilian component of 79 staff. The mission would be established under the authority of the Security Council. The commanding officer of UNOSOM would be appointed by the Secretary-General after consultation with the two parties and with the consent of the Security Council, and would report to the Secretary-General through the Special Representative. The Special Representative would provide overall direction to United Nations activities in Somalia and assist the Secretary-General in reaching a peaceful resolution to the conflict.⁹⁸ In an addendum to his report,⁹⁹ the Secretary-General recommended that the cost of the operation be considered an expense of the Organization to be borne by Members States in accordance with Article 17 (2) of the Charter.

By resolution 751 (1992) of 24 April 1992, the Council decided to establish UNOSOM under its authority, and in support of the Secretary-General's continuing mission in Somalia. The Council requested the Secretary-General immediately to deploy 50 military observers to monitor the ceasefire in

⁹⁷ S/23829.

⁹⁸ Following an exchange of letters dated 24 April 1992 between the Secretary-General and the President of the Council, Mohammed Sahnoun of Algeria was appointed Special Representative on 28 April 1992 (S/23851 and S/23852).

⁹⁹ S/23829/Add.2.

Mogadishu. It also agreed in principle to establish, under the overall direction of the Special Representative, a United Nations security force to be deployed as soon as possible to provide security for United Nations personnel, equipment and supplies at the Mogadishu port and airport, and to escort deliveries of humanitarian supplies to distribution centres. The Council requested the Secretary-General to continue his consultations with the parties in Mogadishu regarding the proposed United Nations security force and, in the light of those consultations, to submit his further recommendations to the Council for its decision as soon as possible.

Mandate

By resolution 751 (1992), UNOSOM was mandated to monitor the ceasefire in Mogadishu, and a decision was taken in principle that it should provide security for humanitarian assistance activities in and around Mogadishu.

Implementation/enlargement

In a letter dated 23 June 1992 addressed to the President of the Council,¹⁰⁰ the Secretary-General reported that, having secured the agreement of the two principal factions in Mogadishu, he was taking immediate steps to deploy the military observers. In response to a second letter of the same date from the Secretary-General, the President of the Council informed him that the members of the Council agreed with his proposal to appoint Brigadier-General Imtiaz Shaheen of Pakistan as the Chief Military Observer of UNOSOM.¹⁰¹

The next month, in the face of a complex and deteriorating situation in Somalia, the Secretary-General proposed, in a report dated 22 July 1992,¹⁰² that the United Nations should enlarge its efforts to help bring about an effective ceasefire throughout the country, while at the same time pressing forward with

parallel efforts to promote national conciliation. In his view, the Organization should establish a presence in all regions and adopt a comprehensive approach dealing with all aspects of the Somalia situation — humanitarian relief and recovery, the cessation of hostilities and security, the peace process and national reconciliation — in a consolidated framework. To that end, he proposed to establish four operational zones in the country, in each of which a consolidated United Nations operation would carry out the activities envisaged in resolution 751 (1992), namely, humanitarian activities, monitoring of the ceasefire and maintaining security while helping combatants demobilize and disarm. He also stated his intention to dispatch a technical team to Somalia to examine, inter alia, (a) the possible monitoring of ceasefire arrangements in parts of the country other than Mogadishu; (b) the possible deployment of military observers in the south-west region on the border with Kenya; (c) the feasibility of an “arms for food” exchange programme; (d) the need for security forces to escort and protect humanitarian aid activities and personnel in other parts of the country; and (e) a possible role for the United Nations in assisting the re-establishment of local police forces. By resolution 767 (1992) of 27 July 1992, the Security Council approved the Secretary-General’s proposal to establish four operational zones and strongly supported his decision to dispatch a technical team to Somalia.

In a letter dated 12 August 1992 addressed to the President of the Council,¹⁰³ the Secretary-General reported that both principal factions in Mogadishu had agreed to the immediate deployment of the 500-strong security force as part of UNOSOM. He proposed that the force be composed of a contingent from Pakistan, to which the members of the Council agreed.¹⁰⁴

In a report dated 24 August 1992,¹⁰⁵ the Secretary-General requested an increase in the authorized strength of UNOSOM to create the four security zones. For each zone, he proposed that UNOSOM be provided with a unit of 750. In addition to the two agreed areas (Bossaso in the north-east and the Gedo region along the border with Kenya), he proposed that units be posted to Berbera and Kismayo as soon as consultations with leaders there made it possible. The total strength of United Nations security

¹⁰⁰ S/24179.

¹⁰¹ S/24181. In a further exchange of letters, the President of the Council informed the Secretary-General that the Council members agreed with his proposal that the military elements of the operation comprise contingents from Austria, Bangladesh, Czechoslovakia, Egypt, Fiji, Finland, Indonesia, Jordan, Morocco and Zimbabwe (S/24177 and S/24178 of 22 and 25 June 1992, respectively).

¹⁰² S/24343.

¹⁰³ S/24451.

¹⁰⁴ S/24452.

¹⁰⁵ S/24480.

personnel envisaged for Somalia would thus reach 3,500. By resolution 775 (1992) of 28 August 1992, the Council authorized the increase in strength of UNOSOM and the subsequent deployment as recommended. In a letter dated 1 September 1992 to the President of the Council,¹⁰⁶ the Secretary-General requested the Council to extend the applicability of the authorization in resolution 775 (1992) to cover also the logistics support unit included in the enlargement of the Operation. The total strength of the Operation would then be 4,219 all ranks. By a letter dated 8 September 1992,¹⁰⁷ the President of the Council informed the Secretary-General that Council members agreed with that proposal.

In a letter dated 24 November 1992 addressed to the President of the Council,¹⁰⁸ the Secretary-General stated that the conditions that had developed in Somalia made it exceedingly difficult for UNOSOM to implement the mandate entrusted to it by the Council. He added that he was giving urgent consideration to the situation and did not exclude the possibility that it might become necessary to review the basic premises and principles of the United Nations effort in Somalia.

The members of the Security Council concluded that the situation that the Secretary-General had described was intolerable. On 25 November, they expressed strong support for his view that it was time to move into Chapter VII of the Charter and asked him for specific recommendations on what the United Nations could do to remedy the situation.¹⁰⁹

In a letter dated 29 November 1992 to the President of the Council,¹¹⁰ the Secretary-General set out five options for action. Two options did not involve the use of force. However, the Secretary-General dismissed them as inadequate, noting that the Security Council had “no alternative but to decide to adopt more forceful measures to secure the humanitarian operations in Somalia”. He offered three options involving the use of force to ensure that the violence against the international relief effort was brought to an end: (1) a show of force in Mogadishu by UNOSOM troops, to deter factions and other armed groups there and elsewhere in Somalia from withholding

cooperation from UNOSOM; (2) a countrywide enforcement operation by a group of Member States authorized by the Security Council to carry one out; (3) a countrywide enforcement action undertaken under United Nations command and control. In explaining the second option, the Secretary-General informed the Council of the offer by the United States to take the lead in such an operation. He suggested that, in the event that the Council chose that option, the enabling resolution could state, *inter alia*, that the purpose of the operation was to resolve the immediate security problem and that it would be replaced by a conventional United Nations peacekeeping operation as soon as the irregular groups had been disarmed and the heavy weapons of the organized factions brought under international control.

By resolution 794 (1992) of 3 December 1992, the Council, acting under Chapter VII, authorized the Secretary-General and Member States cooperating with the Member State which had offered to establish an operation to create a secure environment for relief operations in Somalia to use “all necessary means” to do so. The Council also decided that the operations of UNOSOM and any further deployment of the 3,500 UNOSOM personnel authorized by resolution 775 (1992) should proceed at the discretion of the Secretary-General in the light of his assessment of conditions on the ground. The Council requested the Secretary-General to report to it within 15 days on the implementation of the resolution and the attainment of the objective of establishing a secure environment so as to enable the Council to make the necessary decision for a prompt transition to continued peacekeeping operations. It also asked him to submit an initial plan within the same time frame to ensure that UNOSOM would be able to fulfil its mandate after the withdrawal of the unified command.

In a report dated 19 December 1992,¹¹¹ the Secretary-General informed the Council that after the adoption of resolution 794 (1992), further deployment into Somalia had been put on hold pending assessment of conditions on the ground. However, on 18 December, on the advice of his Special Representative and the force commander, he had authorized deployment of 100 additional personnel to strengthen the UNOSOM headquarters. In addition, a liaison team from UNOSOM had been deployed to the

¹⁰⁶ S/24531.

¹⁰⁷ S/24532.

¹⁰⁸ S/24859.

¹⁰⁹ S/24868, referring to informal consultations.

¹¹⁰ S/24868.

¹¹¹ S/24992.

headquarters of the Unified Task Force. The Secretary-General set out his ideas on the kind of mandate UNOSOM would require to maintain the secure environment for humanitarian relief operations after it had been established by the Unified Task Force. In his view, however, it was premature to determine how and when the Unified Task Force should be replaced, and he therefore recommended that the Council defer a decision in that regard until the situation on the ground in Somalia became clearer.

6. United Nations Observer Mission in South Africa established pursuant to Security Council resolution 772 (1992)

Establishment

By resolution 765 (1992), adopted unanimously on 16 July 1992, the Security Council condemned the escalating violence in South Africa and invited the Secretary-General to appoint, as a matter of urgency, a Special Representative for South Africa in order to recommend, after discussions with the parties, “measures which would assist in bringing an effective end to the violence and in creating conditions for negotiations leading towards a peaceful transition to a democratic, non-racial and united South Africa”. The Council requested him to submit a report to it as early as possible.

In a report dated 7 August 1992,¹¹² the Secretary-General informed the Security Council of the outcome of his Special Representative’s mission to South Africa from 21 to 31 July 1992. The Secretary-General recommended a number of measures to bring an effective end to the violence and to create the conditions for the resumption of negotiations envisaged in resolution 765 (1992). With respect to the many serious requests made to the United Nations to dispatch monitors to South Africa, he had concluded that, given the mechanisms already established by the National Peace Accord,¹¹³ to which all parties had agreed, the wisest course of action would be to strengthen and reinforce those mechanisms. He recommended, accordingly, that the United Nations

make available some 30 observers to serve in South Africa, in close association with the National Peace Secretariat, in order to further the purposes of the Accord. The observers would be stationed in agreed-upon locations, in various parts of South Africa. As necessary, their numbers could be supplemented by other appropriate international organizations such as OAU, the Commonwealth and the European Community. He considered that the practical arrangements stemming from this recommendation should be the subject of early and detailed discussions between the United Nations, the Government and the parties concerned. He believed, in that connection, that the experience gained from the dispatch of 10 United Nations observers to cover the recent mass demonstrations could serve a valuable purpose in defining the tasks and methods of functioning of the proposed larger group.

By resolution 772 (1992) of 17 August 1992, the Security Council authorized the Secretary-General to deploy, as a matter of urgency, United Nations observers in South Africa, in such a manner and in such numbers as he determined necessary to address effectively the areas of concern noted in his report, in coordination with the structures set up under the National Peace Accord; and requested him to report to it quarterly or more frequently if necessary, on the implementation of the resolution. The Council also invited international organizations, such as OAU, the Commonwealth and the European Community to consider deploying their own observers in South Africa in coordination with the United Nations and the structures set up under the National Peace Accord. Following the adoption of the resolution, the President of the Council made a statement¹¹⁴ in which he indicated that it was the understanding of the members of the Council that the Secretary-General would consult the Council on the number of observers he intended to deploy from time to time.

Mandate

The mandate of the United Nations Observer Mission in South Africa (UNOMSA), as reflected in resolution 772 (1992) and the Secretary-General’s report of 7 August 1992, was to help quell violence in the country in coordination with the structures set up under the National Peace Accord.

¹¹² S/24389.

¹¹³ The National Peace Accord, signed on 14 September 1991, established a comprehensive framework, agreed to by all major parties, organizations and groups of South Africa, to end violence and facilitate socio-economic development and reconstruction (S/24389, para. 73).

¹¹⁴ S/24456.

Implementation

Following consultations with the Security Council, the Secretary-General announced on 9 September 1992 the decision to deploy a mission of up to 50 United Nations observers in South Africa in implementation of resolution 772 (1992).¹¹⁵ On 10 September, he informed members of the Council of his decision to dispatch an advance party of 13 observers to South Africa, as part of the complement of 50 observers to be deployed in the country.¹¹⁶ On the same day, in a statement made by the President of the Council on its behalf,¹¹⁷ the members of the Council emphasized the need to put an end to the violence and create conditions for negotiations leading to the establishment of a democratic, non-racial and united South Africa, and welcomed the Secretary-General's decision to deploy an advance party in the country.

In a report dated 22 December 1992,¹¹⁸ the Secretary-General informed the Council that by the end of October, UNOMSA observers had been deployed in all 11 regions of South Africa, and that by the end of November, they had reached the full complement of 50 observers. The headquarters of the Mission was in Johannesburg, with a regional office in Durban.

He reported that UNOMSA personnel observed demonstrations, marches and other forms of mass action, noting the conduct of all parties, and endeavoured to obtain information indicating the degree to which the parties' actions were consistent with the principles of the National Peace Accord and the Goldstone Commission guidelines for marches and political gatherings. Observers supplemented their field observations by establishing and maintaining informal contacts at all levels with established governmental structures, political parties and organizations, as well as civic associations and other groups. Several members of the UNOMSA team had been assigned to the Goldstone Commission of Enquiry into Public Violence and Intimidation in addition to their other duties. The observer teams in various parts of the country also attended the hearings of the Commission held in their respective locations. UNOMSA observers had been joined by 17 observers from the Commonwealth, 14 from the European Commission

and 11 from OAU. The international observer teams had worked closely together, exchanging information and frequently observing events and meetings as mixed teams.

In his concluding observations in the same report,¹¹⁹ the Secretary-General stated that the international observers had been welcomed by all concerned and had been credited with having had a salutary effect on the political situation in general. Some nevertheless had contended that UNOMSA needed to be strengthened, while others were of the view that its mandate should be expanded. Given the delicate situation prevailing in South Africa, characterized by unacceptable and, in some locales, rising levels of violence, he intended to modestly reinforce UNOMSA with an increment of 10 additional observers.

7. United Nations Operation in Mozambique established pursuant to Security Council resolution 797 (1992)

Establishment

By a letter dated 10 August 1992 addressed to the Secretary-General,¹²⁰ the representative of Mozambique transmitted the text of the joint declaration signed in Rome on 7 August 1992 by the President of the Republic of Mozambique and the President of the Mozambique National Resistance Movement (RENAMO). Under the declaration, both parties agreed, inter alia, to "accept the role of the international community, and especially that of the United Nations, in monitoring and guaranteeing the implementation of the General Peace Agreement, in particular the ceasefire and the electoral process".

By a letter dated 6 October 1992 addressed to the Secretary-General,¹²¹ the representative of Mozambique transmitted two documents: the text of the General Peace Agreement, signed in Rome on 4 October 1992, establishing the principles and modalities for the achievement of peace in Mozambique; and a letter of the same date from the President of Mozambique addressed to the Secretary-General. In his letter, the President requested the Secretary-General to take appropriate action to ensure the participation of the United Nations in monitoring

¹¹⁵ S/25004, para. 47.

¹¹⁶ S/24004, para. 5.

¹¹⁷ S/24541.

¹¹⁸ S/25004.

¹¹⁹ S/25004, para. 87.

¹²⁰ S/24406.

¹²¹ S/24635 and Corr.1.

and ensuring the implementation of the General Peace Agreement and in assisting the Government of Mozambique by providing technical assistance for the general elections and in monitoring those elections. In that regard, he requested the United Nations to chair the following Commissions: the Supervisory and Monitoring Commission for the implementation of the General Peace Agreement; the Ceasefire Commission provided for in Protocol VI; and the Reintegration Commission provided for in Protocol IV. He also asked the Secretary-General to inform the Security Council of the need to send a United Nations team to Mozambique to monitor the General Peace Agreement until elections were held — in principle, one year after the signing of the Agreement.

On 9 October 1992, the Secretary-General submitted to the Security Council a report on the proposed United Nations role in Mozambique.¹²² In essence, the United Nations had been asked to undertake certain specific functions in relation to the ceasefire, the elections and humanitarian assistance. He recommended an immediate plan of action and stated his intention, subject to the Council's approval, to appoint an interim Special Representative who would be in overall charge of United Nations activities in support of the Agreement. As soon as appointed, the interim Special Representative would proceed to Maputo to assist the parties in setting up the joint machinery which was to be chaired by the United Nations, in finalizing the modalities and conditions for the military arrangements and in carrying out other preliminary work. He would be supported in those initial tasks by a team of up to 25 military observers, drawn from existing peacekeeping missions. The Special Representative would be asked to send the earliest possible report, on which the Secretary-General would base recommendations to the Security Council for the deployment of a United Nations operation in Mozambique. By resolution 782 (1992) of 13 October 1992, the Security Council approved the appointment by the Secretary-General of an interim Special Representative for Mozambique, and the dispatch to Mozambique of a team of up to 25 military observers. It also indicated that it looked forward to the report of the Secretary-General on the establishment of a United Nations Operation in Mozambique (ONUMOZ), including in particular a detailed estimate of the cost of the operation.

¹²² S/24642.

The Secretary-General appointed Aldo Ajello of Italy as his interim Special Representative for Mozambique. The latter arrived in Maputo with a team of 21 military observers on 15 October, the date on which the General Peace Agreement entered into force. On 20 October 1992, two teams of military observers were also deployed to the provincial capitals of Beira and Nampula.¹²³

In a statement made by the President of the Council on its behalf on 27 October 1992,¹²⁴ the Council expressed its deep concern over reports of major violations of the ceasefire, called upon the parties to halt such violations and urged them to cooperate fully with the interim Special Representative. The Council stressed that full respect for the ceasefire was a necessary condition for the speedy establishment and successful deployment of ONUMOZ.

In a report to the Council dated 3 December 1992,¹²⁵ the Secretary-General presented a detailed operational plan for ONUMOZ. Describing the difficulties of the operation, he referred to the size of the country, the devastated state of its infrastructure, the disruption of its economy by war and drought, the limited capacity of the Government to cope with the new tasks arising from the Agreement and the complexity of the processes envisaged in the Agreement. He stated that he felt obliged to recommend that very substantial resources should be made available for that purpose, especially on the military side. That reflected his conviction that it would not be possible to create the conditions for successful elections in Mozambique unless the military situation had been brought fully under control. He cautioned, moreover, that the Agreement would not be implemented unless the Mozambican parties made a determined effort in good faith to honour their commitments. On that basis, he recommended the establishment and deployment of ONUMOZ as set out in his report.

By resolution 797 (1992) of 16 December 1992, the Council approved the Secretary-General's report and the recommendations contained therein. The Council decided to establish ONUMOZ, as proposed by the Secretary-General and in line with the General

¹²³ S/24892, paras. 2 and 3.

¹²⁴ S/24719.

¹²⁵ S/24892 and Corr.1 and Add.1.

Peace Agreement for Mozambique, for a period until 31 October 1993. It requested the Secretary-General to keep it informed of developments and to submit a further report by 31 March 1993.

Mandate

In accordance with the General Peace Agreement, the mandate of ONUMOZ, as proposed by the Secretary-General and approved by the Security Council, consisted of four interrelated components: (a) political: to facilitate impartially the implementation of the Agreement, in particular by chairing the Supervisory and Monitoring Commission and its subordinate commissions; (b) military: to monitor and verify the ceasefire, the separation and concentration of forces, their demobilization and the collection, storage and destruction of weapons; to monitor and verify the complete withdrawal of foreign forces, and the disbanding of private and irregular armed groups; to authorize security arrangements for vital infrastructures; and to provide security for United Nations and other international activities in support of the peace process, especially in the corridors; (c) electoral: to provide technical assistance and monitor the entire electoral process; and (d) humanitarian: to coordinate and monitor all humanitarian assistance operations, in particular those relating to refugees, internally displaced persons, demobilized military personnel and the affected local population and, in that context, to chair the Humanitarian Assistance Committee.

In his report of 9 December 1992, the Secretary-General stated that, while the Agreement did not provide a specific role for United Nations civilian police in monitoring the neutrality of the Mozambican police, experience elsewhere suggested that such monitors could be a valuable addition to ONUMOZ. He therefore intended to ask his interim Special Representative to seek the concurrence of the parties with incorporating a police component into the Mission.

Composition and structure

The Operation was to be composed of the following: (a) an office of the interim Special Representative for Mozambique, including up to 12 international professional staff; (b) a military component, headed by a Force Commander and including a headquarters company and military police

platoon; 354 military observers; 5 infantry battalions, each composed of up to 850 personnel; 1 engineer battalion; 3 logistic companies; and air, communications, medical and movement control support units; (c) a civilian technical unit to support the logistic tasks relating to demobilization; (d) a police component, if the parties agreed, headed by a Chief Police Observer, with up to 128 police officers to monitor civil liberties and provide technical advice to the National Police Affairs Commission; (e) an Electoral Division, with up to 148 international electoral officers and support staff and 1,200 international election observers to be deployed at the time of the elections and the periods immediately preceding and following them; (f) a United Nations Office for the Coordination of Humanitarian Assistance, headed by a Humanitarian Affairs Coordinator, with 16 international professional staff; and (g) an administrative component, comprising up to 28 international professional staff, up to 100 United Nations volunteers, up to 124 international support staff and an adequate number of local staff.

Regarding the costs of the Operation, the Secretary-General estimated that \$331.8 million would be required for the period from its inception to 31 October 1993.¹²⁶ He recommended that the cost relating to the establishment and deployment of ONUMOZ be considered as an expense of the Organization to be borne by Member States in accordance with Article 17 (2) of the Charter of the United Nations.

Americas

8. United Nations Observer Group in Central America established pursuant to Security Council resolution 644 (1989)

Establishment

By a letter dated 24 February 1989, addressed to the Secretary-General,¹²⁷ the representatives of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua transmitted the text of the Joint Declaration of the Central American Presidents,¹²⁸ in which they

¹²⁶ S/24892/Add.1.

¹²⁷ S/20491.

¹²⁸ This Declaration had been adopted by the Central American Presidents on 14 February 1989 at their summit meeting held at Costa del Sol, El Salvador. For details, see S/20491, annex.

entrusted the United Nations, *inter alia*, with the task of assisting in the establishment of an international mechanism for the on-site verification of the security commitments which they had entered into under the Esquipulas II Agreement,¹²⁹ namely (a) the cessation of aid to irregular forces and insurrectionist movements, and (b) the non-use of the territory of one State for attacks on other States.

In a report dated 26 June 1989,¹³⁰ submitted to the Security Council pursuant to resolutions 530 (1983) and 562 (1985), the Secretary-General informed the Council that the five Central American Presidents had addressed to him a letter dated 31 March 1989,¹³¹ asking him to take the necessary steps to establish a United Nations Observer Group in Central America (ONUCA). However, in view of the reservation formulated by one of the signatories, he had not been able to take those steps.¹³²

At its 2871st meeting, on 27 July 1989, the Council adopted resolution 637 (1989), by which it, *inter alia*, called upon the Presidents to continue their efforts to achieve a firm and lasting peace; lent its full support to the Secretary-General to continue his mission of good offices in consultation with the Security Council; and requested him to report regularly on the implementation of the resolution.

On 11 October 1989, in accordance with resolution 637 (1989), the Secretary-General submitted to the Council a report¹³³ in which he explained that, at the meeting of the five Central American Presidents at Tela, Honduras, on 7 August 1989,¹³⁴ the way had become clear for him to send to the region a reconnaissance mission,¹³⁵ on the basis of whose findings he could now formulate a recommendation to the Council for the establishment of ONUCA. The operational concept of ONUCA would be based on the working paper that had been agreed earlier with those

Governments. The Secretary-General recommended that ONUCA be established forthwith for an initial period of six months. His report contained detailed proposals regarding the mandate, composition and deployment of the mission as well as a preliminary estimate with regard to its financial requirements.

At its 2890th meeting, on 7 November 1989, the Council adopted resolution 644 (1989), by which it, *inter alia*, approved the report of the Secretary-General of 11 October 1989; decided to set up immediately, under its authority, a United Nations Observer Group in Central America for a period of six months; and requested the Secretary-General to keep the Security Council fully informed of further developments. At the same meeting, the President made a statement on behalf of the members of the Council noting that, in any consideration of the renewal of the mandate of ONUCA, the Council members would wish to assure themselves that the presence of ONUCA was continuing to contribute actively to the achievement of a firm and lasting peace in Central America.¹³⁶

Mandate

Pursuant to resolution 644 (1989), by which the Council approved the Secretary-General's report of 11 October 1989,¹³⁷ ONUCA was to undertake the on-site verification of: (a) the cessation of aid to irregular forces and insurrectionist movements; and (b) the non-use of the territory of one State for attacks on other States.

To perform these tasks, ONUCA would consist of a total of 260 military observers; about 115 air-crew and support personnel; about 50 personnel for the naval unit; up to 14 medical personnel; about 104 international staff to perform political and administrative functions; and about 82 locally recruited civilians.¹³⁸ The military observers of ONUCA, like those of other such United Nations missions, would not be armed. However, the five Governments would be asked to undertake that if, in an exceptional case, an armed escort were to be requested by the Chief Military Officer to protect ONUCA personnel during

¹²⁹ Document entitled "Procedure for the establishment of a firm and lasting peace in Central America", signed at Guatemala City on 7 August 1987 by the Presidents of the five Central American republics (S/19085, annex).

¹³⁰ S/20699.

¹³¹ S/20642.

¹³² See the Secretary-General's note dated 18 May 1989 (S/20643) addressed to the Ministers for Foreign Affairs of Central America.

¹³³ S/20895.

¹³⁴ See S/20778, annex II, and S/20786.

¹³⁵ That mission visited the region from 3 to 23 September 1989.

¹³⁶ S/20952.

¹³⁷ S/20895.

¹³⁸ For the list of Member States contributing personnel to ONUCA, see the following exchange of letters between the Secretary-General and the President of the Council: S/20979 and S/20980; S/21232 and S/21233; S/21261 and S/21262.

the exercise of their functions, such escort would be provided by the Government concerned. Through an exchange of letters between the Secretary-General and the President of the Security Council, dated 16 and 21 November 1989,¹³⁹ the Council agreed to the Secretary-General's proposal to appoint Major General Agustín Quesada Gómez (Spain) as Chief Military Observer of ONUCA.¹⁴⁰

ONUCA was established on 7 November 1989 for an initial period of six months. As recommended by the Secretary-General in his report of 11 October 1989, its costs, estimated at \$41 million for this initial period, would be considered as expenses of the Organization to be borne by the Member States in accordance with Article 17 (2) of the Charter.

Implementation/extensions and changes of mandate

In a report dated 15 March 1990,¹⁴¹ the Secretary-General sought the urgent approval of the Council, on a contingency basis, for an enlargement of the ONUCA mandate and the temporary addition of armed personnel to its strength to enable it to play a part in the voluntary demobilization of the Nicaraguan resistance. Under its enlarged mandate, ONUCA would be responsible for implementing the military aspects of the joint plan for the voluntary demobilization, repatriation or relocation of the members of the Nicaraguan resistance,¹⁴² which had been agreed at Tela, Honduras, on 7 August 1989, while the International Support and Verification Commission,¹⁴³ set up pursuant to the joint plan, would be in charge of civilian matters.

At its 2913th meeting, on 27 March 1990, the Council adopted resolution 650 (1990), by which it approved the report of the Secretary-General; decided

to authorize, in accordance with that report, an enlargement of the mandate of ONUCA and the addition of armed personnel to its strength; and requested the Secretary-General to keep the Council fully informed of further developments regarding the implementation of the resolution.

In a letter dated 19 April 1990 addressed to the President of the Council,¹⁴⁴ the Secretary-General referred to a statement he had made during the Council's informal consultations on the same day¹⁴⁵ in relation to a series of agreements signed by the parties earlier that day in Managua, Nicaragua, on the voluntary demobilization of the Nicaraguan resistance (the Managua Agreements). As a consequence of those agreements, the parties had requested that ONUCA monitor both the ceasefire that had come into effect on the same day and the separation of forces which would result from the Government's withdrawal from the security zones which were to be established to facilitate the demobilization process. Noting that the Managua Agreements constituted an important step forward in the Central American peace process, the Secretary-General recommended that the Council approve a further expansion of the ONUCA mandate to include the above tasks.

At its 2919th meeting, on 20 April 1990, the Council adopted resolution 653 (1990), by which it approved the Secretary-General's proposals concerning the addition of new tasks to the mandate of ONUCA and requested him to report on all aspects of the Group's operations before the expiry of its mandate on 7 May 1990.

In accordance with resolution 653 (1990), the Secretary-General submitted a report on 27 April 1990,¹⁴⁶ giving an account of operations during the first six months of its existence. He recalled that the Group's original mandate was to verify compliance by the five Central American Governments with their security commitments under the Esquipulas II Agreement. Following the elections in Nicaragua, there had been two enlargements of the Group's mandate at the request of the Nicaraguan parties. An account of the Group's performance of its new functions, which had only just begun, would be set out in an addendum to the report. He recommended that the mandate and

¹³⁹ S/20981 and S/20982.

¹⁴⁰ Following the reduction in size of ONUCA, Brigadier General Lewis MacKenzie (Canada) served as acting Chief Military Officer from 18 December to 13 May 1991, followed by Brigadier General Victor Suanzes Pardo (Spain), who was appointed as Chief Military Officer through an exchange of letters dated 24 April 1991 between the Secretary-General and the President of the Council (S/22527 and S/22528).

¹⁴¹ S/21194.

¹⁴² S/20778, annex I.

¹⁴³ For details on the International Support and Verification Commission, see section E.1 below.

¹⁴⁴ S/21257.

¹⁴⁵ S/21259, annex.

¹⁴⁶ S/21274.

military observer strength of ONUCA be left unchanged and extended for a further period of six months, on the understanding that its tasks of monitoring the ceasefire and the separation of forces in Nicaragua and demobilizing the resistance would lapse with the completion of demobilization, not later than 10 June 1990.

On 2 May 1990, in an addendum¹⁴⁷ to his report of 27 April 1990, the Secretary-General observed, as a matter of grave concern, that the demobilization of the Nicaraguan resistance had not begun on 25 April, as stipulated in the Managua Agreements. He believed that serious efforts should now be made by all concerned to get the demobilization back on track.

At its 2921st meeting, on 4 May 1990, the Council adopted resolution 654 (1990), by which it, *inter alia*, approved the report of the Secretary-General of 27 April and 2 May 1990; decided to extend the mandate of ONUCA for a further period of six months until 7 November 1990, as recommended by the Secretary-General, on the understanding that its tasks of monitoring the ceasefire and the separation of forces in Nicaragua and demobilizing the resistance would lapse with the completion of demobilization, not later than 10 June 1990; and requested the Secretary-General to report on the Group's operations before the expiry of the mandate period and in particular to report on the completion of the demobilization process not later than 10 June 1990.

At the 2922nd meeting, on 23 May 1990, the President made a statement in which the members of the Council expressed concern at the slow pace of demobilization and requested the Secretary-General to continue to observe the situation on the ground through a senior representative and to report to the Council by 4 June 1990.¹⁴⁸

Pursuant to that presidential statement, the Secretary-General submitted a report on 4 June 1990,¹⁴⁹ briefing the Council on the developments on the ground relevant to the tasks entrusted to ONUCA and informing the Council that, at a meeting of the parties on 29 and 30 May 1990, the resistance had proposed that ONUCA be given the additional tasks of collecting weapons that might have remained in civilian hands, training a new national police force and

verifying the proposed reduction in the strength of the army.

On 8 June 1990, the Secretary-General submitted a report to update the Council specifically on the demobilization process,¹⁵⁰ in accordance with resolution 654 (1990). The Secretary-General informed the Council that there had been rapid progress in this process, but considered it doubtful whether it would be possible to complete demobilization by 10 June 1990, as envisaged in his report of 27 April 1990. He recommended that the Council extend the tasks of ONUCA related to monitoring the ceasefire and separation of forces and to demobilizing the resistance until 29 June 1990.

At its 2927th meeting, on 8 June 1990, the Council adopted resolution 656 (1990), by which it, *inter alia*, decided to extend the ONUCA tasks mentioned above, on the understanding that those tasks would lapse with the completion of the demobilization process not later than 29 June 1990, and requested the Secretary-General to report to the Council by that date.

In accordance with resolution 656 (1990), the Secretary-General submitted a report on 29 June 1990,¹⁵¹ informing the Council that demobilization had essentially been completed. On 26 October 1990, pursuant to resolution 654 (1990), the Secretary-General submitted to the Council an additional report containing an account of ONUCA operations since 7 May 1990.¹⁵² He stated that, after the cessation of the involvement by ONUCA in the demobilization process, the Government of Nicaragua had assumed responsibility for the demobilization of any remaining members of the resistance, while the International Support and Verification Commission continued to handle the civilian aspects of that process. Following consultations with the Government of Nicaragua it was decided that ONUCA would continue, on a temporary basis, to maintain a presence in those areas in which large numbers of demobilized members of the resistance and their dependants were being resettled. ONUCA had now reverted to its original mandate as approved by the Council in resolution 644 (1989), namely to verify compliance by the Central American Governments with their security commitments under the Esquipulas II Agreement. Noting the importance of

¹⁴⁷ S/21274/Add.1.

¹⁴⁸ S/21331.

¹⁴⁹ S/21341.

¹⁵⁰ S/21349.

¹⁵¹ S/21379.

¹⁵² S/21909.

maintaining a United Nations military presence in the region to support the peace process, the Secretary-General recommended that the Council extend the mandate of ONUCA, as defined in resolution 644 (1989), for a further period of six months, until 7 May 1991. The Secretary-General also informed the Council of his intention to reduce the strength of military observers to 158 by mid-December.

At its 2952nd meeting, on 5 November 1990, the Council adopted resolution 675 (1990), by which it, *inter alia*, approved the Secretary-General's report; decided to extend the mandate of ONUCA as defined in resolution 644 (1989) for a further period of six months; and requested the Secretary-General to report on the operations of ONUCA before the expiry of the new mandate period.

In accordance with resolution 675 (1990), the Secretary-General submitted a report on 29 April 1991,¹⁵³ containing an account of the organization and operational activities of ONUCA since 27 October 1990. Based on the advice of the Chief Military Observer, the Secretary-General recommended the reduction of the Group's strength to 130 military observers and the extension of its mandate, as defined in resolution 644 (1989), for an additional period of six months, until 7 November 1991.

At its 2986th meeting, on 6 May 1991, the Council adopted resolution 691 (1991), by which it, *inter alia*, approved the report of the Secretary-General; decided to extend the mandate of ONUCA, as defined in resolution 644 (1989), for a further period of six months; and requested the Secretary-General to report on the Group's operations before the expiry of the mandate period.

On 28 October 1991, pursuant to resolution 691 (1991), the Secretary-General submitted a report,¹⁵⁴ informing the Council that the five Central American Governments had indicated their wish that the mandate of ONUCA be extended for a further period of six months. For accounting purposes only, the Secretary-General recommended that the mandate be extended for a period of five months and 23 days, rather than six months, so that the mandate could end on the last date of a calendar month, namely on 30 April 1992.

¹⁵³ S/22543.

¹⁵⁴ S/23171.

At its 3016th meeting, on 6 November 1991, the Council adopted resolution 719 (1991), by which it, *inter alia*, approved the report of the Secretary-General; decided to extend the mandate of ONUCA, as defined in resolution 644 (1989), until 30 April 1992; and requested the Secretary-General to report on the Group's operations before the expiry of the mandate period, and in particular to report to the Council within three months about any developments which would indicate that the size or the future of ONUCA should be reconsidered.

Termination

In a report dated 14 January 1992,¹⁵⁵ submitted pursuant to resolution 719 (1991), the Secretary-General informed the Council that there had been major progress in negotiations on a settlement to the armed conflict in El Salvador, and recommended that the Council terminate the mandate of ONUCA with effect from 17 January 1992. At its 3031st meeting, on 16 January 1992, the Council adopted resolution 730 (1992), by which it approved the report of the Secretary-General of 14 January 1992 and, in accordance with the recommendation contained therein, decided to terminate the mandate of ONUCA with effect from 17 January 1992.

9. United Nations Observer Mission in El Salvador established pursuant to Security Council resolution 693 (1991)

Establishment

In a statement made in informal consultations on 3 August 1990,¹⁵⁶ the Secretary-General recalled that, on 4 April 1990, representatives of the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN) had signed at Geneva, in his presence, an agreement to launch a negotiating process under his auspices in order to end the armed conflict in El Salvador through political means. On the basis of the negotiations held since that date, the Secretary-General envisaged that the responsibilities devolving upon the United Nations in pursuance of the objectives established in the agreement would include the verification of a ceasefire, the monitoring of the electoral process and the verification of respect for human rights. The Secretary-General expressed his

¹⁵⁵ S/23421.

¹⁵⁶ S/22031, annex.

view that these tasks would most appropriately be carried out as an integrated operation under the authority of the Security Council.

By a letter dated 29 August 1990 addressed to the President of the Council,¹⁵⁷ the Secretary-General informed the Council that, as a result of the most recent round of direct talks just concluded in Costa Rica, it had emerged that the parties shared the wish that preparations for carrying out the above responsibilities should be initiated at the earliest possible date. While there had been no formal and verifiable cessation of combat, the Secretary-General believed that steps should be taken to enable the United Nations to assess the situation and initiate preparations. Accordingly, the Secretary-General sought the concurrence of the Council to his making the necessary arrangements, including the possible establishment of a small preparatory office in El Salvador for a verification mission to be set up at the appropriate time. By a letter dated 6 September 1990,¹⁵⁸ the President of the Security Council informed the Secretary-General that the members of the Council had concurred with his proposal.

In a report dated 8 November 1990,¹⁵⁹ submitted pursuant to resolution 637 (1989), the Secretary-General stated that, as a first substantive result of the negotiation process, the parties had signed on 26 July 1990, at San José, Costa Rica, an Agreement on Human Rights,¹⁶⁰ which not only contained detailed commitments to guarantee unrestricted respect for human rights in El Salvador but provided for the establishment of a United Nations verification mission, which was to be given powers to take whatever legally permissible action it might consider appropriate to protect and promote human rights in the country.

In a report dated 21 December 1990,¹⁶¹ also submitted pursuant to resolution 637 (1989), the Secretary-General informed the Council that, while the schedule of negotiations agreed to at Caracas had envisaged a series of synchronized agreements, both parties in El Salvador had signified their desire to have the human rights mechanism in place without waiting for the conclusion of other agreements. Accordingly, he

intended shortly to request the Council's authorization to establish a United Nations Observer Mission in El Salvador (ONUSAL), with the task of monitoring agreements concluded between the parties. The Secretary-General recommended that, as a first step towards establishing this integrated operation, the human rights verification component should be established as soon as possible. For that purpose, he would dispatch a technical mission to El Salvador to assist him in preparing an operational plan. He would also, at the appropriate time, seek the Council's authorization for the deployment of other components of ONUSAL, charged with the verification of further political agreements that might be arrived at and a ceasefire, in keeping with the concept of a single, integrated operation in El Salvador.

On 16 April 1991, pursuant to resolution 637 (1989), the Secretary-General submitted a report¹⁶² in which he recommended that the human rights component of ONUSAL be established as soon as possible. Once there was agreement on a ceasefire and the United Nations was called upon to play the broader role envisaged for it, the corresponding resources could be included in the Mission's structure to enable it to operate effectively as an integrated whole. The Secretary-General also made proposals with regard to the mandate, composition, deployment and duration of the human rights component of ONUSAL and provided a preliminary estimate with regard to its financial requirements.¹⁶³

At its 2988th meeting, on 20 May 1991, the Council adopted resolution 693 (1991), by which it, *inter alia*, approved the report of the Secretary-General of 16 April 1991; decided to establish, under its authority, a United Nations Observer Mission in El Salvador to monitor all agreements concluded between the parties, whose initial mandate would be to verify the compliance by the parties with the Agreement on Human Rights signed at San José on 26 July 1990; decided that ONUSAL would be established for an

¹⁵⁷ S/21717.

¹⁵⁸ S/21718.

¹⁵⁹ S/21931.

¹⁶⁰ S/21541.

¹⁶¹ S/22031.

¹⁶² S/22494 and Corr.1.

¹⁶³ Following consultation with certain members of the Council, the Secretary-General, in an addendum to his report (S/22494/Add.1), provided a clarification regarding the method of financing, stating that it would be his recommendation to the General Assembly that the cost of ONUSAL be considered an expense of the Organization to be borne by Member States in accordance with Article 17 (2) of the Charter.

initial period of 12 months; and requested the Secretary-General to keep the Council fully informed on the implementation of the resolution.

Mandate

The United Nations Observer Mission in El Salvador was established on 20 May 1991 for an initial period of 12 months and became operational on 26 July 1991.¹⁶⁴

Pursuant to resolution 693 (1991), by which the Council approved the Secretary-General's report of 16 April 1991,¹⁶⁵ the initial mandate of ONUSAL comprised the following tasks: (a) active monitoring of the human rights situation; (b) investigation of specific cases of alleged violations of human rights; (c) promotion of human rights; and (d) providing recommendations to eliminate violations of, and to promote respect for, human rights.

In assuming those tasks before a ceasefire, ONUSAL was to adopt a progressive approach. While in the first phase, expected to last 60 to 90 days, it was to concentrate on monitoring the human rights situation and the processing by the parties of cases involving alleged violations of human rights, it would exercise all the functions assigned to it under the Human Rights Agreement in the second phase. During the first phase, ONUSAL would be composed of approximately 70 international professional personnel, 28 police personnel and 15 military liaison officers. Approximately 20 professional personnel and 38 police personnel would be added during the second phase.

Through an exchange of letters between the Secretary-General and the President of the Security Council dated 26 June and 1 July 1991,¹⁶⁶ the Council agreed to the composition of the ONUSAL military component proposed by the Secretary-General.

As recommended by the Secretary-General, the cost of the Mission, estimated at \$32 million for an initial period of 12 months, would be considered an expense of the Organization to be borne by the

Member States in accordance with Article 17 (2) of the Charter.

Implementation/extension/changes of mandate

By notes dated 16 September and 15 November 1991,¹⁶⁷ the Secretary-General transmitted to the Security Council initial progress reports of ONUSAL, informing the Council of the Mission's structure and activities during the period from 26 July to 31 October 1991.

On 3 January 1992, in a statement made by the President of the Security Council,¹⁶⁸ the members of the Council welcomed the signing by the Government of El Salvador and FMLN, on 31 December 1991, of the "Act of New York",¹⁶⁹ which recorded, inter alia, that the parties had concluded a number of further agreements whose implementation would put a final end to the armed conflict in El Salvador. The Council members also welcomed the Secretary-General's intention, stated on the same day, to submit a written report and proposals with a view to Council action required in relation to the content of those agreements, in particular the Agreement on the Cessation of the Armed Conflict and the Agreement on the Establishment of a National Civil Police, which were to be signed as part of the final Peace Agreement¹⁷⁰ in Mexico City on 16 February 1992 and which envisaged verification and monitoring functions to be performed by the United Nations.

On 10 January 1992, pursuant to resolution 693 (1991), the Secretary-General submitted to the Council a report¹⁷¹ recommending the enlargement of the mandate of ONUSAL and an immediate and substantial increase in its strength to enable it to undertake the additional functions desired of it by the Government of El Salvador and FMLN, in particular verifying all aspects of the ceasefire and the separation of forces and monitoring the maintenance of public order pending the establishment of a new national police

¹⁶⁴ See the Secretary-General's first report on ONUSAL (S/23037), in which 26 July 1991 was stated as the date on which the Mission was launched, one year after the signing of the San José Agreement on Human Rights.

¹⁶⁵ S/22494 and Corr.1 and Add.1.

¹⁶⁶ S/22751 and S/22752.

¹⁶⁷ S/23037 and S/23222. Annexed to these documents were reports by the Director of the ONUSAL Human Rights Division. By notes dated 19 February, 5 June and 12 August 1992, the Secretary-General transmitted further progress reports of the Human Rights Division (for details, see S/23580, S/24066 and S/24375).

¹⁶⁸ S/23360.

¹⁶⁹ S/23402, annex.

¹⁷⁰ S/23501, annex.

¹⁷¹ S/23402.

force. If the mandate were to be enlarged to fulfil those new tasks, it would be necessary to add two new divisions — a Military Division and a Police Division — to the existing Human Rights Division. The core strength of the Military Division, which would be required until the cessation of the armed confrontation was completed, would be 244 observers. Another 128 observers would be needed to enable ONUSAL to carry out the extensive responsibilities entrusted to it during the 30-day period when the separation of forces would be implemented. The core strength of the Police Division would be 631 officers. In addition, 95 civilian staff would be required to provide administrative, transport, communication and procurement support. As envisaged under the Agreement on the Cessation of the Armed Conflict,¹⁷² the process of ending the armed confrontation would be completed by 31 October 1992. Accordingly, the Secretary-General would submit a further report to the Council in mid-October 1992, which would include his recommendations concerning the Mission's continuing operations and strength in the period following the end of that month.

In an addendum to his report,¹⁷³ the Secretary-General provided an estimate with regard to the cost implications of the expansion of the Mission's mandate. Should the Council decide to approve the expansion, it was estimated that the cost of the Mission would be approximately \$58.9 million for the period from 1 January to 31 October 1992. The Secretary-General recommended that the cost of the Mission be considered an expense of the Organization to be borne by the Member States in accordance with Article 17 (2) of the Charter.

At its 3030th meeting, on 14 January 1992, the Council adopted resolution 729 (1992), by which it, *inter alia*, approved the report of the Secretary-General of 10 January 1992; decided to enlarge the mandate of ONUSAL to include the verification and monitoring of the implementation of all the agreements concluded between the parties once they were signed, in particular the Agreement on the Cessation of the Armed Conflict and the Agreement on the Establishment of a National Civil Police; also decided to extend the mandate of ONUSAL until 31 October 1992; and requested the

Secretary-General to report on the Mission's operations before the expiry of the new mandate period.

Through an exchange of letters between the Secretary-General and the President of the Security Council dated 16 and 17 January 1992,¹⁷⁴ the Council agreed to the Secretary-General's proposal to appoint Brigadier General Victor Suanzes Pardo of Spain as Chief Military Observer and Commander of the Military Division of ONUSAL. Through a further exchange of letters dated 3 and 5 February 1992,¹⁷⁵ the Secretary-General informed the Council and the Council took note of the composition of the Military Division of ONUSAL.¹⁷⁶

On 25 February 1992, pursuant to resolutions 693 (1991) and 729 (1992), the Secretary-General submitted to the Security Council a report informing the Council that both the Military Division and the Police Division had been established and that the Military Division had begun its verification activities.¹⁷⁷

In a report dated 26 May 1992,¹⁷⁸ submitted to the Security Council pursuant to resolution 729 (1992), the Secretary-General described the Mission's activities since the entry into force of the ceasefire on 1 February 1992 and the progress made by the parties in the implementation of the agreements concluded between them. While commending the parties for their success in maintaining the ceasefire, the Secretary-General expressed concern about the delays in implementing the agreements.¹⁷⁹

¹⁷⁴ S/23433 and S/23434.

¹⁷⁵ S/23521 and S/23522.

¹⁷⁶ Through an exchange of letters between the Secretary-General and the President of the Security Council, dated 15 and 20 May 1992 respectively, the Council agreed with the Secretary-General's recommendation to temporarily maintain the strength of the Military Division and extend until 1 September the services of 39 military observers who were due to leave ONUSAL on 1 June (S/23987 and S/23988).

¹⁷⁷ S/23642.

¹⁷⁸ S/23999.

¹⁷⁹ On 3 June 1992, the President of the Council made a statement to the media in which the Council, *inter alia*, urged both parties to demonstrate good faith in implementing the agreements fully and reminded them of their obligation to take all necessary measures to guarantee the safety of the Mission and its members.

¹⁷² For the text of this Agreement, see chapter VII of the final Peace Agreement signed in Mexico City on 16 January 1992 (S/23501, annex).

¹⁷³ S/23402/Add.1 of 13 January 1992.

By a letter dated 19 October 1992 addressed to the President of the Council,¹⁸⁰ the Secretary-General reported that he did not believe it would be possible to complete the demobilization of FMLN by 31 October 1992, as provided for in the Peace Agreement of 16 January 1992. By a letter dated 28 October 1992,¹⁸¹ the Secretary-General informed the President of the Council that he had made proposals to both parties for overcoming the difficulties in dismantling the military structures of FMLN and that consultations were continuing. In the meantime, he recommended that the Council extend the mandate of ONUSAL for an interim period of one month, until 30 November. The Secretary-General anticipated that, by that date, he would be able to make a specific recommendation on the mandate and strength that ONUSAL would need in order to verify implementation of the final phase of the peace process in El Salvador.

At its 3129th meeting, on 30 October 1992, the Council adopted resolution 784 (1992), by which it, *inter alia*, approved the Secretary-General's proposal to extend the mandate of ONUSAL until 30 November 1992 and requested him to submit, by that date, recommendations on the period of extension of the mandate, on the mandate itself and on the strength that the Mission would need to verify the implementation of the final phase of the peace process.

By a letter dated 11 November 1992 addressed to the President of the Council,¹⁸² the Secretary-General informed the Council that the parties had agreed to his proposal of formally bringing the armed conflict to an end on 15 December 1992. As requested in resolution 784 (1992), he would present to the Council a report on the progress of the peace process and his recommendations regarding the extension of the ONUSAL mandate.

On 23 November 1992, pursuant to resolutions 729 (1992) and 784 (1992), the Secretary-General submitted to the Security Council a report recommending the extension of the mandate of ONUSAL for a further six months, until 31 May 1993.¹⁸³ He reported that ONUSAL continued to carry out all the verification functions assigned to it under the various agreements signed by the Government of El

Salvador and FMLN. He noted that the Mission's mandate, as provided for under resolution 693 (1991), was "to monitor all agreements concluded between the two parties". Since certain major undertakings, such as the reduction of the armed forces and the deployment of the National Civil Police, extended into 1994, the Secretary-General intended to submit to the Council at regular intervals his recommendations on the future activities and strength of the Mission. He anticipated that ONUSAL would complete its work by mid-1994. In an addendum to his report,¹⁸⁴ the Secretary-General recommended that the cost relating to the extension of the Mission's mandate should be considered as an expense of the Organization to be borne by the Member States in accordance with Article 17 (2) of the Charter.

At its 3142nd meeting, on 30 November 1992, the Council adopted resolution 791 (1992), by which it, *inter alia*, approved the report of the Secretary-General of 23 November 1992; decided to extend the mandate of ONUSAL, as defined in resolutions 693 (1991) and 729 (1992), until 31 May 1993; and requested the Secretary-General to report, as necessary, on all aspects of the Mission's operations, at the latest before the expiry of the new mandate period.

In a report dated 23 December 1992,¹⁸⁵ the Secretary-General informed the Council that the armed conflict between the Government of El Salvador and FMLN had formally been brought to an end on 15 December. The Secretary-General noted, however, that much remained to be done to ensure the punctual implementation of the remaining provisions of the peace accords under the supervision of ONUSAL.

Asia

10. United Nations Military Observer Group in India and Pakistan established pursuant to Security Council resolution 47 (1948)

During the period under review, the United Nations Military Observer Group in India and Pakistan (UNMOGIP), established pursuant to Security Council resolution 47 (1948), continued to monitor the ceasefire between India and Pakistan in the State of

¹⁸⁰ S/24688.

¹⁸¹ S/24731.

¹⁸² S/24805.

¹⁸³ S/24833.

¹⁸⁴ S/24833/Add.1, 30 November 2002.

¹⁸⁵ S/25006.

Jammu and Kashmir on the basis of Security Council resolution 91 (1951).¹⁸⁶

11. United Nations Good Offices Mission in Afghanistan and Pakistan established pursuant to Security Council resolution 622 (1988)

In April 1988, the Geneva Agreements on the Settlement of the Situation relating to Afghanistan were concluded.¹⁸⁷ In letters dated 14 and 22 April 1988, the Secretary-General informed the Security Council of the role requested of him in monitoring their implementation.¹⁸⁸ He stated his intention to dispatch 50 military observers to the area, subject to the concurrence of the Council. By resolution 622 (1988) of 31 October 1988, the Security Council confirmed its agreement to the measures envisaged in the letters, in particular the arrangement for the temporary dispatch to Afghanistan and Pakistan of military officers from existing United Nations operations to assist in the mission of good offices. The Mission was initially established for a period of 20 months from May 1988.

By resolution 647 (1990) of 11 January 1990, the Security Council extended the mandate of the United Nations Good Offices Mission in Afghanistan and Pakistan for a further two-month period, until 15 March 1990, in accordance with the recommendations of the Secretary-General.¹⁸⁹ Subsequently, in his letter dated 12 March 1990

addressed to the President of the Council,¹⁹⁰ the Secretary-General noted that his consultations with the signatories to the Geneva Agreements had indicated that another extension of the existing arrangements would not “meet with the necessary consensus”. He therefore intended to redeploy a small number of military officers as military advisers to his Personal Representative in Afghanistan and Pakistan to assist in the further implementation of the responsibilities entrusted to him by the General Assembly to facilitate the early realization of a comprehensive political settlement agreement.¹⁹¹ The Council accordingly allowed the mandate of the Mission to expire on 15 March 1990.¹⁹²

12. United Nations Advance Mission in Cambodia established pursuant to Security Council resolution 717 (1991)

Establishment

By resolution 668 (1990) of 20 September 1990, the Security Council endorsed the framework for a comprehensive political settlement of the Cambodia conflict;¹⁹³ welcomed the acceptance of the framework by all the Cambodian parties and their agreement to form a Supreme National Council as the legitimate body and source of authority in Cambodia during the transitional period;¹⁹⁴ and encouraged the Secretary-General to continue, within the context of preparations for reconvening the Paris Conference on Cambodia and on the basis of the resolution, preparatory studies to assess the resource implications, timing and other considerations relevant to the United Nations role in Cambodia.

By a letter dated 8 August 1991 addressed to the President of the Security Council,¹⁹⁵ the Secretary-General drew attention to a number of important decisions taken by the Supreme National Council, in particular, its agreement to an immediate and unlimited ceasefire and to undertake to stop receiving outside military assistance, and its decision to request the United Nations to dispatch a survey mission to

¹⁸⁶ By paragraph 7 of resolution 91 (1951), the Council decided that “the military observer group shall continue to supervise the ceasefire in the State”. Since 1971, the Council has not formally discussed UNMOGIP, which is funded from the regular United Nations budget without the requirement of a periodic renewal procedure. Following the Simla Agreement of 2 July 1972 between India and Pakistan, India took the position that the UNMOGIP mandate had lapsed, a position not accepted by Pakistan. Successive Secretaries-General have maintained that UNMOGIP can be terminated only by a Security Council decision.

¹⁸⁷ The Geneva Accords (S/19835, annex), signed on 14 April 1988 by Afghanistan and Pakistan with the United States and the Union of Soviet Socialist Republics as guarantors, provided, inter alia, for the complete withdrawal of foreign troops from Afghanistan.

¹⁸⁸ S/19835, S/19836.

¹⁸⁹ See the note by the Secretary-General of 15 February 1989 (S/20465), his report of 20 October 1989 (S/20911) and his letter of 9 January 1990 (S/21071).

¹⁹⁰ S/21188.

¹⁹¹ General Assembly resolution 44/15 of 1 November 1989.

¹⁹² See letter from the President of the Council dated 28 March 1990 indicating the agreement of the members of the Council (S/21218).

¹⁹³ S/21689.

¹⁹⁴ S/21732.

¹⁹⁵ S/22945.

Cambodia. He added that in a letter dated 16 July, Prince Sihanouk, on behalf of the Supreme National Council, had formally requested the United Nations to dispatch a survey mission to Cambodia in order to evaluate the modalities of control and an appropriate number of United Nations personnel to control the ceasefire and the cessation of foreign military aid in cooperation with the Military Working Group of the Supreme National Council. The Secretary-General also noted that in a communiqué issued on 18 July 1991,¹⁹⁶ the five permanent members of the Security Council and Indonesia had reiterated that the withdrawal of foreign military forces, the ceasefire and the cessation of outside military assistance must be verified and supervised by the United Nations. To that end, they had welcomed the proposal made by the Supreme National Council that a United Nations survey mission should be sent to Cambodia. They had agreed to recommend the dispatch of such a mission, to begin the process of preparing for the military aspects of the United Nations Transitional Authority in Cambodia (UNTAC), and consider how the good offices of the Secretary-General could be used to maintain the ceasefire. In the light of the foregoing, the Secretary-General informed the Council of his intention to proceed with the necessary arrangements for the dispatch of a survey mission to Cambodia. By a letter dated 14 August 1991,¹⁹⁷ the President of the Council informed the Secretary-General that the members of the Council agreed with his proposal.

In a report dated 30 September 1991,¹⁹⁸ the Secretary-General stated that, in the light of the survey mission's report, the United Nations could assist the Cambodian parties to maintain the ceasefire by deploying in Cambodia a small advance mission consisting mainly of military liaison officers, in order to help the parties address and resolve any violations or alleged violations of the ceasefire. Such an advance mission could be envisaged as the first stage of the good offices mechanism foreseen in the draft peace agreements. On that basis, the Secretary-General recommended that the Council authorize the establishment of a United Nations Advance Mission in Cambodia (UNAMIC), to become operational as soon as the agreements on a comprehensive political settlement of the Cambodian conflict were signed.

¹⁹⁶ S/22889.

¹⁹⁷ S/22946.

¹⁹⁸ S/23097 and Add.1.

UNAMIC would be absorbed into UNTAC once UNTAC was established by the Security Council. The Secretary-General recommended that UNAMIC operate under the authority of the Security Council and United Nations command.

By its resolution 717 (1991) of 16 October 1991, the Council decided to establish UNAMIC under its authority, as recommended by the Secretary-General, immediately after the signing of the agreements for a comprehensive political settlement of the Cambodian conflict. The Council requested the Secretary-General to report by 15 November 1991 on the implementation of the resolution, and to keep the Council fully informed of further developments.

Mandate/composition

The mandate of UNAMIC, as recommended by the Secretary-General and approved by the Council in resolution 717 (1991), was to assist the four Cambodian parties to address and resolve any violations or alleged violations of the ceasefire, and to carry out mine-awareness training of civilian populations.

UNAMIC was to function in the field as an integrated operation under the overall responsibility of a civilian Chief Liaison Officer, appointed by the Secretary-General.¹⁹⁹ In addition to his duties in relation to UNAMIC, the Chief Liaison Officer would have responsibility for maintaining contacts with the Supreme National Council on preparations for the deployment of UNTAC and on other matters related to the role of the United Nations in the implementation of the peace agreements. A Senior Military Liaison Officer, appointed by the Secretary-General with the consent of the Security Council, was to exercise command over the military elements of UNAMIC and report to the Secretary-General through the Chief Liaison Officer.²⁰⁰ The Secretary-General would, in turn, report regularly to the Security Council on the operations of UNAMIC.

¹⁹⁹ The Secretary-General appointed Mr. A. H. S. Ataul Karim (Bangladesh) as the Chief Liaison Officer of UNAMIC. See the report of the Secretary-General to the Security Council of 14 November 1991 (S/23218, para. 3).

²⁰⁰ An exchange of letters between the Secretary-General and the President of the Council (S/23205 and S/23206) confirmed the appointment of Brigadier General Michel Loridon (France) as the Senior Military Liaison Officer.

The Mission was estimated to require 8 civilian liaison staff, 50 military liaison officers, 20 other military personnel to form the mine-awareness unit, and approximately 75 international and 75 local civilian support personnel. There would also be a military communications unit of some 40 persons, provided by Australia as a voluntary contribution, and an air unit. The military personnel of UNAMIC would be unarmed and provided by Member States at the request of the Secretary-General.²⁰¹ It was envisaged that UNAMIC would be deployed progressively and in phases. The cost of the Mission, estimated at \$19.9 million for a six-month period of operation, was to be borne by Member States in accordance with Article 17 (2) of the Charter.

Implementation/expansion of mandate

In a note dated 30 October 1991,²⁰² the Secretary-General drew the attention of the Security Council to the instruments adopted at the Paris Conference on Cambodia on 23 October 1991 (the Paris Agreements). In a report dated 14 November 1991,²⁰³ he informed the Council that following the signing of the Paris Agreements, the arrangements for the establishment of UNAMIC had entered into force and the Mission had become operational. Deployment of all civilian and military personnel was expected to be completed on schedule by mid-December 1991.

In a further report dated 30 December 1991,²⁰⁴ the Secretary-General recommended that the UNAMIC mandate be expanded to include training of Cambodians in mine clearance and the initiation of a mine-clearance programme, in addition to the existing mine-awareness programme. He noted that while the total eradication of mines would necessarily be a long-term endeavour, the initial programme would enable UNAMIC to reduce the threat posed by mines to the civilian population and to prepare the ground for a safe

and orderly repatriation of the refugees and displaced persons under United Nations auspices. It would also facilitate the timely deployment of UNTAC and the discharge of its responsibilities throughout Cambodia. The proposed expansion of the UNAMIC mandate called for some additional 1,100 personnel, including a 700-person field-engineering battalion, and entailed financial and administrative implications.

By resolution 728 (1992) of 8 January 1992, the Council approved the Secretary-General's report of 30 December, "especially the provision of assistance in mine clearing by Cambodians"; called upon the Supreme National Council and all the Cambodian parties to continue to cooperate fully with UNAMIC, including in the discharge of its expanded mandate; and requested the Secretary-General to keep the Security Council informed of further developments.

Termination

In his first progress report on the United Nations Transitional Authority in Cambodia,²⁰⁵ submitted to the Council on 1 May 1992, the Secretary-General stated that the arrival of his Special Representative for Cambodia, Mr. Yasushi Akashi, in the country on 15 March 1992 had marked the initial deployment of UNTAC, which had thereupon absorbed UNAMIC.

13. United Nations Transitional Authority in Cambodia established pursuant to Security Council resolution 745 (1992)

Establishment

By a note dated 30 October 1991,²⁰⁶ the Secretary-General, in accordance with the request in paragraph 12 of the Final Act of the Paris Conference on Cambodia, drew the attention of the Security Council to the instruments adopted at the Paris Conference on 23 October 1991,²⁰⁷ including the Agreements on a Comprehensive Political Settlement of the Cambodia Conflict (the Paris Agreements), which invited the Council to establish the United Nations Transitional Authority in Cambodia and to provide it with the mandate set out in the Agreements.

²⁰¹ In accordance with normal practice, the contributing countries were to be selected in consultation with the parties and with the concurrence of the Security Council, bearing in mind the principle of geographical equity. For the list of countries that contributed personnel to the UNAMIC military component, see the following exchanges of letters between the Secretary-General and the President of the Council: S/23186 and S/23187; S/23216 and 23217; S/23414 and S/23415.

²⁰² S/23179.

²⁰³ S/23218.

²⁰⁴ S/23331 and Add.1.

²⁰⁵ S/23870 and Corr.1 and 2. On UNTAC, see sect. 13 below.

²⁰⁶ S/23179.

²⁰⁷ S/23177.

At its 3015th meeting, on 31 October 1991, the Council adopted resolution 718 (1991) by which it, *inter alia*, expressed full support for the Paris Agreements; authorized the Secretary-General to designate a Special Representative for Cambodia to act on his behalf, as provided for in the Agreements; welcomed his intention to send a survey mission to Cambodia to prepare a plan for implementing the mandate envisaged in the Agreements; and requested the Secretary-General to submit a report containing his implementation plan, including in particular a detailed estimate of the cost of UNTAC, on the understanding that the report would be the basis on which the Council would authorize the establishment of UNTAC and the budget of which would subsequently be considered and approved in accordance with the provisions of Article 17 (2) of the Charter.

Through an exchange of letters dated 14 and 15 January 1992 between the Secretary-General and the President of the Council,²⁰⁸ the members of the Council welcomed the appointment of Under-Secretary-General Yasushi Akashi (Japan) as Special Representative for Cambodia.

By a letter dated 18 January 1992 addressed to the President of the Council,²⁰⁹ the Secretary-General noted the widely recognized need for the urgent deployment of UNTAC. He informed the Council that in order to prepare for phase I of the deployment, he had decided to submit to the General Assembly a proposal for the provision of an initial appropriation of \$200 million, which, upon the approval by the Council of his report on the implementation plan, would become available immediately to cover the initial expenses. By a letter dated 24 January 1992,²¹⁰ the President of the Council informed the Secretary-General that members had taken note of his intention and welcomed the assurance that a detailed breakdown would be provided for the Advisory Committee on Administrative and Budgetary Questions and the Fifth Committee when they considered the question.

Pursuant to resolution 718 (1991), on 19 February 1992 the Secretary-General submitted a report containing his plan for implementing the Paris Agreements.²¹¹ He proposed that UNTAC consist of

seven distinct components: human rights, electoral, military, civil administration, police, repatriation and rehabilitation. The level of the activities of the different components would vary during the course of the transitional period and would be coordinated, as necessary, in order to allow for the most efficient and cost-effective use of resources. Noting that the elections were the focal point of the comprehensive settlement, he recommended that they should be scheduled for late April or early May 1993.

At its 3057th meeting, on 28 February 1992, the Council adopted resolution 745 (1992) by which it, *inter alia*, approved the report of the Secretary-General containing his plan; established UNTAC, under its authority, for a period not to exceed 18 months; decided that elections should be held in Cambodia by May 1993; and requested the Secretary-General to report to the Council at stated intervals on progress made in the implementation of the resolution and on tasks still to be performed in the operation, with particular regard to the most effective and efficient use of resources.²¹²

Mandate/composition

During the transitional period,²¹³ the Supreme National Council of Cambodia was to delegate to UNTAC all powers necessary to ensure the implementation of the Paris Agreements, including those relating to the conduct of free and fair elections and the relevant aspects of the administration of Cambodia. The mandate given to UNTAC included the promotion and protection of human rights; the organization and conduct of free and fair general elections; the establishment of military arrangements to stabilize security and build confidence among the four Cambodian parties to the conflict; the setting up of a civil administration to ensure a neutral political

²¹² The United Nations Advance Mission in Cambodia, established immediately after the signing of the Agreements in October 1991, continued to operate until UNTAC became operational, at which time UNAMIC and its functions were subsumed by UNTAC.

²¹³ The transitional period was defined as the period beginning with the entry into force of the Paris Agreements (on 23 October 1991) and terminating when the constituent assembly elected in conformity with the Agreements had approved the new Cambodian Constitution and transformed itself into a legislative assembly, and thereafter a new Cambodian Government had been created.

²⁰⁸ S/23428 and S/23429.

²⁰⁹ S/23458.

²¹⁰ S/23459.

²¹¹ S/23613 and Add.1.

environment conducive to free and fair elections; the maintenance of law and order; the repatriation and resettlement of the Cambodian refugees and displaced persons; and the rehabilitation of essential Cambodian infrastructures.²¹⁴

The Special Representative of the Secretary-General was to head UNTAC and maintain an ongoing dialogue with the Supreme National Council regarding the Authority's activities in implementing its mandate. The number of international civilian staff required was estimated at 1,149. Additionally, the military component, headed by a Force Commander, was to have a strength of about 15,900 all ranks. It was further estimated that UNTAC components would be assisted by 7,000 locally recruited support personnel, including some 2,500 interpreters and additional temporary staff as might be required.

The estimated costs of UNTAC, inclusive of the initial appropriation of \$200 million, were approximately \$1,900 million. The estimate excluded the cost of the repatriation programme, for the financing of which a separate appeal was to be launched.

Implementation

Through an exchange of letters dated 8 and 11 March 1992 between the Secretary-General and the President of the Council,²¹⁵ the members of the Council agreed to the appointment of Lieutenant General John M. Sanderson (Australia) as Force Commander and Brigadier General Michel Loridon (France) as Deputy Force Commander of the military component of UNTAC. In a further exchange of letters dated 31 March and 2 April 1992,²¹⁶ the Council members agreed to the composition of the military contingents of UNTAC.

Pursuant to resolution 745 (1992), on 1 May 1992 the Secretary-General submitted to the Council the first progress report on the operations of UNTAC²¹⁷ on the basis of his visit to Cambodia from 18 to 20 April 1992. He reported that the arrival of his Special

Representative on 15 March 1992 in Cambodia, accompanied by his senior aides, marked the initial phase of the mission's deployment and the absorption of UNAMIC into it. He cautioned that while every effort was being made to discharge the Authority's complex tasks within the time frames envisaged in the implementation plan, the difficulties and delays encountered in its deployment, if not remedied, could have an adverse impact on its ability to maintain its tight schedule of operations. In his concluding remarks, the Secretary-General noted that the experience of mounting such a large and complex operation had pointed to the possible need of re-examining the manner in which existing financial and administrative regulations of the Organization were applied to such operations.

By a letter dated 14 May 1992,²¹⁸ the President of the Council, on behalf of the Council members, thanked the Secretary-General for his report and welcomed a subsequent announcement that phase II of the ceasefire arrangements (the cantonment, disarmament and demobilization phase) would begin on 13 June 1992.

On 12 June 1992, the Secretary-General submitted a special report to the Security Council.²¹⁹ He noted that the implementation of phase II of the ceasefire, scheduled to begin on 13 June 1992, was being seriously compromised by lack of cooperation from the Party of Democratic Kampuchea (PDK). However, after careful consideration, he had concluded that phase II of the ceasefire should commence on 13 June as scheduled to avoid losing the momentum and jeopardizing the ability of UNTAC to organize and conduct the elections by April or May 1993. He stressed that all efforts should be made to persuade PDK to join the other parties in implementing the comprehensive political settlement and suggested that the Security Council itself might wish to consider appropriate action to achieve that objective.

At the 3085th meeting, on 12 June 1992, the President made a statement on behalf of the Council,²²⁰ in which the Council stressed the need for phase II of the military arrangements to begin on 13 June 1992 and urged the Secretary-General to accelerate the deployment to Cambodia and within the country of the

²¹⁴ For details, see S/23613.

²¹⁵ S/23695 and S/23696.

²¹⁶ S/23773, S/23774 and S/23775. For additional information on the composition of the UNTAC military contingents during the period under review, see S/24397 and S/24398; S/24706 and S/24707.

²¹⁷ S/23870 and Corr.1 and 2.

²¹⁸ S/23928.

²¹⁹ S/24090.

²²⁰ S/24091.

full UNTAC peacekeeping force. The Council called upon all parties to comply strictly with the commitments they had accepted, including cooperation with the Authority.

On 14 July 1992, the Secretary-General submitted to the Council a second special report on the difficulties UNTAC was facing in implementing the Paris Agreements.²²¹ Despite the continued lack of cooperation of PDK, he considered it more appropriate to press forward with phase II of the ceasefire than to suspend the operation. He underscored the need to address the question of how the full and active support of the signatories of the Paris Agreements could be obtained for the Authority's efforts to carry out its mandate.

At its 3099th meeting, on 21 July 1992, the Council adopted resolution 766 (1992) by which it, *inter alia*, urged all States, in particular neighbouring States, to provide assistance to UNTAC; approved the efforts of the Secretary-General and his Special Representative to continue to implement the Paris Agreements despite the difficulties and invited them to accelerate the deployment of the Authority's civilian components, especially the component mandated to supervise or control the existing administrative structures; demanded that PDK permit, without delay, the deployment of UNTAC in the areas under its control and implement fully phase II of the plan as well as the other aspects of the Paris Agreements; and requested the Secretary-General and his Special Representative to ensure that international assistance for the rehabilitation and reconstruction of Cambodia would benefit only the parties which were fulfilling their obligations under the Paris Agreements and cooperating fully with UNTAC.

Pursuant to resolution 745 (1992), on 21 September 1992 the Secretary-General submitted to the Security Council his second progress report on UNTAC.²²² He reported that despite the constraints imposed by the refusal of PDK to fully participate in the peace process, UNTAC had made substantial strides towards its goals and was close to its full deployment throughout almost the whole territory of Cambodia. Therefore, he remained determined that the electoral process should be carried out in accordance with the timetable laid down in the implementation

plan. He noted that was examining a proposal to hold a presidential election simultaneously with the election for a constituent assembly. However, since a presidential election was not provided for in the Paris Agreements, the authorization of the Security Council as well as the provision of additional resources would be required. The Secretary-General recommended an increase in the number of checkpoints within the country and along its borders.

By a letter dated 29 September 1992,²²³ the President of the Security Council informed the Secretary-General that members of the Council needed more time to study his report of 21 September 1992 and to determine what further action was required.

At its 3124th meeting, on 13 October 1992, the Council adopted resolution 783 (1992) by which it, *inter alia*, approved the report of the Secretary-General; confirmed that the electoral process should proceed in accordance with the timetable laid down in the implementation plan; supported the intention of the Secretary-General concerning the checkpoints in the country and along its borders with neighbouring countries; demanded that PDK fulfil immediately its obligations under the Paris Agreements, facilitate without delay full deployment of UNTAC in the areas under its control and implement fully phase II of the plan, particularly cantonment and demobilization; called upon all parties in Cambodia to cooperate fully with UNTAC to identify minefields and facilitate UNTAC investigations of reports of foreign forces, foreign assistance and ceasefire violations within the territory under their control; reiterated that all parties take all necessary measures to ensure the safety and security of United Nations personnel; encouraged the Secretary-General and his Special Representative to continue their efforts to create a neutral political environment for the election and in that context requested that an UNTAC radio broadcast facility be established without delay and with access to the whole territory of Cambodia; encouraged the Secretary-General and his Special Representative to make use fully of all possibilities offered by the UNTAC mandate to enhance the effectiveness of existing civil police in resolving the growing problems relating to the maintenance of law and order in Cambodia; and requested the Secretary-General to report to the Security Council as soon as possible, and no later than

²²¹ S/24286.

²²² S/24578.

²²³ S/24607.

15 November 1992, on the implementation of the resolution.

On 15 November 1992, the Secretary-General submitted to the Council his report on the implementation of resolution 783 (1992).²²⁴ He reported that PDK had continued to refuse to cooperate with UNTAC in the implementation of the Paris Agreements or to heed the appeals of the Security Council contained in resolutions 766 (1992) and 783 (1992). The difficulties encountered in implementing phase II of the ceasefire had led to the effective suspension of the cantonment, disarmament and demobilization process. In light of those developments, and an increase in ceasefire violations and attacks on UNTAC personnel, an adjustment in the activities of the military component of UNTAC had been made necessary. The Secretary-General indicated that he concurred with the Co-Chairmen of the Paris Conference that the implementation of the peace process had to continue and that the timetable leading to the holding of free and fair elections by May 1993 had to be upheld. He noted that he had already approved the adjustments that should be made in the deployment of the military component, with a view to fostering a general sense of security and enhancing the ability to protect the voter registration as well as, subsequently, the polling process, particularly in remote or insecure areas. It had meant that the projected reduction of the military component envisaged in his implementation plan of 19 February 1992²²⁵ was no longer feasible. Furthermore, having weighed the proposal of the Co-Chairmen for election by universal suffrage of a Cambodian Head of State, he agreed that a presidential election would contribute to the process of national reconciliation and reinforce stability during the period when the Constituent Assembly would have the task of drafting and adopting the new Cambodian constitution. He had, therefore, asked his Special Representative to draw up contingency plans for the organization and conduct of such an election by UNTAC, on the understanding that it would require, in due course, the authorization of the Security Council and the provision of additional resources.

At its 3143rd meeting, on 30 November 1992, the Council adopted resolution 792 (1992) by which it,

²²⁴ S/24800.

²²⁵ S/23613.

inter alia, endorsed the report of the Secretary-General; determined that UNTAC should proceed with preparations for free and fair elections to be held in April/May 1993 in all areas of Cambodia to which UNTAC had full and free access as at 31 January 1993; requested the Secretary-General to submit to the Council for decision any recommendations for the organization and conduct by UNTAC of a presidential election to be held in conjunction with the planned election for the constituent assembly; demanded that PDK fulfil immediately its obligations under the Paris Agreements; called upon those concerned to ensure that measures were taken, in accordance with the Agreements, to prevent the supply of petroleum products to the areas occupied by any Cambodian party not complying with the Paris Agreements and requested the Secretary-General to examine the modalities of such measures; invited UNTAC to establish all necessary border checkpoints and requested neighbouring States to cooperate fully in the establishment, operation and maintenance of those checkpoints; supported the decision of the Supreme National Council, dated 22 September 1992, to set a moratorium on the export of logs from Cambodia in order to protect Cambodia's natural resources and requested UNTAC to take appropriate measures to secure the implementation of such a moratorium; requested UNTAC to continue to monitor the ceasefire and to take effective measures to prevent the recurrence or escalation of fighting in Cambodia, as well as incidents of banditry and arms smuggling; demanded also that all parties take all action necessary to safeguard the lives and the security of UNTAC personnel throughout Cambodia and report their action to the Special Representative; and requested the Secretary-General to report to the Council as soon as possible and no later than 15 February 1993 on the implementation of the resolution, and on any further measures that might be necessary and appropriate to ensure the realization of the fundamental objectives of the Paris Agreements.

Europe

14. United Nations Peacekeeping Force in Cyprus established pursuant to Security Council resolution 186 (1964)

During the period under review, the United Nations Peacekeeping Force in Cyprus (UNFICYP),

established pursuant to Security Council resolution 186 (1964), continued to perform its task of conflict control. Accordingly, the Secretary-General reported to the Council, at the end of every six-month mandate period, that in the light of the situation on the ground and of political developments, the continued presence of UNFICYP remained indispensable, both in helping to maintain calm on the island and in creating the best conditions for his good offices efforts.²²⁶ For its part, the Council regularly extended the mandate of the Force for six-month periods.²²⁷

UNFICYP continued to be the only United Nations peacekeeping operation not financed from assessed contributions by States Members of the Organization. In accordance with resolution 186 (1964), the costs of the Force were met by the Governments providing the military contingents, by the Government of Cyprus, and by voluntary contributions. In resolution 682 (1990) of 21 December 1990, the Security Council expressed its concern about “the chronic and ever-deepening financial crisis” facing UNFICYP and decided to consider “alternative arrangements for meeting the costs of the Force for which the United Nations is responsible, in order to place the Force on a sound and secure financial basis”. On the basis of an extensive series of consultations with members of the Council, troop-contributing countries and others concerned, the Secretary-General, who had been asked to look into the question, reiterated his recommendation that a system of assessed contributions be adopted as the most viable means for placing UNFICYP on a sound and secure financial footing.²²⁸ At the end of 1991, however, the President of the Council made a statement to the media on behalf of the members of the Council, noting that in the light of the discussion in informal consultations, it had been concluded that the necessary agreement did not exist in the Council for a decision to be adopted on a change in the financing of UNFICYP.²²⁹ In a report dated 1 December 1992, the Secretary-General informed the Council that as a result of decisions by

²²⁶ S/20663 and Add.1, S/21010 and Add.1, S/21340 and Add.1, S/21981 and Add.1, S/22665 and Add.1 and Add.2, S/23263 and Add.1, S/24050 and Add.1, S/24917 and Add.1.

²²⁷ By resolutions 634 (1989), 646 (1989), 657 (1990), 680 (1990), 697 (1991), 723 (1991), 759 (1992), 796 (1992).

²²⁸ Report of the Secretary-General on the financing of UNFICYP dated 15 October 1991 (S/23144).

²²⁹ Presidential statement of 12 December 1991 (S/23284).

troop-contributing countries to reduce their contingents, the Force would be restructured and reorganized in order to maintain its ability to carry out its mandate.²³⁰

15. United Nations Protection Force in the former Yugoslavia established pursuant to Security Council resolution 743 (1992)

Establishment

In response to requests by the principal Yugoslav parties for the establishment of a United Nations peacekeeping operation in Yugoslavia,²³¹ the Security Council, by resolution 724 (1991) of 15 December 1991, decided that a small group of personnel, including military personnel, be sent to Yugoslavia to carry forward preparations for the possible deployment of such an operation.²³²

By resolution 727 (1992) of 8 January 1992, the Council endorsed the Secretary-General’s plan²³³ to send immediately to Yugoslavia a group of up to 50 military liaison officers, which was to be followed by a larger operation when the necessary conditions for the deployment of a peacekeeping force were met.

By resolution 740 (1992) of 7 February 1992, the Council welcomed the continuing efforts of the

²³⁰ S/24917.

²³¹ In a letter dated 24 November 1991 addressed to the President of the Council (S/23239), the Secretary-General had informed the Council that, at a meeting at Geneva on 23 November chaired by his Personal Envoy, the principal Yugoslav parties (represented by President Milosevic of the Republic of Serbia, President Tudjman of the Republic of Croatia and General Kadijevic, Minister of Defence of the Socialist Federal Republic of Yugoslavia) had stated that they wished to see the deployment of a United Nations peacekeeping operation in Yugoslavia. An official request for the establishment of such an operation was submitted by the Permanent Representative of Yugoslavia on 26 November (S/23240).

²³² The Council had first referred to the possible establishment of such an operation in its resolution 721 (1991) of 27 November 1991. Pursuant to that resolution, the Secretary-General had submitted to the Council a concept paper for the establishment of such an operation (S/23280, annex III), which was accepted by the parties, as noted in the Secretary-General’s report dated 5 and 7 January 1992 (S/23363 and Add.1).

²³³ See the Secretary-General’s report dated 5 and 7 January 1992 (S/23363 and Add.1).

Secretary-General and his Personal Envoy for Yugoslavia to remove the remaining obstacles to the deployment of a peacekeeping operation,²³⁴ and requested the Secretary-General to expedite his preparations for such an operation so as to be prepared to deploy immediately once the Council decided to do so.

In accordance with the Secretary-General's subsequent recommendations²³⁵ and the peacekeeping plan of 11 December 1991,²³⁶ the Security Council, by resolution 743 (1992) of 21 February 1992, decided to establish a peacekeeping operation as an "interim arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis".²³⁷ The operation was to be known as the United Nations Protection Force (UNPROFOR).²³⁸ The Council requested the Secretary-General immediately to deploy those elements of the Force which could assist in developing an implementation plan for the earliest possible full deployment of the Force.²³⁹

After having received an implementation plan from the Secretary-General on 2 April 1992,²⁴⁰ the Security Council, by resolution 749 (1992) of 7 April 1992, authorized the earliest possible full deployment of UNPROFOR.

Mandate and composition

As recommended by the Secretary-General,²⁴¹ UNPROFOR was established for an initial period of 12 months. The Force would maintain its headquarters in Sarajevo and be deployed in three areas in Croatia

designated as "United Nations Protected Areas". These were areas in which the Secretary-General judged that special arrangements were required to ensure that a lasting ceasefire was maintained. Such special arrangements would be of an interim nature and would not prejudice the outcome of political negotiations for a comprehensive settlement of the Yugoslav crisis. For United Nations purposes, the Protected Areas were divided into four sectors — East, West, North and South — in the areas of Eastern Slavonia, Western Slavonia and Krajina. In addition, military observers would be deployed in certain parts of Bosnia and Herzegovina adjacent to Croatia.

The tasks of UNPROFOR would include the following: (a) to ensure that the Protected Areas were demilitarized, and that all persons residing in them were protected from fear of armed attacks; (b) to ensure that the local police forces carried out their duties without discriminating against persons of any nationality; and (c) to assist the United Nations humanitarian agencies in the return of all displaced persons who so desired to their homes in the Protected Areas.

To fulfil the above tasks, UNPROFOR would consist of military, police and civilian components, and an air unit. The overall command in the field would be exercised by the Force Commander.²⁴² The military component would consist of 12 enlarged infantry battalions totalling 10,400 all ranks, headquarters, logistics and other support elements totalling about 2,840 all ranks, and 100 military observers.²⁴³ The normal rules in United Nations peacekeeping operations for the bearing and use of arms would apply. The police component would consist of approximately 530 unarmed police personnel, of which 320 would be deployed at the initial stage. The civilian component, which would perform a range of political, legal, public information and administrative functions, was initially

²³⁴ In his report dated 4 February 1992 (S/23513), the Secretary-General had noted that he was not yet in a position to recommend the deployment of a peacekeeping force, as one of the signatories to the Geneva Agreement and another party appeared to have rejected key elements of the United Nations peacekeeping plan.

²³⁵ See the Secretary-General's report dated 15 and 19 February 1992 (S/23592 and Add.1).

²³⁶ S/23280, annex III.

²³⁷ See paras. 2 and 5 of the resolution.

²³⁸ See para. 2 of the resolution.

²³⁹ See para. 4 of the resolution.

²⁴⁰ The implementation plan was attached to the Secretary-General's report of 2 April 1992 (S/23777).

²⁴¹ See the following reports of the Secretary-General: S/23280 of 11 December 1991; S/23592 and Add.1 of 15 and 19 February 1992; and S/23777 of 2 April 1992.

²⁴² Through an exchange of letters between the Secretary-General and the President of the Council dated 26 February 1992 (S/23646 and S/23647), Council members agreed to the Secretary-General's proposal to appoint Lieutenant General Satish Nambiar (India) as Force Commander of UNPROFOR.

²⁴³ For the list of countries contributing military personnel to UNPROFOR, see the following exchanges of letters between the Secretary-General and the President of the Council: S/23648 and S/23649; S/23697 and S/23698.

to consist of some 500 personnel drawn largely from existing United Nations staff.

The Secretary-General estimated that the cost associated with the emplacement and maintenance of UNPROFOR, for an initial period of 12 months, would be approximately \$600 million. This cost was to be borne by Member States in accordance with Article 17 (2) of the Charter. In addition, some gratis goods and services were made available by the Yugoslav parties to the United Nations.

Implementation and enlargement

(a) Croatia

(i) Feasibility of peacekeeping in Croatia

In a report dated 12 May 1992,²⁴⁴ the Secretary-General observed that developments since the Council's approval of the plan for the United Nations peacekeeping force in Croatia had raised new doubts about the practicability of that operation. In particular, the Secretary-General drew the Council's attention to the decision of the Belgrade authorities, following the declaration on 27 April 1992 of the new Federal Republic of Yugoslavia, to withdraw Yugoslav People's Army personnel from republics other than Serbia and Montenegro and to renounce authority over those who remained. He observed that this in effect removed a party to the peacekeeping plan whose cooperation was essential to its success, while substituting for it a new element or elements which were not formally bound by the Belgrade authorities' acceptance of the plan. Refusal by the much-enlarged local forces to demobilize would undermine the very basis of the plan that UNPROFOR had been mandated to implement. However, he saw no alternative but for the Force to assume its responsibilities in the United Nations Protected Areas in accordance with the peacekeeping plan, while appealing to the Yugoslav People's Army and the Serbian authorities to use their influence to calm the fears of the Serb communities who would find themselves outside the Protected Areas.

(ii) Initial deployment

By resolution 752 (1992) of 15 May 1992, the Security Council noted the progress made thus far in the deployment of UNPROFOR, welcomed the fact that the Force had assumed the responsibility called for

by its mandate in Eastern Slavonia, and requested the Secretary-General to ensure that it would assume its full responsibilities in all the United Nations Protected Areas as soon as possible.

On 26 June 1992, the Secretary-General reported²⁴⁵ that UNPROFOR had assumed its full responsibilities in Sectors East and West. However, the Force Commander had assessed that until a solution was found to the question of certain areas of Croatia adjacent to Sectors North and South,²⁴⁶ which had been controlled by the Yugoslav People's Army and populated largely by Serbs, but which were outside the agreed United Nations Protected Area boundaries, it would prove extremely difficult for UNPROFOR to assume its full responsibilities in those sectors. While the Belgrade authorities had pressed strongly for those areas to be included in the United Nations Protected Areas, the Croatian authorities had resisted any changes in the Protected Area boundaries. In such circumstances, in order to stabilize the situation, the Secretary-General proposed (a) that a joint commission be established under the chairmanship of UNPROFOR, consisting of representatives of the Government of Croatia and the local authorities in the region, to oversee and monitor the process of the restoration of authority in those areas by the Government of Croatia; (b) that an appropriate number of United Nations military observers be deployed along the line of confrontation and within those areas; and (c) that United Nations civilian police be deployed throughout the areas in order to monitor the maintenance of law and order by the existing police forces, with particular regard to the well-being of any minority groups. The Secretary-General indicated that implementation of these measures would require the strengthening of UNPROFOR by the addition of some 60 military observers and 120 civilian police.

(iii) Implementation and expansion of mandate

By resolution 762 (1992) of 30 June 1992, the Security Council urged the Government of Croatia and others concerned to follow the course of action outlined in the report of the Secretary-General and appealed to all parties to assist the Force in its implementation. It recommended the establishment of the Joint Commission described in the report, which

²⁴⁴ S/23900.

²⁴⁵ S/24188.

²⁴⁶ In the report, these areas were referred to as "pink zones".

was to consult with the Belgrade authorities in performing its functions. It also authorized the strengthening of the Force, as proposed in the report, to perform the functions envisaged therein, with the agreement of the Government of Croatia and others concerned.

In a report dated 27 July and 6 August 1992,²⁴⁷ the Secretary-General informed the Council that UNPROFOR had achieved a number of successes since its assumption of responsibility in the four sectors, including the elimination of ceasefire violations involving the use of heavy weapons, the lessening of tension and the withdrawal of most elements of the Yugoslav People's Army. Problems nevertheless remained, especially with regard to the excessive armament of the local police in the United Nations Protected Areas and the continuing persecution of non-Serbs in some areas. Conditions did not therefore exist for the voluntary return of displaced persons to their homes, an important aspect of the United Nations peacekeeping plan. Moreover, since the peacekeeping plan had been accepted by the parties and approved by the Council, the Republics in the area had acquired an international legal personality and three had become States Members of the United Nations. The Croatian authorities had raised the issue of the control of the Protected Area boundaries where those coincided with what were now international borders.

The Secretary-General presented his Force Commander's recommendations that the Force's existing mandate be further enlarged to control the entry of civilians into the United Nations Protected Areas and to perform immigration and customs functions at the Protected Area borders where these coincided with international frontiers. The strength of the civil affairs component would also have to be increased. Observing that the evolution of the situation in the former Yugoslavia was drawing UNPROFOR into quasi-governmental functions which went beyond normal peacekeeping practice, the Secretary-General nevertheless believed that the assumption of those functions was necessary if the effort already invested by the Council in Croatia was not to be undermined.²⁴⁸

²⁴⁷ S/24353 and Add.1.

²⁴⁸ By a letter dated 7 August 1992 addressed to the President of the Council (S/24390), the Government of Croatia confirmed that Croatia had accepted the report of the Secretary-General as a temporary solution for the

The Secretary-General estimated that the cost associated with the further enlargement of the mandate and strength of UNPROFOR, as recommended above, would amount to some \$30 million and, thereafter, approximately \$6 million per month.

By resolution 769 (1992) of 7 August 1992, the Security Council approved the report of the Secretary-General and authorized the proposed enlargement of the mandate and strength of UNPROFOR.

On 28 September 1992, the Secretary-General submitted to the Council a further report,²⁴⁹ in which he noted that an agreement had been reached on the withdrawal of the remaining elements of the Yugoslav Army from Croatia and the demilitarization of the Prevlaka peninsula. Detailed arrangements for the implementation of the agreement were being finalized. In the meantime, he recommended that the Security Council authorize UNPROFOR to assume responsibility for monitoring the agreed arrangements.

By resolution 779 (1992) of 6 October 1992, the Security Council approved the report of the Secretary-General and authorized the Force to assume responsibility for monitoring the arrangements agreed for the complete withdrawal of the Yugoslav Army from Croatia, the demilitarization of the Prevlaka peninsula and the removal of heavy weapons from neighbouring areas of Croatia and Montenegro.

(b) Bosnia and Herzegovina

(i) Feasibility of peacekeeping in Bosnia and Herzegovina

By a report dated 24 April 1992,²⁵⁰ the Secretary-General informed the Council that, at a meeting with the Foreign Minister of Bosnia and Herzegovina on 10 April 1992, the latter had asked for the deployment of United Nations peacekeeping forces in Bosnia and Herzegovina. In response to that request, the Secretary-General had emphasized the division of labour between the United Nations, whose peacekeeping mandate was limited to the situation in Croatia, and the peacemaking role of the European Commission for Yugoslavia as a

control of the United Nations Protected Area boundaries where these coincided with international borders of the Republic of Croatia until the conditions for their full control by the Croatian authorities were fulfilled.

²⁴⁹ S/24600.

²⁵⁰ S/23836.

whole.²⁵¹ The Secretary-General's Personal Envoy had informed the President that, in the light of all the factors bearing on the situation in Bosnia and Herzegovina, including in particular the current widespread violence, and in view of the limitations on human, material and financial resources, the deployment of a peacekeeping operation was not feasible.²⁵² The Secretary-General decided, though, to advance the dispatch to Bosnia and Herzegovina of unarmed military observers, whose deployment, according to the concept paper for UNPROFOR,²⁵³ had originally been envisaged for the time after the demilitarization of the Protected Areas.²⁵⁴

The decision to dispatch military observers to Bosnia and Herzegovina was welcomed by the Council in a statement made by its President on 24 April 1992.²⁵⁵ The Council believed that the presence of such observers, like that of the monitors of the European Commission, should help the parties to implement their commitment, undertaken on 23 April 1992, to respect the ceasefire agreement signed in Sarajevo on 12 April.

On 30 April 1992, the Secretary-General informed the Council that he had decided to dispatch the Under-Secretary-General for Peacekeeping Operations, Marrack Goulding, to examine the evolving situation in Bosnia and Herzegovina and to look into the feasibility of a United Nations peacekeeping operation there,²⁵⁶ which initiative was also welcomed by the Council.²⁵⁷

Following Mr. Goulding's visit to the region, the Secretary-General, on 12 May 1992, submitted to the Council a report²⁵⁸ stating that, according to Mr. Goulding's findings, it had proved impossible to implement the ceasefire agreement signed on 12 April. The Secretary-General did not believe, therefore, that in the present phase of the conflict it was feasible to undertake peacekeeping activities in Bosnia and Herzegovina beyond the existing limited involvement

of UNPROFOR military observers in Sarajevo and the Mostar region. The Secretary-General noted that one option that had been explored was the feasibility of deploying United Nations peacekeeping forces in a more limited role — as had been requested by President Izetbegovic of Bosnia and Herzegovina — to control the Sarajevo airport, protect humanitarian aid deliveries and keep open roads, bridges and border crossings.

By resolution 752 (1992) of 15 May 1992, the Security Council requested the Secretary-General to keep under active review the feasibility of protecting international humanitarian relief programmes and of ensuring safe and secure access to Sarajevo airport, but also, in light of the evolving situation, the possibility of deploying a peacekeeping mission.

On 26 May 1992, the Secretary-General reported²⁵⁹ that the military observers deployed in the Mostar region had left the area on 14 May, when risks to their lives had reached an unacceptable level. About two thirds of UNPROFOR headquarters personnel had also withdrawn from Sarajevo on 16 and 17 May, leaving behind some 90 personnel who were lending their good offices to promote local ceasefires and humanitarian activities. Regarding the feasibility of protecting international humanitarian relief programmes, the Secretary-General believed that a determined effort to persuade warring parties to conclude and honour agreements permitting the unimpeded delivery of relief supplies might be the most promising course of action. He expressed some optimism that conditions might now be more propitious for the conclusion of such agreements. The Chief Military Observer of UNPROFOR, who was leading the sole remaining international presence in Sarajevo, would continue his efforts to arrange and assist the necessary negotiations.

(ii) Sarajevo Airport Agreement

In a report dated 6 June 1992,²⁶⁰ the Secretary-General noted that, on the previous day, the parties in Bosnia had signed an agreement which inter alia envisaged that UNPROFOR would take over full operational responsibility for the functioning and security of the Sarajevo airport, which was to be reopened for the delivery of humanitarian supplies,

²⁵¹ See para. 2 of the report.

²⁵² See para. 27 of the report.

²⁵³ S/23280, annex III, para. 13.

²⁵⁴ See S/23836, para. 20.

²⁵⁵ S/23842.

²⁵⁶ Letter from the Secretary-General to the President of the Council dated 29 April 1992 (S/23860).

²⁵⁷ Letter dated 30 April 1992 from the President of the Council to the Secretary-General (S/23861).

²⁵⁸ S/23900.

²⁵⁹ S/24000.

²⁶⁰ S/24075 and Add.1.

under the exclusive authority of the United Nations. On the basis of that agreement (the Airport Agreement), the Force Commander of UNPROFOR had proposed a concept of operations according to which, as a first measure, United Nations military observers would be deployed to Sarajevo to create the necessary security conditions. It was estimated that the following additions to the Force's strength would be required: (a) a reinforced infantry battalion of some 1,000 persons; (b) 60 military observers; (c) military and civilian staff for an UNPROFOR sector headquarters to be established at Sarajevo; (d) 40 civilian police; and (e) possibly some technical personnel, engineers and airport staff, if the existing airport personnel required reinforcement.²⁶¹

The Secretary-General estimated that the additional cost of the enlargement, for a four-month period until mid-October 1992, would amount to some \$20 million and, thereafter, approximately \$3 million per month. He recommended that this additional cost be borne by Member States in accordance with Article 17 (2) of the Charter.

By resolution 758 (1992) of 8 June 1992, the Council decided to enlarge the mandate and strength of UNPROFOR in accordance with the Secretary-General's report. The Council authorized the Secretary-General to deploy, when he judged it appropriate, the military observers and related personnel and equipment required for the implementation of the first phase of activities.

On 29 June 1992, the Secretary-General informed the Council that considerable progress had been made towards the assumption by UNPROFOR of responsibility for the airport.²⁶² Although an absolute ceasefire had not yet been achieved, he endorsed the recommendation of his Force Commander that UNPROFOR seize the opportunity offered by these developments. He therefore requested the Council to

grant the authorization foreseen in resolution 758 (1992) to deploy the additional elements of UNPROFOR necessary to secure the airport and make it operational.²⁶³

On the same day, the Security Council adopted resolution 761 (1992), by which it granted such authorization.

In a report dated 10 and 13 July 1992,²⁶⁴ the Secretary-General stated that the airport had now reopened, under UNPROFOR control, for the delivery of humanitarian assistance. However, as the operation had taken shape, it had become apparent that the strength of UNPROFOR was inadequate. He recommended that it be increased by some 1,600 additional personnel, to ensure the security and functioning of the airport and the delivery of humanitarian assistance. He estimated that the revised cost of the enlargement, for a four-month period until mid-October 1992, would amount to some \$22.7 million and, thereafter, approximately \$3.8 million per month.²⁶⁵ The Secretary-General also noted that, despite an encouraging start, some basic conditions stipulated in the Airport Agreement had not been complied with by either side.²⁶⁶

By resolution 764 (1992) of 13 July 1992, the Security Council authorized the Secretary-General to immediately deploy additional elements of UNPROFOR, in accordance with the recommendation contained in his above report.

(iii) Supervision of heavy weapons

By a letter dated 17 July 1992 addressed to the President of the Council,²⁶⁷ the representatives of Belgium, France and the United Kingdom transmitted the text of an agreement between the parties in Bosnia and Herzegovina, signed at London, in which the parties had, inter alia, agreed to a ceasefire throughout the entire territory of Bosnia and Herzegovina for a period of 14 days, and asked the Security Council to

²⁶¹ In his report, the Secretary-General also noted that he had asked the Force Commander to pursue negotiation of a broader security zone encompassing the city of Sarajevo as a whole, as a second phase of negotiations with the parties.

²⁶² See S/24201. In his report dated 15 June 1992 (S/24100 and Corr.1), the Secretary-General had noted that despite significant progress in discussions on the withdrawal of heavy weapons from within the range of the airport, it was clear that considerable work still needed to be done to get the airport functioning again.

²⁶³ Statement by the Secretary-General to the Security Council (S/24201).

²⁶⁴ S/24263 and Add.1.

²⁶⁵ See S/24075/Add.1 for the earlier estimate.

²⁶⁶ Reference was made in particular to the necessity of a ceasefire; the complete concentration of heavy weaponry under UNPROFOR monitoring; and the establishment of security corridors.

²⁶⁷ S/24305.

make arrangements for the international supervision of all heavy weapons.

On the same date, the President made a statement on behalf of the Council,²⁶⁸ stating that the Council had decided in principle to respond positively to the request for the United Nations to make arrangements for the supervision of all heavy weapons in accordance with the London Agreement.

On 21 July 1992, the Secretary-General submitted to the Council a report, annexed to which was a concept of operations for the supervision of heavy weapons in Bosnia and Herzegovina. The Secretary-General observed, however, that, after having carefully considered the London Agreement and the circumstance in which it was concluded, as well as the advice of his Force Commander, he could not at the present time recommend that the Council accept the request of the three parties in Bosnia and Herzegovina that the United Nations supervise the heavy weapons which they had agreed to place under international supervision.²⁶⁹

On 24 July 1992, the President made a statement on behalf of the Council,²⁷⁰ in which the latter expressed its concurrence with the Secretary-General's view. The Council invited the Secretary-General to contact all Member States, particularly the States members of the relevant regional organizations in Europe, to ask them to make urgently available to the Secretary-General information about the personnel, equipment and logistic support which they would be prepared to contribute to the supervision of heavy weapons in Bosnia and Herzegovina. In the light of the outcome of those contacts, the Secretary-General would undertake further preparatory work.

(iv) Support for delivery of humanitarian assistance

On 10 September 1992, the Secretary-General submitted to the Council a report²⁷¹ in which he presented proposals on how the delivery of humanitarian assistance to Sarajevo and other parts of Bosnia and Herzegovina could be facilitated through the provision of protective support by UNPROFOR.²⁷²

²⁶⁸ S/24307.

²⁶⁹ S/24333.

²⁷⁰ S/24346.

²⁷¹ S/24540.

²⁷² These proposals had been developed in consultation with a number of the sponsors of resolution 770 (1992) of 13 August 1992 relating to Bosnia and Herzegovina.

The proposals envisaged that this function could be added to the Force's mandate and carried out by military personnel, under the command of the Force Commander. The task of UNPROFOR, under its enlarged mandate, would be to support the efforts of UNHCR to deliver humanitarian relief throughout Bosnia and Herzegovina and, in particular, to provide any necessary protection. In providing support to UNHCR-organized convoys, the UNPROFOR troops concerned would follow normal peacekeeping rules of engagement. They would thus be authorized to use force in self-defence, which, in that context, was deemed to include situations in which armed persons attempted by force to prevent United Nations troops from carrying out their mandate.²⁷³ The Secretary-General suggested that UNPROFOR could also be authorized to provide protection to convoys of released detainees, if the International Committee of the Red Cross so requested and if the Force Commander agreed that the request was practicable.²⁷⁴

By resolution 770 (1992), adopted on 13 August under Chapter VII of the Charter, the Security Council called upon States to use all measures necessary to facilitate the delivery of humanitarian assistance to Bosnia and Herzegovina. By resolution 776 (1992) of 14 September 1992, the Council authorized the mandate and strength of UNPROFOR to be expanded in implementation of that decision, thus linking the mandate of the Force to Chapter VII, and incorporating the authorization for the use of "all measures necessary" in the mandate of the Force.²⁷⁵

(v) Monitoring of military flight ban

The UNPROFOR mandate was again expanded on 9 October 1992, when the Security Council, by

²⁷³ See S/24540, para. 9.

²⁷⁴ Through an exchange of letters between the Secretary-General and the President of the Council dated 10 and 12 September 1992 (S/24549 and S/24550), Council members agreed with the Secretary-General's proposal that, pending the Council's approval of the recommendation in his report, UNPROFOR use its existing resources to protect detainees expected to be released shortly from two Serbian detention camps in the northern part of Bosnia and Herzegovina.

²⁷⁵ See para. 2 of the resolution. In addition to the reference to resolution 770 (1992), resolution 776 (1992) also refers to functions outlined in the Secretary-General's report on the revised concept of operations of UNPROFOR, issued on 10 September 1992 (S/24540).

resolution 781 (1992), decided to establish a ban on military flights in the airspace of Bosnia and Herzegovina and provided that UNPROFOR was to monitor compliance with the ban. Effective monitoring was to be achieved, *inter alia*, through the placement of observers at airfields in the territory of the former Yugoslavia, and through the establishment of an appropriate mechanism for the approval and inspection of flights.²⁷⁶

In a report dated 5 and 9 November 1992,²⁷⁷ the Secretary-General presented a concept of operations for monitoring by UNPROFOR, which envisaged the establishment of a Monitoring Coordination and Control Centre at UNPROFOR headquarters in Zagreb; the inspection of all flights with destinations in Bosnia and Herzegovina; and the monitoring of all flight movements into and out of Bosnia and Herzegovina. Monitoring and inspections tasks were to be carried out in cooperation with the European Community Monitoring Mission and NATO. It was estimated that 75 additional military observers would be required, and that the associated cost would amount to some \$5 million for the six-month period from 1 November 1992 to 30 April 1993 and, thereafter, to approximately \$500,000 per month. The additional cost was to be borne by Member States in accordance with Article 17 (2) of the Charter.

By resolution 786 (1992) of 11 November 1992, the Security Council endorsed the concept of operations and approved the Secretary-General's recommendation concerning the increase in the strength of the Force. The Council called upon all parties and others concerned henceforth to direct all requests for authorization of flights other than those banned to UNPROFOR, with special provisions being made for flights in support of United Nations operations.

(vi) Border control

By resolution 787 (1992) of 16 November 1992, by which it *inter alia* strengthened the sanctions imposed by resolution 713 (1991) and 757 (1992) and reaffirmed the demand that all interference from outside the territory of Bosnia and Herzegovina cease immediately, the Council decided that observers were to be deployed on the border of Bosnia and

Herzegovina to facilitate the implementation of its relevant resolutions. The Council requested the Secretary-General to present his recommendations on the matter as soon as possible.²⁷⁸

The Secretary-General presented his recommendations on 21 December 1992, including a recommendation for the enlargement of UNPROFOR with some 10,000 additional troops, which would enable UNPROFOR personnel to patrol between all border crossing points, search vehicles and people and deny any cross-border movement of people or goods which would violate decisions of the Council.²⁷⁹

(c) The former Yugoslav Republic of Macedonia

(i) Feasibility of preventive deployment

By a letter dated 25 November 1992 addressed to the President of the Council,²⁸⁰ the Secretary-General stated that the President of the former Yugoslav Republic of Macedonia had conveyed to him a request for the deployment of United Nations observers in that country, in view of the possible impact which the fighting elsewhere in the former Yugoslavia could have on it. The Secretary-General proposed to dispatch forthwith a group of about a dozen military, police and civilian personnel to the former Yugoslav Republic of Macedonia in order to explore the feasibility of a more substantive deployment of UNPROFOR in that country. In a reply dated 25 November 1992,²⁸¹ the President informed the Secretary-General that Council members agreed with his proposal.

On 9 December 1992, the Secretary-General submitted to the Council a report²⁸² on the outcome of the exploratory mission to the former Yugoslav Republic of Macedonia.²⁸³ The mission had recommended that a small UNPROFOR presence be established on the Macedonian side of that republic's borders with Albania and the Federal Republic of Yugoslavia (Serbia and Montenegro), with an "essentially preventive mandate" of monitoring and reporting any developments in the border areas which could undermine confidence and stability in that

²⁷⁶ See paras. 2 and 3 of the resolution.

²⁷⁷ S/24767 and Add.1.

²⁷⁸ See para. 16 of the resolution.

²⁷⁹ See document S/25000.

²⁸⁰ S/24851.

²⁸¹ S/24852.

²⁸² S/24923.

²⁸³ The mission had been conducted from 28 November to 3 December 1992.

republic. It had further recommended that a small group of United Nations civilian police be deployed in the border area to monitor the Macedonian border police, as incidents arising from illegal attempts to cross the border had recently led to increased tension on the Macedonian side. Unlike the military deployment, however, the latter proposal had not yet received the consent of the Macedonian authorities.

It was envisaged that the UNPROFOR presence would consist of military, civilian police and civil affairs components. It would comprise a battalion of up to 700 all ranks, 35 military observers, 26 civilian police monitors, 10 civil affairs staff, 45 administrative staff, and local interpreters. The headquarters would be in Skopje.²⁸⁴ Emplacement and start-up costs would be met initially from the resources already made available for UNPROFOR by the General Assembly at its current session.

(ii) Authorization of deployment

By resolution 795 (1992) of 11 December 1992, the Security Council authorized the Secretary-General to establish a presence of UNPROFOR in the former Yugoslav Republic of Macedonia, as recommended by him in his report, and so to inform the authorities of Albania and of the Federal Republic of Yugoslavia (Serbia and Montenegro). The Council requested the Secretary-General to deploy immediately the military, civil affairs and administrative personnel recommended in his report, and to deploy the police monitors immediately upon receiving the consent of the Government of the former Yugoslav Republic of Macedonia. It urged the Force presence in the former Yugoslav Republic of Macedonia to coordinate closely with the mission of the Commission on Security and Cooperation in Europe.

Middle East

16. United Nations Truce Supervision Organization established pursuant to Security Council resolution 50 (1948)

Between 1989 and 1992, the military observers of the United Nations Truce Supervision Organization (UNTSO) continued to assist and cooperate with the United Nations Disengagement Observer Force

(UNDOF), in accordance with the ceasefire and disengagement agreements of 1973/74, and with the United Nations Interim Force in Lebanon (UNIFIL) established in 1978, in accordance with its terms of reference.

17. United Nations Disengagement Observer Force established pursuant to Security Council resolution 350 (1974)

The United Nations Disengagement Observer Force, stationed at the armistice line between Israel and the Syrian Arab Republic, continued to serve as an interposition force between the parties. During the period under review, the Council extended its mandate eight times²⁸⁵ following consideration of the Secretary-General's regular progress reports.²⁸⁶

18. United Nations Interim Force in Lebanon established pursuant to Security Council resolutions 425 (1978) and 426 (1978)

Pursuant to resolution 425 (1978), by which the Security Council decided, at the request of the Government of Lebanon, to establish under its authority a United Nations interim force for southern Lebanon, the United Nations Interim Force in Lebanon continued to fulfil its mandate of "confirming the withdrawal of Israeli forces, restoring international peace and security and assisting the Government of Lebanon in ensuring the return of its effective authority in the area".

Between 1989 and 1992, the Secretary-General submitted a number of reports on UNIFIL,²⁸⁷ and the Council adopted eight resolutions which successively extended the Force's mandate.²⁸⁸ In those resolutions, the Council requested the Secretary-General to continue consultations with the Government of Lebanon and other concerned parties on the full implementation of the mandate of UNIFIL.

²⁸⁵ The mandate of the Force was extended by resolutions 633 (1989), 645 (1989), 655 (1990), 679 (1990), 695 (1991), 722 (1991), 756 (1992) and 790 (1992).

²⁸⁶ S/20651, S/20976, S/21305, S/21950 and Corr.1, S/22631 and Add.1, S/23233, S/23955 and S/24821.

²⁸⁷ S/20416 and Add.1, Add.1/Corr.1 and Add.2, S/20742, S/21102, S/21406 and Corr.1 and Add.1, S/22129 and Add.1, S/22829, S/23253, and S/24341.

²⁸⁸ The mandate of the Force was extended by resolutions 630 (1989), 639 (1989), 648 (1990), 659 (1990), 684 (1991), 701 (1991), 734 (1992) and 768 (1992).

²⁸⁴ See S/24923, annex.

During the period under review, several members of UNIFIL were killed, wounded or kidnapped in attacks against the Force. The Council addressed such attacks in two presidential statements made at successive meetings held on 31 July 1989.²⁸⁹ In the second statement, after expressing profound concern over the safety and security of UNIFIL personnel, Council members noted with appreciation that significant efforts had been undertaken to improve the Force's security. They called upon all parties to do their utmost to ensure effective reinforcement of the Force's security and to enable it to carry out its mandate as laid down in resolution 425 (1978).

Further to a request made by Council members on 31 July 1990 for a review of the scale and deployment of UNIFIL,²⁹⁰ the Secretary-General recommended certain measures to streamline UNIFIL, which would permit a reduction of some 10 per cent in the Force's military strength.²⁹¹ The Council subsequently approved some of the measures recommended by the Secretary-General.²⁹²

19. United Nations Iran-Iraq Military Observer Group established pursuant to Security Council resolution 598 (1987)

From 1989 to February 1991, the United Nations Iran-Iraq Military Observer Group (UNIIMOG) continued to fulfil its mandate under resolution 598 (1987) of 20 July 1987, namely, "to verify, confirm and supervise the ceasefire and withdrawal". Following consideration of progress reports submitted by the Secretary-General,²⁹³ the Security Council adopted six resolutions successively extending the mandate of UNIIMOG.²⁹⁴

²⁸⁹ At the 2872nd meeting, under the item entitled "The question of hostage-taking and abduction" (statement not issued as a Security Council document: see S/PV.2872, para. 3); and at the 2873rd meeting, under the item entitled "The situation in the Middle East" (S/20758).

²⁹⁰ S/21833.

²⁹¹ S/22129/Add.1.

²⁹² Resolution 734 (1992) of 29 January 1992.

²⁹³ S/20442 of 2 February 1989, S/20862 of 22 September 1989, S/21200 of 22 March 1990, S/21803 of 21 September 1990, S/21960 of 23 November 1990, S/22148 of 29 January 1991 and S/22263 of 26 February 1991.

²⁹⁴ Resolutions 631 (1989) of 8 February 1989, 642 (1989) of 29 September 1989, 651 (1990) of 29 March 1990, 671 (1990) of 27 September 1990, 676 (1990) of

In a report dated 29 January 1991,²⁹⁵ the Secretary-General informed the Council that the activities of the Group had been considerably affected by developments in the Gulf region, where the outbreak of hostilities had effectively prevented UNIIMOG from continuing operations in Iraq. During the conflict, the elements of UNIIMOG which had operated in Iraq were temporarily withdrawn from Iraq and relocated to Cyprus. The operations continued on the Iranian side only.

Termination

Reporting to the Security Council on 26 February 1991,²⁹⁶ the Secretary-General described the general situation along the border between the Islamic Republic of Iran and Iraq as very calm. He also reported that the forces of the two sides had withdrawn fully to the internationally recognized boundaries, and that the military provisions of resolution 598 (1987) could thus be considered implemented. The remaining tasks under that resolution were essentially political and therefore the Secretary-General recommended replacing UNIIMOG with small civilian offices in Baghdad and Tehran. Accordingly, the Secretary-General recommended that the Council take no action to extend the mandate of UNIIMOG beyond its expiration date of 28 February 1991.

By a letter dated 28 February 1991,²⁹⁷ the President of the Council informed the Secretary-General that Council members agreed with his recommendations and concurred with the proposed arrangements. They expressed their gratitude to the Secretary-General and their appreciation to the members of UNIIMOG for the successful completion of their important task.

20. United Nations Iraq-Kuwait Observation Mission established pursuant to Security Council resolution 687 (1991)

Establishment

At its 2981st meeting, on 3 April 1991, the Security Council adopted resolution 687 (1991)

28 November 1990 and 685 (1991) of 31 January 1991.

²⁹⁵ S/22148.

²⁹⁶ S/22263. See also the Secretary-General's letter of the same date to the President of the Security Council, along similar lines (S/22279).

²⁹⁷ S/22280.

whereby, acting under Chapter VII of the Charter, it established the terms and conditions for a formal ceasefire between Iraq and Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990). Section B of the resolution established a demilitarized zone along the boundary between Iraq and Kuwait, and requested the Secretary-General to submit a plan for the immediate deployment of a United Nations observer unit to monitor the Khor Abdullah and the demilitarized zone.

On 5 April 1991, pursuant to resolution 687 (1991), the Secretary-General submitted a report to the Council²⁹⁸ containing a plan for the deployment of the United Nations Iraq-Kuwait Observation Mission (UNIKOM) and the estimated cost of the Mission for the first six months (approximately \$83 million). He recommended that the costs should be borne by Member States in accordance with Article 17 (2) of the Charter. In an addendum to his report, dated 9 April 1991,²⁹⁹ the Secretary-General informed the Council of the acceptance of his proposed plan by the Governments of Iraq and Kuwait.

At its 2983rd meeting, on 9 April 1991, the Council, acting under Chapter VII of the Charter, adopted resolution 689 (1991) by which it approved the Secretary-General's plan for setting up UNIKOM. It noted that UNIKOM could only be terminated by a formal decision of the Council; therefore, the Council would review the question of the Mission's modalities, termination or continuation every six months.

Mandate and composition

The mandate of UNIKOM, as proposed by the Secretary-General³⁰⁰ and approved by the Council, consisted of three components: to monitor the Khor Abdullah and the demilitarized zone between Iraq and Kuwait;³⁰¹ to deter violations of the boundary through its presence in and surveillance of the demilitarized zone; and to observe any hostile action mounted from the territory of one State against the other. In his

²⁹⁸ S/22454 and Add.1-2.

²⁹⁹ S/22454/Add.3.

³⁰⁰ See S/22454.

³⁰¹ The demilitarized zone extended 10 kilometres into Iraq and 5 kilometres into Kuwait from the boundary referred to in the Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the Restoration of Friendly Relations, Recognition and Related Matters (United Nations, *Treaty Series*, vol. 485, No. 7063).

report, the Secretary-General stated that, as an observation mission, UNIKOM would be required to monitor and observe only; it would not take physical action to prevent the entry of military personnel or equipment into the demilitarized zone nor assume responsibilities that fell within the competence of the host Governments.³⁰² UNIKOM and its personnel would be authorized to use force only in self-defence.

UNIKOM would be headquartered in Umm Qasr within the demilitarized zone. Command in the field would be exercised by a Chief Military Observer. To carry out the tasks outlined in the Mission's concept of operations, the Secretary-General suggested that a group of 300 military observers would be required initially and that that number would be reviewed as the Mission gained experience. Regarding support for the observers, he proposed assigning temporarily to UNIKOM five infantry units drawn from existing peacekeeping operations in the region, with the agreement of the troop-contributing Governments concerned. Those units would provide essential security for UNIKOM during the setting-up phase. If, after four weeks from the beginning of the operation, the Chief Military Observer foresaw a continuing need for an infantry element, the Secretary-General would seek the Council's authorization to replace the temporary units with one or more battalions on a more permanent basis. The maximum initial strength of UNIKOM, comprising military observers and infantry, engineer, air, logistics (including medical care) and headquarters units, would be approximately 1,440 all ranks, of which 680 would be infantry.

Implementation

Through an exchange of letters between the Secretary-General and the President of the Council dated 9 and 10 April 1991,³⁰³ the members of the Council agreed with the proposal to appoint Major General Günther Greindl (Austria) as Chief Military Officer of UNIKOM.³⁰⁴ Through a further exchange of

³⁰² The responsibility for the maintenance of law and order in the demilitarized zone rested with the Governments of Iraq and Kuwait, which maintained police posts in their respective parts of the zone. For further details, see S/22454, para. 6.

³⁰³ S/22478 and S/22479.

³⁰⁴ After Major General Günther Greindl (Austria) relinquished his command to return to his country, through a similar exchange of letters (S/24097 and

letters dated 11 and 12 April 1991,³⁰⁵ the members agreed with the proposed list of countries contributing military personnel to UNIKOM.

On 9 May 1991, pursuant to resolution 687 (1991), the Secretary-General submitted to the Council a report on the deployment and operations of UNIKOM.³⁰⁶ He informed the Council that the Mission's deployment had been completed on 6 May with a total strength of 1,385 military personnel. The Mission had then monitored the withdrawal of the armed forces that were still deployed in its assigned zone. Following complete withdrawal, the demilitarized zone had come into effect on 9 May 1991 and UNIKOM had assumed in full the observation responsibilities entrusted to it by the Council. On 12 June 1991, the Secretary-General submitted a further progress report on UNIKOM.³⁰⁷ He stated that the overall strength of the Mission had been reduced to 963 all ranks since three of the five infantry companies temporarily assigned from UNIFIL and UNFICYP had been returned to their parent missions after the completion of the setting-up phase and the absence of the security risks perceived in early April.

By a letter dated 9 August 1991 addressed to the President of the Council,³⁰⁸ the Secretary-General proposed to the Council a reduction of some 45 per cent in the strength of UNIKOM based on a further review and the recommendations of the Chief Military Officer. With a view to achieving greater efficiency and economy, he proposed a reduction in the number of military observers from 300 to 250 and in the size of the medical unit; a consolidation and reassignment of the tasks performed by the logistics units, with a small reduction in their strength; and reduction in the strength of the engineer unit from 293 to 85, with a subsequent reduction to 50 after the completion of work in support of the Boundary Demarcation Commission. However, in a subsequent letter dated 23 August 1991,³⁰⁹ the Secretary-General noted that in view of the increased level of activity on the Iraq-

Kuwait border he considered it advisable not to proceed with the planned reduction in the number of military observers. He intended to monitor the situation closely and, if necessary, would report to the Council.

In an interim report dated 3 September 1991,³¹⁰ the Secretary-General informed the Council that UNIKOM continued to monitor the demilitarized zone along the Iraq-Kuwait border, which had generally been respected. The number of violations had decreased. In view of the implications of the incidents that had occurred, UNIKOM continued to maintain a high level of vigilance in the performance of the tasks entrusted to it by the Council.

On three subsequent occasions during the period under review, pursuant to resolution 689 (1991), the Secretary-General submitted reports³¹¹ providing the Council, prior to its biannual review of UNIKOM, with an overview of the activities of the Mission covering a period of six months. In each case, he recommended that the Mission be maintained for an additional period of six months. The members of the Council concurred with his recommendations via letters addressed to him by the President of the Council.³¹²

In his report dated 2 October 1992,³¹³ the Secretary-General, *inter alia*, noted that UNIKOM continued to provide technical support to other United Nations missions in Iraq and Kuwait. In particular, it assisted the United Nations Iraq-Kuwait Boundary Demarcation Commission with air transport and communications and by clearing mines at the border marker sites. It gave further support to the United Nations Coordinator for the return of property from Iraq to Kuwait and provided movement control in respect of all United Nations aircraft operating in the area. UNIKOM remained deployed in the demilitarized zone and its concept of operations remained based on a combination of patrol and observation bases, observation points, ground and air patrols investigation teams and liaison with the parties at all levels. While the situation in the demilitarized zone had continued to be calm during the first weeks of the period under review in the report, it had since been marked by a

S/24098), the members of the Council agreed with the proposal to appoint Major General Timothy K. Dibuama (Ghana) as Chief Military Observer of UNIKOM with effect from 12 July 1992.

³⁰⁵ S/22488 and S/22489.

³⁰⁶ S/22580.

³⁰⁷ S/22692.

³⁰⁸ S/22916.

³⁰⁹ S/22977.

³¹⁰ S/23000.

³¹¹ S/23106 dated 2 October 1991 and Add. 1 and Add. 2; S/23766 dated 31 March 1992; and S/24615 dated 2 October 1992.

³¹² S/23118; S/23789; S/24649.

³¹³ S/24615.

gradual heightening of tensions. The main source of tension was the issue of the status and property rights of the Iraqi farmers who would be affected by the demarcation of the boundary between Iraq and Kuwait. During one of the related incidents, a UNIKOM military observer had been injured while trying to restore calm. In view of all the circumstances, the Secretary-General considered the continued functioning of UNIKOM as an indispensable factor in maintaining the demilitarized zone, preventing or containing further incidents and reducing tensions.

By a letter dated 3 November 1992,³¹⁴ the President of the Council informed the Secretary-General that the members of the Council fully shared his concerns related to the threats to security linked to the presence of Iraqi and Kuwaiti military equipment in six bunkers within the demilitarized zone, near the Mission headquarters.³¹⁵ As recommended by the Mission Commander, they deemed it necessary for the bunkers to be emptied of their contents. They also expressed the view that the military equipment should be destroyed; if the equipment fell into the categories mentioned in paragraph 8 of resolution 687 (1991) (relating to chemical and biological weapons and ballistic missiles with a range greater than 150 kilometres), it should be destroyed by the United Nations Special Commission in coordination with the Mission.

D. Security Council committees

During the period from 1989 to 1992, the Council established four new Security Council committees to supervise the implementation of measures adopted pursuant to Article 41 against Iraq, the former Yugoslavia, the Libyan Arab Jamahiriya and Somalia. During the same period, the previously established Security Council Committee established by resolution 421 (1977) concerning the question of South Africa continued its work. These committees are considered below in the order in which they were established.

³¹⁴ The letter was annexed to a special report on UNIKOM, dated 10 January 1993, submitted by the Secretary-General to the Council. See S/25085, annex III.

³¹⁵ The concerns in question were expressed by the Secretary-General in a letter dated 23 September 1992 which was not issued as a Council document.

1. Security Council Committee established pursuant to resolution 421 (1977) concerning the question of South Africa

The Security Council Committee established by resolution 421 (1977) continued its efforts to ensure the effective implementation of the mandatory arms embargo against South Africa imposed by resolution 418 (1977) of 4 November 1977. It reviewed a number of cases involving alleged violations of the arms embargo, and continued to consider the question of legislative and other implementing measures adopted by States. The Committee cooperated with various intergovernmental and non-governmental bodies and individuals with expertise in the field to promote more effective implementation of the arms embargo, and in September 1989, held closed hearings on the subject. On 11 December 1989, the Committee submitted to the Council a report on its activities from 1980 to 1989.³¹⁶ In the concluding paragraphs, the Committee observed that although the arms embargo had had a considerable effect on the South African defence establishment, the cases reported to the Committee made it clear that arms and related materiel continued to reach South Africa in violation of its provisions. The Committee appealed to States to tighten their scrutiny and to increase their vigilance with regard to licensing procedures for the export or re-export of military equipment, to ensure that none of it reached South Africa in violation of Security Council resolutions.

2. Security Council Committee established pursuant to resolution 661 (1990) concerning the situation between Iraq and Kuwait

Establishment

By resolution 661 (1990) of 6 August 1990, the Security Council, acting under Chapter VII of the Charter and in accordance with rule 28 of its provisional rules of procedure, decided to establish a Committee of the Security Council consisting of all the members of the Council to monitor the implementation of the mandatory comprehensive sanctions imposed against Iraq by the same resolution. The Committee was to undertake the following tasks and to report on its work to the Council with its observations and recommendations: (a) to examine the reports on the progress of the implementation of the resolution, which would be submitted by the Secretary-General; and

³¹⁶ S/21015.

(b) to seek from all States further information regarding the action taken by them concerning the effective implementation of the sanctions.

Implementation/expansion of mandate

In an interim report dated 15 August 1990 on the implementation of resolution 661 (1990), the Secretary-General reported that the Committee had held its first meeting on 9 August 1990.³¹⁷

By resolution 665 (1990) of 25 August 1990, the Council authorized the use of such measures commensurate to the specific circumstances as might be necessary to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990). The States concerned were requested to submit reports in that regard to the Security Council and the Committee.

By resolution 666 (1990) of 13 September 1990, the Council, acting under Chapter VII of the Charter, decided that the Committee should keep the situation regarding foodstuffs in Iraq and Kuwait under constant review. For that purpose, the Secretary-General was requested to seek, on a continuing basis, information from relevant United Nations and other appropriate humanitarian agencies and all other sources on the availability of food in Iraq and Kuwait, and communicate such information to the Committee regularly. On the basis of the reports from the Secretary-General, if the Committee determined that circumstances had arisen in which there was an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait, it would report promptly to the Council its decision as to how such need should be met.

By resolution 669 (1990) of 24 September 1990, the Council entrusted the Committee with the task of examining requests for assistance under the provisions of Article 50 of the Charter and making recommendations to the President of the Security Council for appropriate action.³¹⁸

By resolution 670 (1990) of 25 September 1990, the Council, acting under Chapter VII of the Charter,

confirmed that resolution 661 (1990) applied to all means of transport, including aircraft. No flights other than those undertaken in circumstances defined in resolution 670 (1990) were to be permitted to or from Iraq or occupied Kuwait. The Committee was vested with specific responsibilities in regard to authorizing such flights. The Council also reminded all States of their obligations under resolution 661 (1990) with regard to the freezing of Iraqi assets and the protection of the assets of the legitimate Government of Kuwait and its agencies located within their territory, and to report to the Committee regarding those assets. It also called upon all States to report to the Committee on action taken by them to implement the provisions laid down in resolution 670 (1990).

In a statement made by the President of the Council on its behalf on 3 March 1991,³¹⁹ the Security Council welcomed the decisions taken to date by the Committee relating to food and medical needs, including those taken to facilitate the provision of humanitarian assistance; called upon the Committee to continue to act promptly on requests submitted to it for humanitarian assistance; and urged the Committee to pay particular attention to the findings and recommendations of the relevant humanitarian agencies on critical medical/public health and nutritional conditions in Iraq.

At its 36th meeting, on 22 March 1991, the Committee adopted a decision with regard to the determination of humanitarian needs in Iraq.³²⁰ The Committee decided to make, with immediate effect, a general determination that humanitarian circumstances applied “with respect to the entire civilian population of Iraq in all parts of Iraq’s national territory”. The Committee also concluded that civilian and humanitarian imports to Iraq, as identified in the report prepared by Under-Secretary-General Martti Ahtisaari following his visit to Iraq from 10 to 17 March 1991,³²¹ were integrally related to the supply of foodstuffs and supplies intended strictly for medical purposes (which were exempt from sanctions under the provisions of resolution 661 (1990)), and that such imports should also be allowed with immediate effect. The Committee decided upon a simple notification procedure for foodstuffs supplied to Iraq and a “no objection” procedure for those civilian and

³¹⁷ S/21536, para. 5.

³¹⁸ For the practice of the Committee and the Council under Article 50 during the period under review, see chapter XI, part VIII.

³¹⁹ S/22322.

³²⁰ S/22400, annex.

³²¹ S/22366.

humanitarian imports. Subject to prior notification of the flight and its contents, the Committee granted general approval for all flights that would be transporting only foodstuffs, supplies intended for medical purposes or humanitarian imports.

By a letter dated 22 March 1991,³²² the President of the Council informed the Secretary-General that the members of the Council, in informal consultations of the whole on 22 March 1991, had taken note of the Committee's decision with regard to the determination of humanitarian needs in Iraq.

By resolution 687 (1991) of 3 April 1991, the Security Council, acting under Chapter VII of the Charter, established the terms and conditions for a formal ceasefire between Iraq and Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990). Section F of the resolution dealt with the sanctions imposed on Iraq. By paragraph 20 of the resolution, the Council decided that the prohibitions against the sale or supply to Iraq of commodities or products, other than medicine and health supplies, and prohibitions against financial transactions related thereto contained in resolution 661 (1990), would not apply to foodstuffs notified to the Committee or to materials and supplies for essential civilian needs approved by the Committee under the simplified and accelerated "no objection" procedure. By paragraph 23, the Council also empowered the Committee to approve exceptions to the prohibition against the import of commodities and products originating in Iraq, when required to assure adequate financial resources to provide for essential Iraqi civilian needs. By paragraph 28, the Council decided upon a review mechanism for the sanctions regime against Iraq.

In a report dated 2 June 1991, submitted pursuant to resolution 687 (1990), the Secretary-General set out draft guidelines to facilitate full international implementation of the arms embargo and related sanctions against Iraq imposed by resolution 661 (1990) and subsequent related resolutions.³²³ Under the draft guidelines, the Committee would be the organ of the Security Council responsible for monitoring the prohibitions against the sale or supply of arms to Iraq

and related sanctions and would carry out its functions in accordance with the mandate provided in resolutions 661 (1990), 665 (1990) and 670 (1990). The Committee would work in close cooperation with the Special Commission established under resolution 687 (1991) and with the International Atomic Energy Agency (IAEA).

By resolution 700 (1991) of 17 June 1991, the Council, acting under Chapter VII of the Charter, approved the guidelines to facilitate full international implementation of the arms and related sanctions against Iraq annexed to the report of the Secretary-General, and entrusted the Committee with the responsibility for monitoring the prohibitions against the sale or supply of arms to Iraq and related sanctions.

Pursuant to paragraph 6 of the guidelines approved by the Council under resolution 700 (1991), the Committee submitted five reports, at 90-day intervals, to the Council on the implementation of the arms embargo and related sanctions against Iraq.³²⁴

By resolution 706 (1991) of 15 August 1991, the Council, acting under Chapter VII of the Charter, authorized all States to permit the import, for a period of six months, of a quantity of Iraqi petroleum and petroleum products sufficient to create a sum to meet essential Iraqi civilian needs and finance United Nations operations mandated by resolution 687 (1991), subject to the following conditions: (a) approval by the Committee of each such purchase following notification by the State concerned; (b) payment of the proceeds into an escrow account to be established by the United Nations; and (c) approval by the Council of a scheme for the purchase of supplies for essential civilian needs and for appropriate United Nations monitoring and supervision.

By resolution 712 (1991) of 19 September 1991, the Council, acting under Chapter VII of the Charter, confirmed \$1.6 billion as the sum authorized for limited Iraqi oil sales, as mentioned in resolution 706 (1991), and invited the Committee to authorize immediately the release by the Secretary-General from the escrow account of the first one-third portion of the sum, subject to the availability of funds in the account.

Since resolutions 706 (1991) and 712 (1991) were not implemented during the period under review,

³²² S/22400, annex.

³²³ S/22660, annex entitled "Draft guidelines to facilitate full international implementation of paragraphs 24, 25 and 27 of Security Council resolution 687 (1991)".

³²⁴ See S/23036, S/23279, S/23708, S/24083, S/24545 and S/24912.

however, the measures described above did not take effect.

By resolution 715 (1991) of 11 October 1991, the Security Council, acting under Chapter VII of the Charter, requested the Committee, the Special Commission and IAEA to develop in cooperation a mechanism for monitoring any future sales or supplies to Iraq of dual-use items that could assist Iraq in the production or acquisition of the weapons proscribed under section C of resolution 687 (1991).³²⁵

In a statement made by the President of the Council to the media on behalf of the members of the Council on 20 December 1991,³²⁶ Council members requested the Committee to study immediately those materials and supplies for essential civilian and humanitarian needs as identified in the Ahtisaari report,³²⁷ with the purpose of drawing up a list of items which might, with the Council's approval, be transferred from the "no objection" procedure to a simple notification procedure. The members of the Council also noted that, although resolutions 706 (1991) and 712 (1991) gave to Iraq the possibility for oil sales to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs for the purpose of providing humanitarian relief, that possibility had not yet been used.

In a statement made by the President of the Council to the media on behalf of the members of the Council on 5 February 1992,³²⁸ the Council members took note of the report of the Chairman of the Committee on the above request for a study, and encouraged him to continue his consultations with the members of the Committee on the study and to report to the Council at an early date.³²⁹ At its 66th meeting on 6 March 1992, the Committee reached the understanding that, while there would be no change in

the procedure, certain categories of items would generally receive favourable consideration.³³⁰

3. Security Council Committee established pursuant to resolution 724 (1991) concerning Yugoslavia

Establishment

In a report dated 25 October 1991, submitted pursuant to resolution 713 (1991), the Secretary-General noted that his Personal Envoy, Mr. Cyrus R. Vance, had heard credible assertions from many parties in Yugoslavia that the embargo on all deliveries of weapons and military equipment to the country, imposed by the Council under Chapter VII of the Charter, in resolution 713 (1991), was being violated.³³¹ He observed that, given the gravity of this apparent violation of the Council's decision, its members would no doubt wish to respond appropriately.

By resolution 724 (1991) of 15 December 1991, the Security Council, acting under Chapter VII of the Charter, and in accordance with rule 28 of its provisional rules of procedure, decided to establish a Committee of the Security Council consisting of all the members of the Council to monitor the implementation of the arms embargo imposed on Yugoslavia by resolution 713 (1991). The Committee was to undertake the following tasks and to report on its work to the Council with its observations and recommendations: (a) to examine the reports submitted by States on the measures they had instituted to implement the embargo; (b) to seek from all States further information regarding the action taken by them concerning the effective implementation of the embargo; (c) to consider any information brought to its attention by States concerning violations of the embargo, and in that context to make recommendations to the Council on ways of increasing the effectiveness of the embargo; and (d) to recommend appropriate measures in response to violations of the embargo and to provide information on a regular basis to the

³²⁵ Pursuant to this request, the Special Commission and IAEA submitted, on 13 May 1994, for the Committee's consideration, a draft export/import mechanism (see also S/1996/700, paras. 90-92).

³²⁶ S/23305.

³²⁷ S/22366.

³²⁸ S/23517.

³²⁹ The oral report, provided by the Chairman of the Committee in informal consultations, was not reproduced as a document of the Council.

³³⁰ For details, see the first annual report of the Committee to the Council (S/1996/700, para. 43).

³³¹ S/23169, para. 38.

Secretary-General for general distribution to Member States.³³²

Implementation/expansion of mandate

On 13 April 1992, the Committee submitted to the Council a report on its activities to date.³³³ In the concluding paragraph, the Committee noted that it had received a limited amount of information on violations of the arms embargo, and that it was still searching for means through which it could obtain the requisite additional information.

The scope of the Committee's mandate was expanded on 30 May 1992, when the Security Council, by resolution 757 (1992), imposed a comprehensive sanctions regime against the Federal Republic of Yugoslavia (Serbia and Montenegro), consisting of measures that interrupted economic, financial, diplomatic, scientific, sporting and cultural relations, as well as air travel, with certain exemptions. The Council requested the Committee to monitor the implementation of that regime, in addition to the arms embargo. It also asked the Committee to prepare guidelines for exemptions relating to the trans-shipment of certain commodities and products through the Federal Republic of Yugoslavia;³³⁴ and to consider and decide upon any applications for the approval of flights for humanitarian or other purposes consistent with the relevant resolutions of the Council.

By resolution 760 (1992) of 18 June 1992, the Council decided that the Committee was also to approve, under a simplified "no objection" procedure, exemptions from the sanctions regime for the sale or supply to the Federal Republic of Yugoslavia (Serbia

and Montenegro) of commodities and products for essential humanitarian need.

By resolution 787 (1992) of 16 November 1992, the Council decided to prohibit the trans-shipment of crude oil, petroleum products, coal, energy-related equipment, iron, steel, other metals, chemicals, rubber, tyres, vehicles, aircraft and motors of all types — unless such trans-shipment was specifically authorized on a case-by-case basis by the Committee under its "no objection" procedure.

On 30 December 1992, the Committee submitted to the Council a report in which it provided an overview of its activities in relation to the implementation of the arms embargo imposed by resolution 713 (1991) and the sanctions regime imposed by resolution 757 (1992).³³⁵ The Committee outlined the general principles it had applied in approving exemptions; highlighted a number of decisions it had taken relating to the implementation of the sanctions, including two decisions which had subsequently been reinforced by the Council;³³⁶ and provided information concerning its consideration of specific cases of actual or suspected violations of the sanctions.

In the concluding paragraphs of its report, the Committee emphasized the complexity of the tasks entrusted to it, and noted that the absence of an independent monitoring mechanism had sometimes inhibited the ability of the Committee to obtain original information and to follow up on requested

³³² By resolution 727 (1992) of 8 January 1992, the Council reaffirmed the arms embargo and decided that it would continue to apply to "all areas that have been part of Yugoslavia, any decisions on the question of the recognition of the independence of certain republics notwithstanding" (resolution 727 (1992), para. 6, and para. 33 of the Secretary-General's report dated 5 January 1992 (S/23363)).

³³³ S/23800.

³³⁴ The resolution provided for an exemption from the relevant sanctions for the trans-shipment through the Federal Republic of Yugoslavia (Serbia and Montenegro) of commodities and products originating outside the Federal Republic of Yugoslavia (Serbia and Montenegro) and temporarily present in the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro) only for the purpose of such trans-shipment.

³³⁵ S/25027.

³³⁶ By resolution 787 (1992), paragraph 10, the Council decided, acting under Chapter VII, that any vessel in which a majority or controlling interest was held by a person or undertaking in or operating from the Federal Republic of Yugoslavia (Serbia and Montenegro) would be considered a vessel of the Federal Republic of Yugoslavia (Serbia and Montenegro) regardless of the flag under which the vessel sailed. By paragraph 13 of the same resolution, the Council reaffirmed the responsibility of riparian States to take necessary measures to ensure that shipping on the Danube was in accordance with resolutions 713 (1991) and 757 (1992), including such measures commensurate with the specific circumstances as might be necessary to halt such shipping in order to inspect and verify their cargoes and destinations and to ensure the strict implementation of those resolutions. These provisions reflected the position taken earlier by the Committee, on both issues (S/25027, para. 18).

investigations. The Committee considered, however, that the gap had to some extent been redressed by resolution 787 (1992), by which the Council had authorized States, acting nationally or through regional agencies or arrangements, to stop and search vessels in order to establish the bona fides of their cargoes.³³⁷ The Committee also noted the adverse impact which the implementation of sanctions had had on the economies of a number of neighbouring countries, some of which had addressed the Committee on the matter.³³⁸

4. Security Council Committee established pursuant to resolution 748 (1992) concerning the Libyan Arab Jamahiriya

By resolution 748 (1992) of 31 March 1992, the Security Council, acting under Chapter VII of the Charter and in accordance with rule 28 of its provisional rules of procedure, decided to establish a Committee of the Security Council consisting of all the members of the Council to monitor the implementation of the sanctions imposed against the Libyan Arab Jamahiriya by the same resolution. In particular, the Committee was to undertake the following tasks and to report on its work to the Council with its observations and recommendations: (a) to examine the reports submitted pursuant to paragraph 8 of the resolution, whereby the Council requested all States to report to the Secretary-General by 15 May 1992 on the measures they had instituted for meeting their obligations concerning the sanctions against the Libyan Arab Jamahiriya; (b) to seek from all States further information regarding the action taken by them concerning the effective implementation of the measures imposed against the Libyan Arab Jamahiriya; (c) to consider any information brought to its attention by States concerning violations of those measures and, in that context, to make recommendations to the Council on ways to increase their effectiveness; (d) to recommend appropriate measures in response to violations of the measures imposed against the Libyan Arab Jamahiriya and provide information on a regular basis to the Secretary-General for general distribution to Member States; (e) to consider and to decide expeditiously upon any application by States for the approval of flights on grounds of significant humanitarian need; and (f) to give special attention to

any communications in accordance with Article 50 of the Charter from any neighbouring or other States with special economic problems that might arise from the carrying out of the measures imposed against the Libyan Arab Jamahiriya.

5. Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia

In a report dated 21 April 1992 submitted pursuant to resolution 746 (1992), the Secretary-General suggested that the Security Council might wish to consider putting into place appropriate arrangements for monitoring the arms embargo on Somalia imposed by resolution 733 (1992), in light of various reports indicating that arms continued to flow into the country.³³⁹

By resolution 751 (1992) of 24 April 1992, the Security Council decided to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations: (a) to seek from all States information regarding the action taken by them concerning the effective implementation of the arms embargo imposed by resolution 733 (1992); (b) to consider any information brought to its attention by States concerning violations of the embargo, and in that context to make recommendations to the Council on ways of increasing the effectiveness of the embargo; and (c) to recommend appropriate measures in response to violations of the embargo and provide information on a regular basis to the Secretary-General for general distribution to Member States.

E. Ad hoc commissions/Coordinator for the Return of Property

In the aftermath of the Iraq-Kuwait conflict, the Security Council established a number of ad hoc commissions: the United Nations Boundary Demarcation Commission; the United Nations Special Commission; and the United Nations Compensation Commission. The Council also appointed a United Nations Coordinator for the return of property. During the same period, the Council created an ad hoc

³³⁷ S/25027, para. 25.

³³⁸ Ibid., para. 23.

³³⁹ S/23829, para. 48.

commission concerning Somalia, and was asked to consider establishing a military component of the International Support and Verification Commission in Central America.

1. International Support and Verification Commission

At a summit meeting held at Tela, Honduras, from 5 to 7 August 1989, the Presidents of the five Central American countries reached agreement on a Joint Plan for the voluntary demobilization, repatriation or relocation of the members of the Nicaraguan resistance and their families, as well as assistance for the demobilization of all those involved in armed actions in the countries of the region when such persons voluntarily request it.³⁴⁰ In accordance with the provisions of that Plan, the permanent representatives of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, by a letter dated 14 August 1989,³⁴¹ officially requested the Secretary-General to set up, together with the Secretary-General of the Organization of American States, an International Support and Verification Commission, which would be entrusted with implementing the Plan.

By a letter dated 28 August 1989,³⁴² the Secretary-General informed the Security Council that, at a meeting on 25 August 1989, he had agreed with the Secretary-General of the Organization of American States to establish the International Support and Verification Commission as from 6 September 1989. He stated that the tasks entrusted to the Commission comprised components of interest to various United Nations programmes and agencies, but that the question of demobilization concerned the Security Council, in particular, since it was an operation of a military nature. In that regard, he noted that the Commission was asked to collect the weapons, materiel and military equipment of members of the Nicaraguan resistance and to keep them in its custody until the five Presidents decided where they should be sent. In his view, that task should be entrusted to military units equipped with defensive weapons. The launching of such an operation was, he said, clearly within the competence of the Security Council. He would revert to the Council to ask it to take steps to establish such a force once he was in a position to estimate its needs in terms of personnel and equipment.

³⁴⁰ S/20778, annex I.

³⁴¹ S/20791.

³⁴² S/20856.

In a letter dated 20 September 1989,³⁴³ the Council noted with approval the steps taken by the Secretary-General to form the Commission and welcomed with satisfaction his intention to ask the Council to adopt in due course the measures needed to establish its military component.

However, in a report on the United Nations Observer Group in Central America submitted to the Security Council on 15 March 1990,³⁴⁴ the Secretary-General informed the Council that, in consultations with the Government of Nicaragua and opposition held at Managua during March 1990, it had been agreed that responsibility for the military aspects of the implementation of the Joint Plan would be assumed by ONUCA, while the Commission would be responsible for implementing the civilian aspects of that process, i.e. the repatriation, or relocation elsewhere, of the members of the Nicaraguan resistance, and for their resettlement. In a further report on ONUCA submitted to the Security Council on 26 October 1990,³⁴⁵ the Secretary-General informed the Council that, after the cessation of involvement by ONUCA in the demobilization process on 26 June 1990, the Government of Nicaragua had assumed responsibility for the demobilization of any remaining members of the resistance, while the Commission continued to handle the civilian aspects of that process.

2. United Nations Iraq-Kuwait Boundary Demarcation Commission established pursuant to resolution 687 (1991)

Establishment and mandate

By resolution 687 (1991) of 3 April 1991, the Council, acting under Chapter VII of the Charter, established the terms and conditions for a formal ceasefire between Iraq and the Member States cooperating with Kuwait. Section A of the resolution addressed the question of the boundary between Iraq and Kuwait. The Council demanded that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in an agreement between them of 4 October 1963;³⁴⁶ called

³⁴³ S/20857.

³⁴⁴ S/21194.

³⁴⁵ S/21909.

³⁴⁶ Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the Restoration of Friendly Relations, Recognition and Related Matters (United Nations, *Treaty Series*, vol. 485, No. 7063).

upon the Secretary-General to assist in making arrangements with Iraq and Kuwait to demarcate that boundary, drawing on appropriate material,³⁴⁷ and to report back to the Security Council within one month; and decided to guarantee the inviolability of the above-mentioned international boundary.

In a report dated 2 May 1991,³⁴⁸ submitted pursuant to resolution 687 (1991), the Secretary-General set out the arrangements he had made with Iraq and Kuwait to demarcate the boundary between them. Having consulted with both Governments, he proposed to establish an Iraq-Kuwait Boundary Demarcation Commission, to be composed of one representative each of Iraq and Kuwait and three independent experts appointed by the Secretary-General, one of whom would serve as the Chairman. The Commission's mandate would be to demarcate in geographic coordinates the international boundary set out in the Agreed Minutes of 4 October 1963. The Commission would also make arrangements for the physical representation of the boundary, through the erection of boundary pillars or monuments. The coordinates established by the Commission would constitute the final demarcation of the international boundary between Iraq and Kuwait in accordance with the Agreed Minutes. They would be lodged in the archives of both Governments and a certified copy would be submitted to the Secretary-General, which he would communicate to the Security Council and retain for safekeeping in the archives of the United Nations.

Both Governments expressed their readiness to cooperate with the Secretary-General and to participate in the proposed Boundary Demarcation Commission.³⁴⁹

Through an exchange of letters between the Secretary-General and the President of the Security Council,³⁵⁰ dated 6 May and 13 May 1991, the members of the Council took note of the Secretary-General's report and expressed support for his efforts in that regard.

³⁴⁷ Such material was to include the maps transmitted by Security Council document S/22412.

³⁴⁸ S/22558.

³⁴⁹ *Ibid.*, annexes I-III.

³⁵⁰ S/22592 and S/22593.

Implementation

In a letter dated 17 May 1991 addressed to the President of the Security Council,³⁵¹ the Secretary-General reported that the Boundary Commission had been established and that its first meeting would take place on 23 May 1991.

In a report dated 7 March 1992 on the status of Iraq's compliance with the obligations placed upon it by resolution 687 (1991) and subsequent relevant resolutions,³⁵² the Secretary-General reported that Iraq had fully participated in the work of the Boundary Commission. He added that the first stage of surveying and mapping had been concluded in November 1991 without any hindrance on the part of Iraq.

In a statement made on 17 June 1992 by the President of the Council on their behalf,³⁵³ the members of the Council took note of a letter of 17 April 1992 from the Chairman of the Boundary Commission to the Secretary-General,³⁵⁴ and expressed their complete support for the work of the Commission. They recalled in that connection that, through the demarcation process, the Commission was not reallocating territory between Kuwait and Iraq, but was simply carrying out the technical task necessary to demarcate the precise coordinates of the boundary for the first time. They looked forward to the completion of the Commission's work.

In the same presidential statement, the members of the Council noted with particular concern a letter of 21 May 1992 from the Minister for Foreign Affairs of Iraq to the Secretary-General concerning the work of the Commission,³⁵⁵ which appeared to call into question Iraq's adherence to resolution 687 (1991). They expressed concern that the letter might be interpreted as rejecting the finality of the Commission's decisions, notwithstanding the terms of resolution 687 (1991) and the Secretary-General's report of 2 May 1991, both of which had been formally accepted by Iraq. They stressed to Iraq the inviolability of the international boundary being demarcated by the Commission and guaranteed by the Council pursuant to resolution 687 (1991), and the grave consequences that would ensue from any breach thereof.

³⁵¹ S/22620.

³⁵² S/23687, para. 26.

³⁵³ S/24113.

³⁵⁴ Not issued as a document of the Council.

³⁵⁵ S/24044, annex.

By resolution 773 (1992) of 26 August 1992, the Council welcomed the Commission's land boundary demarcation decisions.³⁵⁶ The Council also welcomed the Commission's decision to consider the eastern section of the boundary, which included the offshore boundary, and urged the Commission to demarcate that part of the boundary as soon as possible and thus complete its work. In addition, the Council welcomed the Secretary-General's intention to carry out the realignment of the demilitarized zone referred to in resolution 687 (1991) to correspond to the international boundary demarcated by the Commission, with the consequent removal of the Iraqi police posts.

In a statement made on 23 November 1992 by the President of the Security Council,³⁵⁷ the Council noted that Iraq had not participated in the work of the Commission at its July 1992 and October 1992 sessions. The Council noted, moreover, that Iraq had thus far refused to withdraw a number of its police posts, as required.³⁵⁸

3. United Nations Special Commission established pursuant to resolution 687 (1991)

Establishment

By resolution 687 (1991) of 3 April 1991, the Council, acting under Chapter VII of the Charter, established the terms and conditions for a formal ceasefire between Iraq and the Member States cooperating with Kuwait. Section C of the resolution called for the elimination, under international supervision, of Iraq's chemical and biological weapons and ballistic missiles with a range greater than 150 kilometres, together with related items and production facilities. It also called for measures to ensure that the acquisition and production of the prohibited items were

not resumed. The Secretary-General was asked to develop and submit to the Council for approval a plan for the establishment of a special commission which would implement the non-nuclear-related provisions of the resolution and assist IAEA in the nuclear areas. On 18 April 1991, after Iraq had formally accepted the provisions of resolution 687 (1991), the Secretary-General submitted to the Council a report containing a plan for setting up the United Nations Special Commission.³⁵⁹ By a letter dated 19 April 1991,³⁶⁰ the President of the Council informed the Secretary-General that Council members agreed with the proposals contained in his report.

Mandate

The mandate of the Special Commission, as set out in resolution 687 (1991), was (a) to carry out immediate on-site inspections of Iraq's biological, chemical and missile capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission itself; (b) to take possession from Iraq, for destruction, removal or rendering harmless, of all chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto, including items at the additional locations designated by the Special Commission itself; (c) to supervise the destruction by Iraq of all its ballistic missiles with a range greater than 150 kilometres and related major parts, and repair and production facilities; and (d) to assist the Director General of IAEA, who, under the same resolution, was requested to undertake activities similar to those of the Commission but specifically in the nuclear field. The Council also requested the Secretary-General to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with its obligations not to use, develop, construct or acquire any of the items specified above.

Structure/composition

In his report of 18 April 1991 concerning the structure of the Special Commission,³⁶¹ the Secretary-General stressed the need for an efficient and effective executive body. He proposed that the Commission

³⁵⁶ The Commission's decisions were set out in a further report of the Commission transmitted to the President of the Security Council by a letter from the Secretary-General dated 12 August 1992 (referred to in resolution 773 (1991), but not issued as documents of the Council).

³⁵⁷ S/24836.

³⁵⁸ By letter dated 21 May 1993 to the President of the Security Council, the Secretary-General transmitted the final report of the Commission (S/25811 and Add.1). By resolution 833 (1993) of 27 May 1993, the Council welcomed the successful conclusion of the work of the Commission and reaffirmed that the decisions of the Commission regarding the demarcation of the boundary were final.

³⁵⁹ S/22508.

³⁶⁰ S/22509.

³⁶¹ S/22508.

consist of an Executive Chairman, a Deputy Executive Chairman and five groups, each under a head of group and each consisting of a small number of experts. The major areas of responsibility would be biological and chemical weapons; ballistic missiles; nuclear-weapons capabilities; future compliance; and operations support. Thus the formal membership of the Commission would be about 20 to 25 persons. In carrying out its various tasks, the Special Commission would be assisted by a number of technical experts serving as inspectors, disposal teams and field support officers. These experts would be either specially engaged for this purpose or made available to the Commission by Member States. While their total number could be fully assessed only after the baseline field inspections had been completed by the Commission, the Secretary-General foresaw that the personnel involved would number in the several hundreds. In a further report dated 17 May 1991,³⁶² the Secretary-General stated that he had appointed 21 experts as members of the Commission, and that Mr. Rolf Ekéus (Sweden) was to serve as its Executive Chairman. He added that, following consultations with the Governments concerned, a field operations office was being set up in Bahrain and would become fully operational by the end of May 1991; a support office was being established in Baghdad. Regarding the general concept of operations, the Secretary-General stated that under the guidance of its Executive Chairman, the Commission would use a small staff at United Nations Headquarters in New York to prepare detailed plans for field operations in Iraq with regard to all items related to chemical and biological weapons and to ballistic missiles, and together with IAEA with regard to items related to nuclear weapons and nuclear-weapons-usable materials.

Implementation/expansion of mandate

In his report of 17 May 1991, the Secretary-General set out a plan for the implementation of the provisions of section C of resolution 687 (1991) relating to Iraq's weapons of mass destruction.³⁶³ The plan had been drawn up, as requested, in consultation with appropriate Governments and, where appropriate, with IAEA and the World Health Organization, and with the assistance of the Special Commission. The plan consisted of a three-stage implementation

procedure: (a) a gathering and assessment of information phase; (b) a disposal of weapons and facilities phase; and (c) long-term monitoring and verification of Iraq's compliance with its obligations not to reacquire banned capabilities. By resolution 699 (1991), of 17 June 1991, the Council, acting under Chapter VII of the Charter, approved the plan contained in the Secretary-General's report and requested him to submit progress reports on its implementation every six months after the adoption of the resolution. During the period under review, four such progress reports were submitted, commencing in October 1991. These are considered further below.

In the face of Iraq's failure to cooperate in the inspection of the locations identified by the Special Commission and to present for inspection items that might have been transported from those locations, and its failure to make full disclosure of all aspects of its proscribed weapons programmes, the Council adopted resolution 707 (1991) of 15 August 1991, by which, acting under Chapter VII of the Charter, it condemned Iraq's serious violations of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to cooperate with the Special Commission and IAEA, which it found constituted a material breach of the relevant provisions of that resolution. The Council demanded that Iraq (a) provide full, final and complete disclosure of proscribed weapons and programmes; (b) allow the Special Commission, IAEA and their inspection teams unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation they wished to inspect; (c) cease immediately any attempt to conceal, move or destroy any relevant material or equipment without notification to and prior consent of the Commission; (d) make available immediately to the Commission, IAEA and their inspection teams any items to which access had previously been denied; (e) allow the Commission, IAEA and their inspection teams to conduct flights throughout Iraq for all relevant purposes, without any interference, and to make full use of their own aircraft; (f) halt nuclear activities of any kind; (g) ensure the complete enjoyment by the Commission and IAEA representatives of the privileges, immunities and facilities accorded to them, and guarantee their complete safety and freedom of movement; (h) immediately provide or facilitate the provision of transportation, medical or logistical support requested by the Commission, IAEA and their inspection teams;

³⁶² S/22614.

³⁶³ S/22614. For the plan developed by IAEA relating to the nuclear area, see S/22615, annex.

and (i) respond fully, completely and promptly to any questions or requests from the Commission, IAEA and their inspection teams. By a letter dated 25 September 1991,³⁶⁴ the President of the Council informed the representative of Iraq that the Council had noted the terms of his letter of 24 September 1991 concerning the implementation of resolution 687 (1991) and other relevant resolutions,³⁶⁵ and considered that those terms constituted acceptance by Iraq without reservation of resolution 707 (1991) and that the Government of Iraq was thus giving its unconditional consent to the use by the Special Commission of its own aircraft.

On 2 October 1991, the Secretary-General submitted to the Council a further report,³⁶⁶ pursuant to resolution 687 (1991), containing a plan for the ongoing monitoring and verification of Iraq's compliance with its unconditional obligation not to use, develop, construct or acquire any of the weapons and weapons-related items proscribed in that resolution. The plan envisaged that monitoring and verification would cover not only military but also civilian sites, facilities, material and other items that could be used or activities that could be involved in contravention of Iraq's obligations under resolution 687 (1991). It also incorporated monitoring and verification activities corresponding to Iraq's additional obligations under resolution 707 (1991).³⁶⁷ The Secretary-General stated that, bearing in mind that resolutions 687 (1991) and 707 (1991) had been adopted by the Security Council under Chapter VII of the Charter, it was assumed that the task of monitoring and verification would be entrusted to an executive body under the authority of the Council. That was particularly important should any situation arise of Iraq's non-compliance with its obligations. Moreover, as set out in resolution 687 (1991), such a body would have to make direct use of the expertise, the information gathered and assessed and the experience gained by the Special Commission. In the light of those considerations, the Secretary-General proposed that a compliance unit be organized under the Special Commission to carry out the monitoring and verification tasks provided for under the plan.

³⁶⁴ S/23070.

³⁶⁵ S/23064.

³⁶⁶ S/22871/Rev.1.

³⁶⁷ For the plan submitted by IAEA, see S/22872/Rev.1 and Corr.1.

By resolution 715 (1991) of 11 October 1991, the Council, acting under Chapter VII of the Charter, approved the plans submitted by the Secretary-General and the Director General of IAEA and demanded that Iraq meet unconditionally all its obligations under those plans and cooperate fully with the Commission and IAEA in carrying them out. The Council decided that the Special Commission, in the exercise of its responsibilities as a subsidiary organ of the Security Council, should (a) continue to have the responsibility for designating additional locations for inspections and overflights; (b) continue to render assistance and cooperation to the Director General of IAEA, by providing him by mutual agreement with the necessary special expertise and logistical, informational and other operational support for the carrying out of the plans submitted by him; and (c) perform such other functions, in cooperation in the nuclear field with the Director General of IAEA, as might be necessary to coordinate activities under the plans, including making use of commonly available services and information to the fullest extent possible. The Council requested the Secretary-General and the Director General of IAEA to submit reports on the implementation of the plans to the Council, when so requested and in any event at least every six months after the adoption of the resolution.

By a note dated 25 October 1991,³⁶⁸ the Secretary-General transmitted to the Security Council a report by the Executive Chairman of the Special Commission, which provided the first comprehensive account of the work undertaken to implement section C of resolution 687 (1991) and subsequent related resolutions. The report touched upon the establishment, composition, organization, mandate and financing of the Special Commission, as well its operational activities in the chemical, biological and ballistic missile fields and its responsibilities in the nuclear field. It also gave the Executive Chairman's assessment of the results achieved, the difficulties encountered and what remained to be done to secure full implementation of the requirements of the Council's resolutions.

By a letter dated 4 December 1991,³⁶⁹ the Executive Chairman of the Special Committee submitted to the Secretary-General a second report

³⁶⁸ S/23165.

³⁶⁹ S/23268.

covering the work of the Commission for the period from 15 October to 4 December 1991. He reported that in respect of sites and activities declared by Iraq and the issue of Iraq's participation in the destruction of chemical weapons, cooperation at the field level had been forthcoming. However, in respect of sites designated by the Special Commission, where the Commission and IAEA were acting on their own sources of information regarding possible clandestine conduct of proscribed activities, non-cooperation and obstruction continued to be encountered. There was thus no progress to report which would indicate a change of policy on the part of Iraq to one of candour, transparency and cooperation at all levels. He stated further that, if the Commission and IAEA were to be in a position to carry out their functions in connection with ongoing monitoring and verification, it was of great importance that Iraq expressly recognize its obligations under resolution 715 (1991) and the two plans approved thereunder. Such express recognition was still awaited.

By a note dated 18 February 1992,³⁷⁰ the Secretary-General transmitted to the Council a report by the Executive Chairman of the Commission, which was based on information received from a special mission dispatched to Baghdad on 27 January 1992. In the report, the Executive Chairman observed that Iraq recognized only its own understanding of obligations imposed on it by certain provisions of resolution 687 (1991), which fell far short of what was necessary for the implementation of the plans for ongoing monitoring and investigation approved by resolution 715 (1991). That was a matter of great importance to the Special Commission as it now had to commence ongoing monitoring and verification activities. However, such activities could only be carried out effectively if Iraq acknowledged and abided by its obligations under resolutions 707 (1991) and 715 (1991). In the prevailing circumstances, the Commission felt that it had no alternative but to report the matter immediately to the Council for its instructions.

On 19 February 1992, the President of the Council issued a statement on behalf of the members of the Council,³⁷¹ in which the members stated that Iraq's failure to acknowledge its obligations under resolutions

707 (1991) and 715 (1991), its rejection up until then of the two plans for ongoing monitoring and verification, and its failure to provide full, final and complete disclosure of its weapons capabilities constituted a continuing material breach of the relevant provisions of resolution 687 (1991). The members of the Council supported the decision of the Secretary-General to dispatch a special mission headed by the Executive Chairman of the Commission to visit Iraq immediately to meet with the highest levels of the Government of Iraq for the purpose of securing the unconditional agreement by Iraq to implement all its relevant obligations under resolutions 687 (1991), 707 (1991) and 715 (1991). The mission was to stress the "serious consequences" if that agreement was not forthcoming. The Secretary-General was requested to report on the results of the special mission upon its return.

By a note dated 26 February 1992,³⁷² the Secretary-General transmitted to the Council a report by the Executive Chairman of the Commission on the special mission's visit to Baghdad from 21 to 24 February. The Executive Chairman concluded that, at that stage, he was not able to report to the Council that he had secured Iraq's unconditional agreement to implement all its relevant obligations under resolutions 687 (1991), 707 (1991) and 715 (1991). With regard to resolution 707 (1991), Iraq had given no undertaking to provide full, final and complete disclosure, as required, of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles, and of all holdings of such weapons. Instead, it had expressed the opinion that it had provided all the "necessary information" required of it. With respect to resolution 715 (1991), Iraq had accepted only the "principle" of ongoing monitoring and verification, and that was subject to considerations of "sovereignty, territorial integrity, national security and non-infringement on Iraq's industrial capabilities". On 28 February 1992, the President of the Council made a statement on behalf of the members of the Council,³⁷³ by which the members approved in full the conclusions of the special mission and in particular its finding that Iraq was not prepared to give its unconditional agreement to implement all of its obligations under resolutions 687 (1991), 707 (1991) and 715 (1991). They reaffirmed that it was for the Special Commission alone to

³⁷⁰ S/23606.

³⁷¹ S/23609.

³⁷² S/23643.

³⁷³ S/23663.

determine which items should be destroyed under resolution 687 (1991), and stated that Iraq's refusal to implement the determinations of the Special Commission constituted a further material breach of the relevant provisions of resolution 687 (1991).

On 10 April 1992, the President of the Council made a statement on behalf of the members of the Council,³⁷⁴ concerning developments that appeared to call for a halt in and constituted a threat to the safety and security of the Special Commission's aerial surveillance flights over Iraq. The members of the Council reaffirmed the Commission's right to conduct such flights, called upon Iraq to take all the necessary measures to ensure the safety and security of the flights and its personnel, and warned Iraq of serious consequences which would ensue from any failure to comply with these obligations.

By a note dated 16 June 1992,³⁷⁵ the Secretary-General transmitted to the Council the third report submitted by the Executive Chairman of the Special Commission, on the activities of the Commission for the period from 4 December 1991 to 10 June 1992. The report concluded that the conduct of Iraq confirmed the invariable experience of the Special Commission that only a resolute and determined attitude by the Commission, backed up by the Security Council, was likely to achieve the necessary cooperation from Iraq in the many areas covered by section C of resolution 687 (1991), and by resolutions 707 (1991) and 715 (1991), where such cooperation had yet to be forthcoming. The Special Commission's repeated calls for a change in the attitude of Iraq to one of candour, transparency and cooperation at all levels remained largely unanswered. On 6 July 1992, the President issued a statement on behalf of the members of the Council, concerning the refusal by Iraq to permit a team of Commission inspectors to enter certain premises designated by the Special Commission for inspection.³⁷⁶ The members of the Council stated that this refusal constituted a material and unacceptable breach of a provision of resolution 687 (1991) and demanded that Iraq immediately agree to the admission of the inspectors to the premises concerned so that the Commission might establish whether or not any documents, records, materials, or equipment relevant to its responsibilities were located therein.

In a report dated 19 October 1992,³⁷⁷ submitted to the Council pursuant to resolution 715 (1991), the Secretary-General concluded that the conditions for the initiation in full of the Commission's plan for ongoing monitoring and verification had not yet been met. There had been no movement in Iraq's underlying position on the plan and resolution 715 (1991) to suggest a change in the Commission's assessment that Iraq was seeking to ensure that implementation of the plan proceeded on the basis of its interpretation of its obligations, rather than on the basis of Security Council resolutions. Thus, for the time being, the Commission remained constrained from going beyond preparatory work into full-scale monitoring and verification.

By a note dated 17 December 1992,³⁷⁸ the Secretary-General transmitted to the Council the fourth report submitted by the Executive Chairman of the Special Commission, on the activities of the Commission for the period from 10 June to 14 December 1992. The Executive Chairman concluded that, despite progress in many areas, no major breakthrough had been achieved which would make it possible to change the conclusion of the previous report to the Council.

4. United Nations Coordinator for the return of property from Iraq to Kuwait pursuant to resolutions 686 (1991) and 687 (1991)

Establishment

By resolution 686 (1991) of 2 March 1991, the Council, acting under Chapter VII of the Charter, demanded that Iraq immediately begin to return all Kuwaiti property, the return to be completed in the shortest possible period.

By a letter dated 19 March 1991,³⁷⁹ the President of the Council informed the Secretary-General that the members of the Council were of the view that the modalities for the return of property from Iraq should be arranged through the Secretary-General's office, in consultation with the parties. He added that this procedure had the agreement of Iraq and Kuwait.

In response, the Secretary-General informed the Security Council, in a letter to the President dated

³⁷⁴ S/23803.

³⁷⁵ S/24108.

³⁷⁶ S/24240.

³⁷⁷ S/24661.

³⁷⁸ S/24984.

³⁷⁹ S/22361.

26 March 1991,³⁸⁰ that he had designated Assistant Secretary-General Richard Foran as the official responsible for coordinating the return of property from Iraq to Kuwait.

By paragraph 15 of resolution 687 (1991) of 3 April 1991, the Council requested the Secretary-General to report on the steps taken to facilitate the return of all Kuwaiti property seized by Iraq, including a list of any property that Kuwait claimed had not been returned or had not been returned intact.

Mandate

Under the procedures established by the Secretary-General pursuant to the Council's request, the role of the Coordinator was to receive, register and submit to Iraq claims presented by Kuwait and to facilitate the return of property declared by Iraq to be in its possession.³⁸¹ The Coordinator, who would be assisted by a small group of United Nations staff, including a representative in the field, would also act as registrar and certifier during the hand-over operations, but would not take custody of any property.

Implementation

In a report dated 7 March 1992 on Iraq's compliance with the obligations placed upon it by resolution 687 (1991) and subsequent relevant resolutions,³⁸² the Secretary-General noted, in connection with the return of Kuwaiti property by Iraq, that since the appointment of the Coordinator, a number of discussions and meetings had taken place with the responsible Iraqi and Kuwaiti officials. The return of property had commenced and, to date, properties of the Central Bank of Kuwait, the Central Library of Kuwait, the National Museum of Kuwait, the Kuwait News Agency, the Kuwait Airways Corporation and the Kuwait Air Force had been returned. A number of additional items were ready for return and the process was continuing. In addition, Kuwait had submitted lists of properties from other ministries, corporations and individuals that were being pursued. Both the Iraqi and the Kuwaiti officials

involved with the return of property had closely cooperated with the Coordinator.

In a statement made by the President of the Council on 11 March 1992,³⁸³ the Council made a number of observations on Iraq's compliance with its obligations under resolution 687 (1991) and other relevant resolutions. In connection with the return of Kuwaiti property, the members of the Council noted with satisfaction the cooperation extended to the Coordinator by Iraqi officials to facilitate the return.

However, in a statement made by the President of the Council on 23 November 1992,³⁸⁴ it was noted that much property, including military equipment and private property, remained to be returned.

5. United Nations Compensation Commission established pursuant to resolutions 687 (1991) and 692 (1991)

Establishment/mandate

By resolution 687 (1991), of 3 April 1991, the Council, acting under Chapter VII of the Charter, established the terms and conditions for a formal ceasefire between Iraq and Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990). Section E of the resolution addressed the issue of compensation. The Council reaffirmed that Iraq was liable under international law for "any direct loss, damage — including environmental damage and the depletion of natural resources — or injury to foreign Governments, nationals and corporations" as a result of its unlawful invasion and occupation of Kuwait. The Council decided to create a fund to pay compensation for such claims and to establish a commission that would administer the fund; and asked the Secretary-General to develop and present to the Security Council recommendations for the implementation of those decisions.

On 6 April 1991, three days after the adoption of resolution 687 (1991), the Minister for Foreign Affairs of Iraq, in identical letters to the Secretary-General and the President of the Security Council,³⁸⁵ accepted the terms of the resolution, thereby accepting legal responsibility for damage directly caused to

³⁸⁰ S/22387.

³⁸¹ See report of the Secretary-General on the return of Kuwaiti property seized by Iraq (S/1994/243, paras. 1-10).

³⁸² S/23687, para. 25.

³⁸³ S/23699, para. 27.

³⁸⁴ S/24836, para. 24.

³⁸⁵ S/22456, annex.

Governments, nationals and corporations by its invasion and occupation of Kuwait.

In a report dated 2 May 1991,³⁸⁶ the Secretary-General presented to the Council his recommendations regarding the institutional framework that would be required for the implementation of the compensation provisions in resolution 687 (1991). He recommended that the proposed Compensation Commission take the form of a claims resolution facility that would verify and value the claims and administer the payment of compensation. He emphasized the political rather than the legal nature of the task:

The Commission will not be a court or an arbitral tribunal before which the parties appear; it will be a political organ that performs an essentially fact-finding function of examining claims, verifying their validity, evaluating losses, assessing payments and resolving disputed claims. It is only in this last respect that a quasi-judicial function may be involved.³⁸⁷

He added that it was, accordingly, all the more important that “some element of due process” be built into the procedure. The Secretary-General recommended that the Commission function as a subsidiary organ of the Security Council, and that it comprise a 15-member Governing Council composed of the current members of the Security Council at any given time; panels of Commissioners; and a secretariat.

By resolution 692 (1991) of 20 May 1991, the Council, acting under Chapter VII of the Charter, decided to establish the United Nations Compensation Fund and the United Nations Compensation Commission, in accordance with section I of the Secretary-General’s report, and to locate the Governing Council of the Commission at the United Nations Office at Geneva. The Council requested the Secretary-General to take the necessary action to implement its decision, in consultation with the members of the Governing Council of the Commission; directed the Governing Council to proceed to implement the relevant provisions of resolution 687 (1991), taking into account the recommendations in the Secretary-General’s report; and requested the Governing Council to submit periodic reports to the Secretary-General and the Security Council.

³⁸⁶ S/22559.

³⁸⁷ *Ibid.*, para. 20.

Implementation

In a letter dated 30 May 1991 addressed to the President of the Security Council,³⁸⁸ the Secretary-General recommended that compensation to be paid by Iraq, through the Fund, should not exceed 30 per cent of the value of its exports of petroleum and petroleum products. By resolution 705 (1991), of 15 August, the Security Council decided to accept the Secretary-General’s recommendations. By resolution 706 (1991), adopted on the same day, the Council authorized the import by Member States of oil products originating from Iraq for a six-month period, up to a value of \$1.6 billion, in order to finance the United Nations operations mandated by resolution 687 (1991), including the Compensation Fund. As the resolution was not implemented, however, the measures contained therein did not take effect. By resolution 778 (1992), of 2 October 1992, the Council decided that the Compensation Fund would receive a percentage of the funds representing frozen Iraqi assets.

6. Ad Hoc Commission of the Security Council established pursuant to resolution 794 (1992) concerning Somalia

In a letter dated 29 November 1992 addressed to the President of the Security Council,³⁸⁹ the Secretary-General set out options for the Council’s consideration aimed at creating conditions for the uninterrupted delivery of relief supplies to the starving people of Somalia. He advised that, if the members of the Council were to favour the option of a countrywide enforcement operation undertaken by a group of Member States authorized to do so by the Security Council, the Council should seek to agree with those Member States on ways of recognizing the fact that the operation had been authorized by the Security Council and that the Security Council therefore had a legitimate interest in the manner in which it was carried out. In that context, he suggested that one possibility would be for the Council to appoint an ad hoc commission of some of its members, which would visit the operation in the field from time to time.

By resolution 794 (1992) of 3 December 1992, the Council, acting under Chapter VII of the Charter, authorized an enforcement operation along the lines of the above, and decided to appoint an ad hoc

³⁸⁸ S/22661.

³⁸⁹ S/24868.

commission composed of members of the Security Council to report to the Council on the implementation of the resolution.

No activity on the part of the Ad Hoc Commission was recorded during the period under review.

Part II

Subsidiary organs of the Security Council whose mandate was completed or terminated during the period 1989-1992

<i>Peacekeeping operation</i>	<i>Established by resolution</i>	<i>Termination^a</i>
United Nations Transition Assistance Group (UNTAG)	435 (1978), 629 (1989) and 632 (1989)	March 1990
United Nations Iran-Iraq Military Observer Group (UNIIMOG)	619 (1988)	February 1991
United Nations Good Offices Mission in Afghanistan and Pakistan (UNGOMAP)	622 (1988)	March 1990
United Nations Angola Verification Mission I (UNAVEM I)	626 (1988)	May 1991
United Nations Observer Group in Central America (ONUCA)	644 (1989)	January 1992
United Nations Advance Mission in Cambodia (UNAMIC)	717 (1991)	March 1992 (absorbed into United Nations Transitional Authority in Cambodia (UNTAC))

^a For details of termination, see the relevant sections of part I.

Part III

Subsidiary organs of the Security Council proposed but not established

Note

During the period under review, there were four instances in which a subsidiary organ was formally proposed but not created. The suggestions were submitted in the form of draft resolutions. Three of the proposals were in relation to the situation in the occupied Arab territories; the fourth was in relation to the situation between Iraq and Kuwait. These are described below.¹

¹ Those few instances in which members of the Council during Council proceedings, or Member States in

Case 1

Proposal submitted at the 2887th meeting of the Council, on 6 November 1989, with respect to the situation in the occupied Arab territories

At the 2887th meeting of the Security Council, on 6 November 1989, during consideration of the situation in the occupied Arab territories, the President of the Council drew the attention of the members to a revised

communications to the President of the Council, proposed the creation of subsidiary organs without submitting their suggestions in the form of draft resolutions are not considered.

draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia,² by which the Council would have requested the Secretary-General to conduct on-site monitoring of the current situation in the Palestinian territory occupied since 1967, including Jerusalem, by all means available to him, and to submit periodic reports thereon, the first such report as soon as possible.

The revised draft resolution was put to the vote at the 2889th meeting on 7 November 1989, and received 14 votes in favour and 1 against; it was not adopted owing to the negative vote of a permanent member of the Council.

Case 2

Proposals submitted at the 2926th meeting of the Council, on 31 May 1990, and in a communication of 9 October 1990, with respect to the situation in the occupied Arab territories

At the 2926th meeting of the Security Council, on 31 May 1990, during consideration of the situation in the occupied Arab territories, the President of the Council drew the attention of the members to a draft resolution submitted by Colombia, Côte d'Ivoire, Cuba, Ethiopia, Malaysia, Yemen and Zaire,³ by which the Council would have established a Commission consisting of three members of the Council, to be dispatched immediately to examine the situation relating to the policies and practices of Israel, the occupying Power, in the Palestinian territory, including Jerusalem, occupied by Israel since 1967; requested the Commission to submit its report to the Council by 20 June 1990, containing recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation; requested the Secretary-General to provide the Commission with the necessary facilities to enable it to carry out its mission; and decided to keep the situation in the occupied territories under constant and close scrutiny and to reconvene to review the situation in the light of the findings of the Commission. The draft resolution was put to the vote at the same meeting and received 14 votes in favour and 1 against; it was not adopted owing to the negative vote of a permanent member of the Council.

² S/20945/Rev.1.

³ S/21326.

On 9 October 1990, the same Member States circulated a draft resolution⁴ by which the Security Council would have decided to establish a Commission consisting of three members of the Council, to be dispatched immediately to examine the current situation in Jerusalem. The remaining provisions of the operative part of the text were identical to those of the above-mentioned draft resolution of 31 May, with the exception of the expected submission date of the Commission's report and minor editorial changes. The draft resolution was not put to the vote.

Case 3

Proposal submitted on 15 November 1990 with respect to the situation in the occupied Arab territories

On 15 November 1990, Colombia, Cuba, Malaysia and Yemen circulated a draft resolution,⁵ by which, as subsequently revised, the Security Council would have requested the Secretary-General to monitor and observe the situation in the occupied Palestinian territories on an urgent basis, using the United Nations personnel stationed there and appointing the necessary staff to accomplish this task, and to keep the Security Council continuously apprised; and requested further the Secretary-General to report on the fulfilment of the above provisions, within one month, and decided to reconvene as necessary to consider the situation. The draft resolution was not put to the vote.

Case 4

Proposals submitted at the 2977th meeting of the Council, on 15 February 1991, with respect to the situation between Iraq and Kuwait

At the 2977th (Part II) (closed) meeting on 15 February 1991, during consideration of the situation between Iraq and Kuwait, Cuba introduced two draft resolutions proposing the establishment of subsidiary organs.

By the first draft resolution,⁶ the Council, "mindful of the provisions of Article 29 of the Charter of the United Nations" and "acting in accordance with Rule 28 of the provisional rules of procedure of the Security Council", would have decided "to establish an

⁴ S/21851.

⁵ S/21933/Rev.3.

⁶ S/22231.

Ad Hoc Committee, composed of all members of the Security Council, to examine the situation currently prevailing in the Gulf region and consider possible formulas for halting armed actions and achieving a peaceful settlement of the conflict” on the basis of the resolutions of the Security Council cited in the first preambular paragraph; decided also that the Ad Hoc Committee should begin its work immediately after the adoption of the resolution; and decided further that the Ad Hoc Committee should report back to the Security Council on its findings and on any specific proposals which might have been made not later than 28 February 1991.

By the second draft resolution, as subsequently revised,⁷ the Council would have noted the suspension

of offensive combat operations in the Gulf region; requested the Secretary-General “to dispatch immediately a United Nations military observer mission to supervise the suspension of combat operations in the Gulf region and contribute to the speedy and effective conclusion of a definitive ceasefire”; and also requested the Secretary-General to submit to the Council “a plan for the urgent establishment of a peacekeeping force, in consultation with the countries in which the peacekeeping force will be stationed, for the purpose of re-establishing international peace and security in the Gulf region”.

The two draft resolutions were not put to the vote.

⁷ S/22232/Rev.3. The original draft resolution (S/22232) and the first revised text (S/22232/Rev.1) contained no relevant provisions. By the second revised text (S/22232/Rev.2), the Council would have decided to declare a ceasefire immediately; requested the Secretary-General to dispatch immediately a United Nations military observer mission to supervise the ceasefire; and requested also the Secretary-General to submit to the Council a plan for the urgent establishment of a United Nations peacekeeping force for the purpose of re-establishing international peace and security in the Gulf region.

Chapter VI

Relations with other United Nations organs

Contents

	<i>Page</i>
Introductory note	178
Part I. Relations with the General Assembly	178
Note	178
A. Election by the General Assembly of non-permanent members of the Security Council	178
Note	178
B. Recommendations by the General Assembly to the Security Council in the form of resolutions under Articles 10 and 11 of the Charter	179
Note	179
1. Recommendations on matters relating to the Council's powers and functions or with regard to the general principles of cooperation in the maintenance of international peace and security	180
2. Recommendations with regard to questions relating to the maintenance of international peace and security or requesting action on such questions by the Council	182
3. Situations drawn to the attention of the Security Council	188
C. Practice in relation to Article 12 of the Charter	188
Note	188
D. Practice in relation to provisions of the Charter involving recommendations by the Security Council to the General Assembly	189
Note	189
1. Appointment of the Secretary-General	189
2. Membership in the United Nations	190
E. Reports of the Security Council to the General Assembly	190
Note	190
F. Other Council practice bearing on relations with the General Assembly	191
Note	191
G. Relations with subsidiary organs established by the General Assembly	194
Note	194
Communications from subsidiary organs established by the General Assembly	195
Part II. Relations with the Economic and Social Council	206
Practice in relation to Article 65 of the Charter	206
Note	206

Part III. Relations with the Trusteeship Council	209
Note	209
A. Practice relating to the partial termination of a trusteeship agreement under Article 83, paragraph 1, of the Charter	209
B. Transmission of reports to the Security Council by the Trusteeship Council	211
Part IV. Relations with the International Court of Justice	211
Note	211
A. Practice in relation to the election of members of the International Court of Justice	211
B. Consideration of the relationship between the Security Council and the Court	213
Part V. Relations with the Secretariat	216
Note	216
A. Functions entrusted to the Secretary-General by the Security Council	216
B. Matters brought to the attention of the Security Council by the Secretary-General .	219
Part VI. Relations with the Military Staff Committee	221
Note	221

Introductory note

This chapter deals, in parts I to V, with relations of the Security Council with the other principal organs of the United Nations. It also includes, in part VI, material relating to the Military Staff Committee, which has been placed, by Articles 45, 46 and 47 of the Charter, in a special relationship with the Security Council.

Part I Relations with the General Assembly

Note

Part I concerns various aspects of the relationship between the Security Council and the General Assembly. It begins with a new section A, on the election by the Assembly of non-permanent members of the Council. Section B considers the General Assembly's practice in making recommendations to the Council under Articles 10 and 11 of the Charter, and calling its attention under Article 11 (3) to situations which are likely to endanger international peace and security. Section C concerns the limitation imposed by Article 12 (1) on the authority of the General Assembly to make recommendations with respect to any dispute or situation while the Council is exercising the functions assigned to it by the Charter in respect of that dispute or situation. It also describes the procedure under Article 12 (2) by which the Secretary-General notifies the Assembly of matters relating to the maintenance of international peace and security which are being dealt with by the Council, and when the Council ceases to deal with such matters.

Section D considers those instances in which a decision by the Council must be taken before that of the General Assembly, for example, the appointment of the Secretary-General and the admission, suspension, or expulsion of Members. One case concerning the appointment of the Secretary-General is treated in this section (case 1).

Section E describes the annual and special reports submitted by the Council to the General Assembly.

Section F considers other Council practice bearing on relations with the General Assembly: constitutional discussion within the Council (case 2) and Council decision-making (cases 3, 4 and 5).

Lastly, section G concerns relations between the Security Council and those subsidiary organs

established by the General Assembly which have reported to or otherwise played a part in the work of the Council. There was no constitutional discussion bearing on these relations during the period under review. As in previous *Supplements*, entries under this heading are presented in tabular format.

A. Election by the General Assembly of non-permanent members of the Security Council

Note

During the period under review, in accordance with Article 23 of the Charter, the General Assembly, at each regular session, elected five non-permanent members to the Security Council for a two-year term to replace those members whose terms of office were to expire on 31 December of the respective year. In each instance, the Assembly elected the five non-permanent members in the course of one plenary meeting. A table of those elections is set out below.

<i>General Assembly decision</i>	<i>Plenary meeting and date of election</i>	<i>Members elected to two-year terms beginning January of the following year</i>
43/309	37th 26 October 1988	Canada Colombia Ethiopia Finland Malaysia
44/306	34th 18 October 1989	Côte d'Ivoire Cuba People's Democratic Republic of Yemen Romania Zaire

<i>General Assembly decision</i>	<i>Plenary meeting and date of election</i>	<i>Members elected to two-year terms beginning January of the following year</i>
45/306	36th 1 November 1990	Austria Belgium Ecuador India Zimbabwe
46/305	32nd 16 October 1991	Cape Verde Hungary Japan Morocco Venezuela

B. Recommendations by the General Assembly to the Security Council in the form of resolutions under Articles 10 and 11 of the Charter

Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11

1. *The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.*

2. *The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with*

regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

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

4. *The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.*

Note

During the period under consideration, the General Assembly made a number of recommendations — in the form of resolutions — to the Security Council regarding the maintenance of international peace and security. Several of those recommendations were of a general nature, touching upon the “powers and functions” of the Council under the Charter and/or upon “the general principles of cooperation in the maintenance of international peace and security”. As such, they may be seen to be illustrative of the General Assembly’s recommendation-making powers under Articles 10 and 11 (1), respectively, of the Charter. A table of those recommendations is set out in section 1 below.¹

In other resolutions, the General Assembly made recommendations to the Security Council either with regard to specific questions relating to the maintenance of international peace and security or requesting action from the Council with regard to such questions, in accordance with Article 11 (2). Those recommendations all concerned items already on the Council’s agenda. Examples of the General Assembly requesting action from the Council include its resolutions urging the Council to take action under Chapter VII of the Charter in relation to the policies of apartheid of the Government of South Africa and the

¹ Another resolution worthy of note in this context, but which did not contain a recommendation directed specifically to the Security Council, is General Assembly resolution 47/62 of 11 December 1992, on the question of equitable representation on and increase in the membership of the Security Council.

situation in Bosnia and Herzegovina. A table of the recommendations relating to Article 11 (2) is set out in section 2.

The General Assembly also drew the attention of the Security Council to certain situations in accordance with Article 11 (3). These are dealt with in section 3.

1. Recommendations on matters relating to the Council's powers and functions or with regard to the general principles of cooperation in the maintenance of international peace and security

<i>General Assembly resolution</i>	<i>Title of agenda item</i>	<i>Recommendation</i>
44/17 1 November 1989	Cooperation between the United Nations and the Organization of African Unity	Calls upon the United Nations organs — in particular the Security Council ... — to continue to associate closely the Organization of African Unity with all their activities concerning Africa.
44/126 15 December 1989	Review of the implementation of the Declaration on the Strengthening of International Security	Stresses that there is a need further to enhance the effectiveness of the Security Council in discharging its principal responsibility of maintaining international peace and security and to enhance the preventive role, authority and enforcement capacity of the Council in accordance with the Charter.
45/13 7 November 1990	Cooperation between the United Nations and the Organization of African Unity	Calls upon the United Nations organs — in particular the Security Council ... — to continue to associate closely the Organization of African Unity with all their activities concerning Africa.
46/59, annex 9 December 1991	Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security	<p>The Security Council should consider the possibility of undertaking fact-finding to discharge effectively its primary responsibility for the maintenance of international peace and security in accordance with the Charter.</p> <p>The Security Council should, wherever appropriate, consider the possibility of providing in its resolutions for recourse to fact-finding.</p> <p>The Security Council and the General Assembly should, in deciding to whom to entrust the conduct of a fact-finding mission, give preference to the Secretary-General, who may, inter alia, designate a special representative or a group of experts reporting to him. Resort to an ad hoc subsidiary body of the Security Council or the General Assembly may also be considered.</p>

<i>General Assembly resolution</i>	<i>Title of agenda item</i>	<i>Recommendation</i>
		<p>In considering the possibility of undertaking a fact-finding mission, the competent United Nations organ should bear in mind other relevant fact-finding efforts, including those undertaken by the States concerned and in the framework of regional arrangements or agencies.</p> <p>The decision by the competent United Nations organ to undertake fact-finding should always contain a clear mandate for the fact-finding mission and precise requirements to be met by its report. The report should be limited to a presentation of findings of a factual nature.</p>
47/71 14 December 1992	Comprehensive review of the whole question of peacekeeping operations in all their aspects	Believes ... that the closest attention needs to be paid to the issue of applying the preventive potential of the United Nations more broadly and considers that the responsibilities of the Security Council, the General Assembly and the Secretary-General in this regard should be strengthened in accordance with the framework and provisions of the Charter.
47/72 14 December 1992	Protection of peacekeeping personnel	<p>Recommends that, in appropriate cases, the Security Council might make it clear to the parties when authorizing a new peacekeeping operation that it is prepared to take further steps in accordance with the Charter of the United Nations should the purpose of the operation systematically be frustrated by provocative attacks against United Nations personnel.</p> <p>Also recommends that the Security Council continue, in collaboration with the Secretary-General, to collect and, where appropriate, to disseminate reliable information about attacks on the safety of peacekeeping and other United Nations personnel.</p>
47/120 A ² 18 December 1992	An Agenda for Peace: preventive diplomacy and related matters	Encourages the Security Council to utilize fully the provisions of Chapter VI of the Charter on procedures and methods for peaceful settlement of disputes and to call upon the parties concerned to settle their disputes peacefully.

² See also resolution 47/120 B of 20 September 1993.

Repertoire of the Practice of the Security Council

<i>General Assembly resolution</i>	<i>Title of agenda item</i>	<i>Recommendation</i>
47/148 18 December 1992	Cooperation between the United Nations and the Organization of African Unity	Encourages the Secretary-General and the Security Council to engage at an early stage in close and continuous consultation in order to develop, on a case-by-case basis, an appropriate strategy for the peaceful settlement of specific disputes, including the participation of other organs, organizations and agencies of the United Nations system, as well as regional arrangements and organizations as appropriate, and invites the Secretary-General to report to the General Assembly on such consultations. Calls upon the United Nations organs — in particular the Security Council ... — to continue to involve the Organization of African Unity closely in all their activities concerning Africa.

2. Recommendations with regard to questions relating to the maintenance of international peace and security or requesting action on such questions by the Council

<i>General Assembly resolution</i>	<i>Agenda item</i>	<i>Recommendation</i>
44/27 C, G, H, I and K 22 November 1989	Policies of apartheid of the Government of South Africa	Urges the Security Council to consider immediate action under Chapter VII of the Charter of the United Nations with a view to applying comprehensive and mandatory sanctions against the racist regime of South Africa as long as it continues to disregard the demands of the majority of the people of South Africa and of the international community to eradicate apartheid. Requests all United Nations bodies, organs and agencies to cooperate with the Special Committee [against Apartheid] and the [United Nations] Centre against Apartheid in their activities in order to ensure consistency and improve coordination and the greatest use of available resources in the implementation of the relevant resolutions of the General Assembly and the Security Council. Urges the Security Council to take action without further delay to impose a mandatory embargo on the supply and shipping of oil and petroleum products to South Africa as well as on the supply of equipment and technology to, financing of and investment in its oil industry and coal liquefaction projects.

<i>General Assembly resolution</i>	<i>Agenda item</i>	<i>Recommendation</i>
		<p>Urges the Security Council to consider immediate steps to ensure the scrupulous and full implementation of the arms embargo imposed by the Council in resolutions 418 (1977) of 4 November 1977 and 558 (1984) of 13 December 1984 and its effective monitoring.</p> <p>Urges the Security Council to consider without delay the adoption of effective mandatory sanctions against South Africa.</p> <p>Also urges the Security Council to take steps for the strict implementation of the mandatory arms embargo instituted by it in resolution 418 (1977) and of the arms embargo requested in its resolution 558 (1984) and, within the context of the relevant resolutions, to secure an end to military and nuclear cooperation with South Africa and the import of military equipment or supplies from South Africa.</p>
44/41 6 December 1989	Question of Palestine	Endorses the recommendations of the Committee [on the Exercise of the Inalienable Rights of the Palestinian People] in paragraphs 110 to 118 of its report and draws the attention of the Security Council to the fact that action on the Committee's recommendations, as repeatedly endorsed by the General Assembly at its thirty-first session and subsequently, is still awaited.
44/42 6 December 1989	Question of Palestine	Once again invites the Security Council to consider measures needed to convene the International Peace Conference on the Middle East, including the establishment of a preparatory committee, and to consider guarantees for security measures agreed upon by the Conference for all States in the region.
44/48 8 December 1989	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories	Requests the Security Council to ensure Israel's respect for and compliance with all the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and to initiate measures to halt Israeli policies and practices in those territories.

Repertoire of the Practice of the Security Council

<i>General Assembly resolution</i>	<i>Agenda item</i>	<i>Recommendation</i>
44/121 15 December 1989	Israeli nuclear armament	Requests once more the Security Council to take urgent and effective measures to ensure that Israel complies with Council resolution 487 (1981).
45/68 6 December 1990	International Peace Conference on the Middle East	Once again invites the Security Council to consider measures needed to convene the International Peace Conference on the Middle East, including the establishment of a preparatory committee, and to consider guarantees for security measures agreed upon by the Conference for all States in the region.
45/74 A 11 December 1990	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	Requests the Security Council to ensure Israel's respect for and compliance with all the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and to initiate measures to halt Israeli policies and practices in those territories.
45/176 C, D, E and F 19 December 1990	Policies of apartheid of the Government of South Africa	<p>Urges the Security Council to consider immediate steps to ensure the scrupulous and full implementation and the effective monitoring of the arms embargo imposed by Council resolutions 418 (1977) and 558 (1984) of 13 December 1984, to consider strengthening the monitoring and the reporting of violations of the arms embargo and to provide information on a regular basis to the Secretary-General for general distribution to Member States.</p> <p>Also urges the Security Council to implement the recommendations of the report of the Committee established under Council resolution 421 (1977) concerning appropriate measures against those States violating the mandatory arms embargo against South Africa.</p> <p>Urges the Security Council to take appropriate measures against Israel for its violation of the mandatory arms embargo against South Africa.</p>

<i>General Assembly resolution</i>	<i>Agenda item</i>	<i>Recommendation</i>
		Requests all United Nations bodies, organs and agencies to cooperate with the Special Committee [against Apartheid] and the [United Nations] Centre [against Apartheid] in their activities in order to ensure consistency, improve coordination and efficient use of available resources and avoid duplication of efforts in the implementation of the relevant resolutions of the General Assembly and the Security Council.
		Urges the Security Council to take action under appropriate provisions of the Charter of the United Nations to ensure an effective embargo on the supply and shipping of oil and petroleum products to South Africa in order to effect a speedy and peaceful eradication of apartheid.
46/47 A 9 December 1991	Report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories	Requests the Security Council to ensure Israel's respect for and compliance with all the provisions of the [Geneva] Convention [relative to the Protection of Civilian Persons in Time of War] in the occupied Palestinian territory, including Jerusalem, and other Arab territories occupied by Israel since 1967, and to initiate measures to halt Israeli policies and practices in those territories.
46/74 A 11 December 1991	Question of Palestine	Endorses the recommendations of the Committee on the Exercise of the Inalienable Rights of the Palestinian People contained in paragraphs 87 to 95 of its report and draws the attention of the Security Council to the fact that action on the recommendations of the Committee, as repeatedly endorsed by the General Assembly at its thirty-first session and subsequently, is still awaited.
46/79 A, C, D 13 December 1991	Policies of apartheid of the Government of South Africa	Calls upon all Governments to observe fully the mandatory arms embargo, requests the Security Council to continue to monitor effectively its strict implementation and urges States to adhere to the provisions of other Security Council resolutions on the import of arms from South Africa and the export of equipment and technology destined for military or police purposes in that country.

Repertoire of the Practice of the Security Council

<i>General Assembly resolution</i>	<i>Agenda item</i>	<i>Recommendation</i>
		<p>Urges the Security Council to consider immediate steps to ensure the full implementation and the effective monitoring of the arms embargo imposed by the Council in its resolutions 418 (1977) and 558 (1984) of 13 December 1984, to implement the recommendations of the Committee established under Council resolution 421 (1977) concerning appropriate measures in response to violations of the mandatory arms embargo and to provide information on a regular basis to the Secretary-General for general distribution to Member States.</p> <p>Urges the Security Council to consider taking appropriate measures against Israel for its violation of the mandatory arms embargo against South Africa.</p>
46/242 25 August 1992	The situation in Bosnia and Herzegovina ³	<p>Urges the Security Council to consider on an urgent basis, taking further appropriate measures, as provided in Chapter VII of the Charter, to put an end to the fighting and to restore the unity and the territorial integrity of the Republic of Bosnia and Herzegovina.</p>
47/64 A 11 December 1992	Question of Palestine	<p>Endorses the recommendations of the Committee [on the Exercise of the Inalienable Rights of the Palestinian People] contained in paragraphs 85 to 94 of its report and draws the attention of the Security Council to the fact that action on the recommendations of the Committee, as repeatedly endorsed by the General Assembly at its thirty-first session and subsequently, is still awaited.</p>
47/116 E, F 18 December 1992	Policies of apartheid of the Government of South Africa	<p>Urges the Security Council to consider immediate steps to ensure the full implementation and the effective monitoring of the arms embargo imposed by the Council in its resolutions 418 (1977) and 558 (1984) of 13 December 1984, to implement the recommendations of the Committee established under Council resolution 421 (1977) concerning appropriate measures in response to violations of the mandatory arms embargo and to provide information on a regular basis to the Secretary-General for general distribution to Member States.</p>

³ See also letter dated 2 September 1992 from the President of the General Assembly to the President of the Security Council (S/24517), expressing the hope that the members of the Security Council would find it appropriate to take urgent action on General Assembly resolution 46/242.

<i>General Assembly resolution</i>	<i>Agenda item</i>	<i>Recommendation</i>
47/121 18 December 1992	The situation in Bosnia and Herzegovina	<p>Urges the Security Council to consider taking appropriate measures against Israel for its violation of the mandatory arms embargo against South Africa.</p> <p>Urges the Security Council, within its responsibility to maintain international peace and security, to again call upon the Serbian and Montenegrin forces to comply with all relevant resolutions and to bring to an end the aggressive acts against the Republic of Bosnia and Herzegovina, to implement and enforce all existing resolutions with respect to the Republic of Bosnia and Herzegovina and the former Yugoslavia and, specifically, further to consider measures, including the following, on an urgent basis, but no later than 15 January 1993:</p> <p>(a) In the event that Serbian and Montenegrin forces fail to comply fully with all relevant resolutions of the Security Council, under the provisions of Chapter VII of the Charter of the United Nations, to authorize Member States, in cooperation with the Government of the Republic of Bosnia and Herzegovina, to use all necessary means to uphold and restore the sovereignty, political independence, territorial integrity and unity of the Republic of Bosnia and Herzegovina;</p> <p>(b) To exempt the Republic of Bosnia and Herzegovina from the arms embargo as imposed on the former Yugoslavia under Security Council resolution 713 (1991) of 25 September 1991.</p> <p>Also urges the Security Council to consider taking measures to open more airports/airfields for international humanitarian relief flights, to pursue emergency airdrops as a stop-gap measure and to study the possibility of and the requirements for the promotion of safe areas for humanitarian purposes.</p> <p>Further urges the Security Council to consider what resources may be required to improve the implementation of all relevant resolutions, and calls upon Member States to notify the Secretary-General regarding the availability of personnel and materiel to assist and facilitate in this effort.</p>

Urges the Security Council to consider recommending the establishment of an ad hoc international war crimes tribunal to try and punish those who have committed war crimes in the Republic of Bosnia and Herzegovina when sufficient information has been provided by the Commission of Experts established by Council resolution 780 (1992) of 6 October 1992.

3. Situations drawn to the attention of the Security Council

The General Assembly did not refer any matters to the Security Council explicitly invoking Article 11 (3) during this period. However, in a number of resolutions, adopted from April 1989 to December 1992, the Assembly requested the Security Council to consider or examine “the situation in the occupied Palestinian territory”.⁴ It specifically requested the Council to consider “measures needed to provide international protection to the Palestinian civilians in the Palestinian territory occupied by Israel since 1967, including Jerusalem”. Those resolutions were adopted in connection with several related agenda items: the question of Palestine; the uprising (*intifada*) of the Palestinian people; the United Nations Relief and Works Agency for Palestine Refugees in the Near East; and the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories.

C. Practice in relation to Article 12 of the Charter

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter,

the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

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

Note

During the period under review, there was no discussion in the Security Council of the nature of the limitation placed by Article 12 (1) upon the authority of the General Assembly to make recommendations. Neither did the Council request that the General Assembly make a recommendation in respect of a dispute or situation in accordance with the exception provided for in Article 12 (1).

In accordance with Article 12 (2), the Secretary-General continued to notify the General Assembly of “matters relative to the maintenance of international peace and security which are being dealt with by the Security Council” and of matters with which the Council had ceased to deal.⁵ These notifications were

⁴ General Assembly resolutions 43/233 (20 April 1989); 44/2 (6 October 1989); 44/47 I (8 December 1989); 44/48 (8 December 1989); 45/69 (6 December 1990); 45/73 I (11 December 1990); 45/74 A (11 December 1990); 46/46 I (9 December 1991); 46/47 A (9 December 1991); 46/76 (11 December 1991); 47/64 E (11 December 1992); 47/69 I (14 December 1992); 47/70 A (14 December 1992).

⁵ See notes by the Secretary-General entitled “Notification by the Secretary-General under Article 12, paragraph 2, of the Charter of the United Nations” (A/44/528 (15 September 1989) and Add.1 (2 October 1989); A/45/501 (14 September 1990); A/46/479 (17 September 1991); A/47/436 (15 September 1992) and Corr.1 (9 February 1993)).

based upon the summary statement of matters of which the Security Council is seized and of the stage reached in their consideration, circulated each week to the members of the Security Council, in accordance with rule 11 of the provisional rules of procedure of the Council.⁶ The items in the notifications were the same as those in the summary statements for the relevant period, apart from the omission of those items not considered to relate to the maintenance of international peace and security.

The matters being dealt with by the Security Council have been listed in the notifications since 1951 in two categories: (a) matters discussed during the period since the last notification; and (b) other matters of which the Council remained seized, but which it had not discussed since the last notification. The notifications also indicated those instances in which the Council had concluded its consideration of a particular item.⁷ When the Council subsequently ceased to deal with a matter listed in a notification, the Secretary-General so informed the General Assembly by circulating an addendum to the relevant notification.⁸

The consent of the Council, required by Article 12 (2), was obtained through the circulation by the Secretary-General to the members of the Council of copies of the draft notifications. The General Assembly formally took note of the various notifications.

D. Practice in relation to provisions of the Charter involving recommendations by the Security Council to the General Assembly

Note

On a number of matters, the Charter of the United Nations provides for joint decision-making by the Security Council and the General Assembly, but requires the decision by the Council to be taken first. This is the case, for instance, with respect to the

appointment of the Secretary-General (Article 97), the admission, suspension, or expulsion of Members (Articles 4, 5 and 6), and the conditions under which a State which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice (Article 93 (2)).⁹

This section considers briefly the Council's practice during the period under review in relation to the first two such matters. No question arose concerning the conditions of accession to the Statute of the Court.

1. Appointment of the Secretary-General

Article 97

... The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. ...

Rule 48

... Any recommendation to the General Assembly regarding the appointment of the Secretary-General shall be discussed and decided at a private meeting.

Note

In accordance with rule 48 of the provisional rules of procedure, the meetings of the Security Council to consider the question of a recommendation to the General Assembly regarding the appointment of the Secretary-General have been held in private. The Council has voted by secret ballot. A communiqué circulated at the end of each meeting, in accordance with rule 55, has indicated the stage reached in the consideration of the recommendation. During the period under review, the Council considered and unanimously adopted a recommendation of this kind (case 1).

⁶ Rule 11 reads as follows: "The Secretary-General shall communicate each week to the representatives on the Security Council a summary statement of matters of which the Security Council is seized and of the stage reached in their consideration."

⁷ See, for example, A/47/436/Corr.1.

⁸ See, for example, A/44/528/Add.1.

⁹ The Security Council also makes recommendations to the General Assembly regarding the conditions under which a State which is a party to the Statute of the International Court of Justice but is not a Member of the United Nations may participate in electing members of the Court, and in making amendments to the Statute (Articles 4 (3) and 69 of the Statute of the International Court of Justice).

Case 1

At its 3017th meeting, held in private on 21 November 1991, the Security Council considered the question of the recommendation regarding the appointment of the Secretary-General of the United Nations. Following a vote by secret ballot, the Council unanimously adopted resolution 720 (1991), recommending to the General Assembly that Mr. Boutros Boutros-Ghali be appointed Secretary-General of the United Nations for a term of office from 1 January 1992 to 31 December 1996.¹⁰ By letter dated 21 November 1991, the President of the Council transmitted the recommendation to the President of the General Assembly.¹¹ Acting in accordance with this recommendation, the General Assembly formally appointed Mr. Boutros-Ghali as Secretary-General of the United Nations on 3 December 1991.¹²

2. Membership in the United Nations

Note

The admission of a State to membership in the United Nations, and the suspension or expulsion of a Member State from the Organization, is effected by “the General Assembly upon the recommendation of the Security Council” (Articles 4 (2), 5 and 6 of the Charter). In accordance with rule 60 of its provisional rules of procedure, the Council submits to the General Assembly within specified time limits its recommendation concerning each application for membership together with a record of its discussion of the application.

During the period under review, the Council recommended the admission of 22 States to membership in the United Nations.¹³ It made no

¹⁰ S/PV.3017.

¹¹ A/46/700.

¹² Resolution 46/21.

¹³ Namibia (A/S-18/3, 17 April 1990); Liechtenstein (A/45/419, 15 August 1990); Democratic People’s Republic of Korea (A/46/354, 8 August 1991); Republic of Korea (A/46/354, 8 August 1991); Micronesia (Federated States of) (A/46/355, 12 August 1991); Marshall Islands (A/46/356, 12 August 1991); Estonia (A/46/460, 12 September 1991); Latvia (A/46/460, 12 September 1991); Lithuania (A/46/460, 12 September 1991); Kazakhstan (A/46/853, 23 January 1992); Armenia (A/46/859, 29 January 1992); Kyrgyzstan (A/46/860, 29 January 1992); Uzbekistan (A/46/861,

negative recommendations, requiring it to submit a special report to the General Assembly. The Council did not discuss or recommend the suspension or expulsion of any Member.

In the case of the Federal Republic of Yugoslavia (Serbia and Montenegro), the Council, in resolution 777 (1992) of 19 September 1992, considered that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations, and therefore recommended to the General Assembly “that it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly”. The General Assembly so decided.¹⁴

E. Reports of the Security Council to the General Assembly

Article 24, paragraph 3

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

Article 15, paragraph 1

The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

Note

In accordance with Article 24 (3) of the Charter, the Security Council continued during the period under

29 January 1992); Tajikistan (A/46/862, 29 January 1992); Republic of Moldova (A/46/870, 5 February 1992); Turkmenistan (A/46/871, 7 February 1992); Azerbaijan (A/46/880, 14 February 1992); San Marino (A/46/885, 25 February 1992); Croatia (A/46/919, 18 May 1992); Slovenia (A/46/920, 18 May 1992); Bosnia and Herzegovina (A/46/922, 20 May 1992); Georgia (A/46/942, 7 July 1992). For the consideration by the Council of these applications, see chapter VII.

¹⁴ Resolution 47/1 of 22 September 1992. See also case 1 in chapter VII.

review to submit annual reports to the General Assembly.¹⁵ Each report covered the period from 16 June of one year to 15 June of the next. The format of the report remained unaltered during this period. It comprised four main parts: Part I provided a summary of the questions considered by the Security Council under its responsibility for the maintenance of international peace and security; Part II dealt with “other matters” considered by the Council, such as the admission of new Members, the appointment of the Secretary-General, and the Council’s responsibilities regarding the election of members of the International Court of Justice; Part III provided an account of the work of the Military Staff Committee; and Part IV contained matters that were brought to the attention of the Council but not discussed during the period covered by the report. During the period under consideration, the reports continued to be adopted at private meetings of the Security Council. The General Assembly took note of the reports with little or no discussion.¹⁶

During the period covered by this *Supplement*, the Council did not submit any special reports to the Assembly (as, for example, under rule 60 (3) of the Council’s provisional rules of procedure).¹⁷

F. Other Council practice bearing on relations with the General Assembly

Note

During the period under review, there was a brief constitutional discussion concerning the importance of the Council’s restricting its deliberations and actions within its sphere of competence, as defined under the

¹⁵ Annual reports were adopted by the Security Council at the following meetings held in private: 44th report (covering the period 1988/89), 2892nd meeting, 17 November 1989; 45th report (covering the period 1989/90), 2958th meeting, 23 November 1990; 46th report (covering the period 1990/91), 3020th meeting, 29 November 1991.

¹⁶ For the relevant General Assembly debates, see A/44/PV.79, p. 31 (on the report covering the period 1988/89); A/45/PV.63, pp. 32-52 (on the report covering the period 1989/90); and A/46/PV.70, pp. 2-28 (on the report covering the period 1990/91).

¹⁷ That rule provides that if the Security Council does not recommend an applicant State for membership or postpones the consideration of the application, it “shall submit a special report to the General Assembly with a complete record of the discussion”.

Charter, and not encroaching on the competence of the General Assembly. This occurred during the Council’s consideration in 1992 of the situation between Iraq and Kuwait and the situation in Bosnia and Herzegovina. An account of this discussion is given in case 2 below.

The Security Council adopted several decisions addressing or revealing the interplay between the Council and the General Assembly. These included: (a) a letter dated 5 October 1990 from the President of the Security Council to the Secretary-General as part of an exchange of letters concerning Haiti, in which Council members reserved their positions on the competence of the organs of the United Nations on electoral assistance; (b) presidential statements dealing with general issues, such as disarmament and fact-finding, and with the process of coordinating with the Assembly consideration of the Secretary-General’s report entitled “An agenda for peace”; and (c) a resolution on the question of South Africa, recalling the Assembly’s Declaration on Apartheid and its Destructive Consequences in Southern Africa and providing for an operational element. These decisions are considered in cases 3, 4, 5 and 6 below.

Case 2

Respective competencies of the Council and the Assembly

The issue of the respective competencies of the Security Council and the General Assembly was addressed by some Council members when they commented on proposals made at three meetings in 1992 to extend invitations to participate to two individuals who had been appointed as special rapporteurs of the Commission on Human Rights. At the Council’s 3105th and 3139th meetings, on 11 August and 23 November, respectively, it was proposed that Mr. Max van der Stoep, Special Rapporteur on the situation of human rights in Iraq, be invited to participate in the Council’s consideration of the situation between Iraq and Kuwait. At the 3134th meeting, on 13 November, it was proposed that Mr. Tadeusz Mazowiecki, Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, be invited to participate in the Council’s consideration of the situation in Bosnia and Herzegovina. Following a brief discussion in each case, the Council decided to extend those invitations.¹⁸

¹⁸ On the question of participation under rule 39 of the

Some Council members expressed reservations in that regard. They stressed that the various organs of the United Nations should restrict their deliberations and actions within their respective spheres of competence under the Charter. In their view, the Council had primary responsibility for the maintenance of international peace and security; it should exercise caution in the manner in which it interpreted that mandate, and not encroach on the functions of the other organs. As they saw it, the Council could not discuss human rights situations per se or make recommendations in that regard; matters pertaining to human rights fell within the purview of the Commission on Human Rights and the General Assembly. These speakers considered it inappropriate, therefore, that the Security Council should invite those individuals — who had been appointed by, and reported to, the Commission on Human Rights — to participate in the meetings of the Council.¹⁹

While sharing some of these concerns, another Council member stated that the invitation to Mr. van der Stoep did not in any way affect or increase the normal authority of the Council as it fell within the scope of a resolution already adopted, and should be understood to reflect all the limitations inherent in that resolution. He recalled, in that regard, that the Council, on 5 April 1991, had adopted resolution 688 (1991), in which it had condemned the acts of repression committed by Iraq against the Iraqi civilian population in many parts of the country. The Council had adopted that resolution because it considered that the mass violations of human rights and the resulting flow of refugees across international borders endangered international peace and security in the region. In other words, the Council had decided to act on that matter, which was not normally part of its competence, because of a phenomenon that could affect international peace and security, the maintenance of which was its primary responsibility. The speaker noted, further, that the four countries, in requesting the meeting in question, had invoked resolution 688 (1991). Mr. van der Stoep would thus be providing information on matters that were within the purview of the Council.²⁰

Council's provisional rules of procedure, see chapter III.

¹⁹ For the relevant statements, see S/PV.3105, pp. 6-12 (India, Zimbabwe, China); S/PV.3134, pp. 9-11 (China and Zimbabwe); and S/PV.3139, pp. 3-5 (China and Zimbabwe).

²⁰ See S/PV.3105, pp. 6-12 (Ecuador).

Case 3

Exchange of letters between the Secretary-General and the President of the Security Council concerning Haiti

By letters dated 7 and 17 September 1990,²¹ the Secretary-General informed the President of the Security Council that he had received a request from the President of the Interim Government of Haiti requesting the assistance of a United Nations observer mission in connection with forthcoming elections in Haiti. By the letter of 7 September, the Secretary-General requested the President of the Council to transmit to the members of the Council certain information that he intended to convey to the General Assembly when the Assembly considered a draft resolution on the matter. This included the fact that, if the General Assembly adopted the draft resolution, he would establish an observer mission, to be known as the United Nations Observer Group for the Verification of Elections in Haiti, to provide assistance in the observation and verification of the electoral process and in drawing up electoral security plans and observing their implementation, as requested by the President of Haiti.

By a letter dated 5 October 1990,²² the President of the Security Council informed the Secretary-General as follows:

I have informed the members of the Council of your letter of 7 September concerning possible United Nations assistance in connection with the forthcoming elections in Haiti, and your letter of 17 September clarifying the Haitian Government's request.

The members of the Council, without prejudice to their positions on the competence of the organs of the United Nations on electoral assistance if requested by a Member State and without prejudice to the right of any member of the Council to raise the matter at any later time in the Council for further consideration, concur that it is important that you respond positively to the request for assistance from the Government of Haiti on an urgent basis. They note that the proposed assistance to its electoral process, as requested by the President of the Interim Government of Haiti, which involves, inter alia, the provision of advisers, observers and experts on electoral security matters, but does not include the use of any peacekeeping forces, will be considered in its entirety by the General Assembly. They express the hope that the General Assembly will take urgent action so that the United Nations assistance can be extended within the time frame required by Haiti to hold its elections.

²¹ S/21845 and S/21846.

²² S/21847.

Case 4*The responsibility of the Security Council
in the maintenance of international
peace and security*

At its 3046th meeting, held at the level of Heads of State and Government on 31 January 1992, the Council discussed the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”. At the conclusion of the meeting, the President made a statement on behalf of the members of the Council.²³ Commenting on the subject of “disarmament, arms control and weapons of mass destruction”, he stated:

The members of the Council, while fully conscious of the responsibilities of other organs of the United Nations in the fields of disarmament, arms control and non-proliferation, reaffirm the crucial contribution which progress in these areas can make to the maintenance of international peace and security. They express their commitment to take concrete steps to enhance the effectiveness of the United Nations in these areas.

...

On conventional armaments, they note the General Assembly’s vote in favour of a United Nations register of arms transfers as a first step, and in this connection recognize the importance of all States providing all the information called for in the General Assembly’s resolution.²⁴

Case 5*Agenda for peace: preventive diplomacy,
peacemaking and peacekeeping*

In considering the report of the Secretary-General of 17 June 1992 entitled “An Agenda for Peace: preventive diplomacy, peacemaking and peacekeeping”,²⁵ the Council touched on its own approach to examining the report and how it would coordinate its consideration with the discussions carried out in the General Assembly. It did so in two presidential statements, made in each case at a meeting of the Council, following consultations held earlier among the members of the Council. At the 3089th meeting, on 30 June 1992, the President made a statement on behalf of the Council,²⁶ which reads in the relevant part:

In reading the report, the Council has noted a set of interesting proposals addressed to the various organs of the United Nations and to Member States and regional organizations. The Council therefore trusts that all organs and entities, in particular the General Assembly, will devote particular attention to the report and will study and evaluate the elements of the report that concern them.

Within the scope of its competence, the Security Council will, for its part, examine in depth and with due priority the recommendations of the Secretary-General.

At the 3128th meeting, on 29 October 1992, the President made a further statement on behalf of the Council,²⁷ which reads in the relevant part:

Pursuant to the President’s statement of 30 June 1992, the Council has begun to examine the Secretary-General’s report entitled “An agenda for peace”.

This consideration of the report of the Secretary-General ... by the Council will be coordinated with the discussions carried out in the General Assembly. The Council welcomes in this regard the contact already established between the Presidents of the two organs and invites the President of the Council to continue and intensify such contacts.

The Council has followed with close interest the views expressed by Member States in the General Assembly during the general debate as well as during the discussion on item 10 of the agenda of the General Assembly. It has also noted the report²⁸ of the special session of the Special Committee on Peacekeeping Operations.

Commenting on the substance of the report in a further statement made on behalf of the members of the Council on 30 November 1992,²⁹ the President cited the Declaration on Fact-Finding that had recently been adopted by the General Assembly:

The members of the Council welcome and support the proposals in paragraph 25 of the report of the Secretary-General on fact-finding. They are of the view that an increased resort to fact-finding as a tool of preventive diplomacy, in accordance with the Charter of the United Nations and the United Nations Declaration on Fact-Finding for International Security and Peacemaking,³⁰ particularly its guidelines, can result in the best possible understanding of the objective facts of a situation which will enable the Secretary-General to meet his responsibilities under Article 99 of the Charter and facilitate Security Council deliberations. ...

²³ S/23500.

²⁴ General Assembly resolution 46/36 L of 9 December 1991, entitled “Transparency in armaments”.

²⁵ S/24111.

²⁶ S/24210.

²⁷ S/24728.

²⁸ A/47/386.

²⁹ S/24872.

³⁰ General Assembly resolution 46/59 of 9 December 1991, annex.

Case 6

The question of South Africa

At its 3096th meeting, held on 16 July 1992 to consider the question of South Africa, the Council unanimously adopted resolution 765 (1992). In a preambular paragraph, the Council recalled the Declaration on Apartheid and its Destructive Consequences in Southern Africa³¹ adopted by consensus by the General Assembly at its sixteenth special session, on 14 December 1989, which called for negotiations in South Africa to take place in a climate free of violence. In paragraph 4, the Council invited the Secretary-General to appoint, as a matter of urgency, a Special Representative for South Africa to recommend measures which would assist in bringing an effective end to the violence and in creating conditions for negotiations leading towards a peaceful transition to a democratic, non-racial and united South Africa.

G. Relations with subsidiary organs established by the General Assembly

Note

Certain subsidiary organs established by the General Assembly have played a part in the work of the Security Council, either because they have been placed in a special relationship to the Council by resolutions of the General Assembly, or because the Council has made use of the services of a subsidiary organ or invited its officers to participate in its meetings.

³¹ General Assembly resolution S-16/1 of 14 December 1989, annex.

During the period under review, there was no constitutional discussion bearing on the relations between such subsidiary organs and the Security Council. Those subsidiary organs still active included the Special Committee on the Situation with regard to the Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples; the Special Committee against Apartheid; the United Nations Council for Namibia; the Committee on the Exercise of the Inalienable Rights of the Palestinian People; and the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa. Those entities submitted reports and recommendations to the Security Council — and/or to the General Assembly, as appropriate — pursuant to a request by the General Assembly. The United Nations Council for Namibia submitted its last communication in April 1990; this was a declaration by which the Council for Namibia decided to recommend to the General Assembly its own dissolution as a result of Namibia's attainment of independence. The United Nations Council for Namibia and some of the other subsidiary organs also participated in meetings of the Council.³² The tables below give an account of the communications from these organs to the Council.

During the period under consideration, no decisions adopted by the Security Council contained references to these entities. The Council did, however, mention another subsidiary organ established by the General Assembly. In a presidential statement of 29 October 1992, adopted in connection with its consideration of the Secretary-General's report entitled "An agenda for peace: preventive diplomacy, peacemaking and peacekeeping", the Council noted the report on the special session of the Special Committee on Peacekeeping Operations on the same subject.³³

³² See, on their participation, chapter III, annex II.A.

³³ Statement by the President of the Security Council of 29 October 1992 (S/24728), citing A/47/386.

Communications from subsidiary organs established by the General Assembly

(a) Communications from the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/20796	18 August 1989	Letter dated 17 August 1989 transmitting the text of a decision adopted by the Special Committee on 15 August 1989 (A/AC.109/1011). Drawing particular attention to para. 6 which urges the Security Council to consider the report of the Committee established under its resolution 421 (1977), to adopt further measures to widen the scope of resolution 418 (1977), and for scrupulous observance of Security Council resolution 558 (1984) of 13 December 1984 enjoining Member States to refrain from importing armaments from South Africa.
S/20810	24 August 1989	Letter dated 22 August 1989 transmitting the text of a resolution on the question of Namibia adopted by the Special Committee on 18 August 1989 (A/AC.109/1014). Drawing particular attention to para. 6 which urges the Security Council to continue to follow developments in Namibia very closely in order to ensure the full implementation of Council resolution 435 (1978) in its original and definitive form.
S/20827	1 September 1989	Letter dated 30 August 1989 transmitting the text of the conclusions and recommendations concerning the Trust Territory of the Pacific Islands, adopted by the Special Committee on 7 August 1989 (A/AC.109/L.1693). Drawing particular attention to para. 18 which notes that, under Article 83 of the Charter, the Security Council exercises all functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, and expresses confidence that the Security Council will give special attention to full implementation of all provisions of the Trusteeship Agreement and the Charter.
S/21662	28 August 1990	Letter dated 24 August 1990 transmitting the text of the conclusions and recommendations concerning the Trust Territory of the Pacific Islands, adopted by the Special Committee on 1 August 1990 (A/AC.109/L.1737). Drawing particular attention to para. 18 which notes that, under Article 83 of the Charter, the Security Council exercises all functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, and expresses confidence that the Security Council will give special attention to full implementation of all provisions of the Trusteeship Agreement and the Charter.

Repertoire of the Practice of the Security Council

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/21678	30 August 1990	Letter dated 27 August 1990 transmitting the text of a decision on military activities and arrangements by colonial Powers, adopted by the Special Committee on 20 August 1990 (A/AC.109/1054). Drawing particular attention to para. 6 which urges the Security Council to consider, as a matter of urgency, the report of the Committee established under its resolution 421 (1977) and to adopt further measures to widen the scope of resolution 418 (1977) to make it more effective and comprehensive, and which calls for the scrupulous observance of resolution 558 (1984) enjoining Member States to refrain from importing armaments from South Africa.
S/23014	6 September 1991	Letter dated 4 September 1991 transmitting the text of a decision on military activities and arrangements by colonial Powers, adopted by the Special Committee on 23 August 1991 (A/AC.109/1090). Drawing particular attention to para. 6 which urges the Security Council to consider, as a matter of urgency, the report of the Committee established under its resolution 421 (1977) and to adopt further measures to widen the scope of resolution 418 (1977) to make it more effective and comprehensive, and which calls for the scrupulous observance of resolution 558 (1984) enjoining Member States to refrain from importing armaments from South Africa.
S/23035	13 September 1991	Letter dated 12 September 1991 transmitting the text of a resolution on the Trust Territory of the Pacific Islands, adopted by the Special Committee on 14 August 1991 (A/AC.109/1095). Drawing attention to its second, third and fourth preambular paragraphs and to its operative paragraph 2, in which the Special Committee, “ <i>Taking note</i> of the Trusteeship Agreement concluded between the Administering Authority and the Security Council with regard to the Trust Territory of the Pacific Islands, <i>Mindful</i> that under Article 83 of the Charter of the United Nations, the Security Council shall exercise all functions of the United Nations relating to strategic areas, including the approval of the terms of trusteeship agreements and of their alteration or amendment, <i>Confident</i> that special attention will continue to be given by the Security Council to the full implementation of all provisions of the Trusteeship Agreement, ... 2. <i>Takes note</i> of the adoption by the Security Council of resolution 683 (1990) on 22 December 1990, by which it determined, in the light of the entry into force of the new status agreements for the Federated States of Micronesia, the Marshall Islands and the Northern Mariana Islands, that the objectives of the Trusteeship Agreement had been fully attained and that the applicability of the Trusteeship Agreement had terminated with respect to those entities.”
S/24471	21 August 1992	Letter dated 19 August 1992 transmitting the text of a decision on military activities and arrangements by colonial Powers, adopted by the Special Committee on 7 August 1992 (A/AC.109/1136). Drawing attention to para. 7 which urges the Security Council to consider, as a matter of urgency, the report of the Committee established under its resolution 421 (1977) of 9 December 1977 and to adopt further measures to widen the scope of Council resolution 418 (1977) in order to make it more effective and comprehensive, and calls for scrupulous observance of resolution 558 (1984) enjoining Member States to refrain from importing armaments from South Africa.

(b) Communications from the Special Committee against Apartheid

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/20634	16 May 1989	Letter dated 11 May 1989 transmitting the report of the Panel on the Hearings on the Oil Embargo against South Africa, held in New York on 12 and 13 April 1989. The report concluded that a mandatory decision by the Security Council to adopt an oil embargo against South Africa, under Chapter VII of the Charter, was the most appropriate means to complement the arms embargo against South Africa imposed by Council resolution 418 (1977) (para. 18), and recommended measures for tightening the oil embargo (para. 19).
S/20844	14 September 1989	Letter dated 11 September 1989 transmitting the text of the conclusions and recommendations adopted by the International Non-Governmental Organizations Seminar on Education against Apartheid, held at Geneva from 4 to 6 September 1989, which expressed support for the declaration on the question of South Africa made in Harare on 21 August 1989 by the OAU Ad Hoc Committee on Southern Africa (para. 2) and reaffirmed its conviction that comprehensive and mandatory sanctions should be adopted by the Security Council (para. 3).
S/20901 and Corr.2	25 October 1989 6 November 1989	Submitting its annual report, in which, inter alia, the Special Committee concluded (para. 257) that despite recent developments in Namibia on the implementation of Security Council resolution 435 (1978), even under the new leadership of Mr. de Klerk, Pretoria continued to suppress any peaceful opposition to its policies. The Special Committee also recommended to the General Assembly that it urge the Council to take immediate action, under Chapter VII of the Charter, with a view to applying comprehensive and mandatory sanctions against the regime (para. 275 (h)); and that it take concrete steps for the strict implementation of its resolutions 418 (1977) and 558 (1984), and that it urge those States, which directly or indirectly infringe the arms embargo and continue to collaborate with South Africa in the military intelligence and technology fields, to cease such acts (para. 275 (i)). The Special Committee requested the Secretary-General to ensure the coordination of activities of the United Nations system regarding the struggle against apartheid and to facilitate all efforts leading to the peaceful eradication of apartheid (para. 275 (o)). Part II contained a report on recent developments on the relations between Israel and South Africa.
S/21953 and Add.1	21 November 1990 5 December 1990	Submitting its annual report, in which the Special Committee concluded (para. 354) that although a process of change had been set in motion in South Africa, continued efforts were necessary to ensure the ultimate eradication of apartheid. The Special Committee recommended to the General Assembly (para. 372 (i)), inter alia, that it urge the Security Council to take concrete steps to strictly implement resolutions 418 (1977) and 558 (1984) and bring an end to the continued violations of the mandatory arms embargo. Part II contained a report on recent developments on the relations between Israel and South Africa.

Repertoire of the Practice of the Security Council

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/23224	20 November 1991	Submitting its annual report, in which the Special Committee cited the terms set out in the Declaration on Apartheid and its Destructive Consequences in Southern Africa (General Assembly resolution S-16/1 of 14 December 1989, annex) (para. 1) and, inter alia, called for the strict observance of the mandatory arms embargo, monitored effectively by the Security Council, and for the maintenance of restrictions on the export of computers, communication equipment and the provision of technology and military intelligence to South Africa until free and fair elections were held and a new democratic government established (para. 200 (m)). Part II contained a report on recent developments on the relationship between Israel and South Africa.
S/24291	15 July 1992	Letter dated 15 July 1992 transmitting the concluding remarks made by Archbishop Trevor Huddleston at the International Hearing on Political Violence in South Africa and the Implementation of the National Peace Accord, co-sponsored by the Special Committee against Apartheid, held in London on 14 and 15 July 1992.
S/24292	15 July 1992	Letter dated 15 July 1992 transmitting the statement made by the Reverend Frank Chikane, General Secretary of the South African Council of Churches, at the International Hearing on Political Violence in South Africa and the Implementation of the National Peace Accord, co-sponsored by the Special Committee against Apartheid, held in London on 14 and 15 July 1992.
S/24663	6 November 1992	Submitting its annual report, in which the Special Committee concluded that the decision of the Security Council, OAU, the Commonwealth and the European Community to send observers to monitor the political violence had been welcomed by all major political parties and organizations inside and outside South Africa (para. 176), and recommended that the General Assembly should, inter alia, welcome the Council's decisions of 16 July and 17 August 1992, its statement of 10 September 1992, and the deployment of United Nations observers (para. 181 (f)), and request the Council to continue to monitor the implementation of the existing measures to end apartheid (para. 181 (m)). Part II contained a report on recent developments on the relations between South Africa and Israel, which concluded that South Africa was one of Israel's major arms customers, in violation of resolutions 418 (1977) and 421 (1977) (para. 204). It urged the Council to end the violation (para. 205), and recommended that the Assembly authorize the Special Committee to continue monitoring those relations and report to the Assembly and the Council (para. 206).

(c) Communication from the United Nations Council for Namibia

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/21270	24 April 1990	Letter dated 20 April 1990 transmitting the text of the declaration adopted at its special meeting, held at Windhoek, from 9 to 11 April, in which it noted (para. 5) that the Security Council had ensured the critical implementation of resolution 435 (1978) by the United Nations Transition Assistance Group for Namibia, and its completion under the guidance of the Secretary-General.

(d) Communications from the Committee on the Exercise of the Inalienable Rights of the Palestinian People

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/20372	5 January 1989	Letter dated 5 January 1989 deploring Israel's deportation to southern Lebanon of Palestinians from the West Bank and Gaza Strip, and appealing to the Secretary-General to ensure the safety and protection of Palestinian civilians under occupation and to intensify his efforts towards the urgent convening of the International Peace Conference on the Middle East, in accordance with General Assembly resolution 43/176 of 15 December 1988.
S/20424	26 January 1989	Letter dated 25 January 1989 drawing attention to the escalation of the situation in the occupied Palestinian territories as a result of the increasingly harsh measures taken by Israel to suppress the Palestinian intifada.
S/20455	9 February 1989	Letter dated 9 February 1989 supporting the request by Tunisia, on behalf of the Arab Group, for an urgent meeting of the Security Council to consider the situation in the occupied Palestinian territory.
S/20505	6 March 1989	Letter dated 3 March 1989 concerning the killing of Palestinians, particularly children and youth, by Israeli forces, and appealing to the Secretary-General to ensure the safety and protection of Palestinian civilians under occupation and to intensify his efforts towards the convening of the International Peace Conference on the Middle East.
S/20563 and Corr.1	4 April 1989 7 April 1989	Letter dated 3 April 1989 drawing attention to Israel's policy of repression against Palestinians in the occupied territory, including the storming of a United Nations medical clinic in Gaza, and appealing to the Secretary-General to intensify his efforts towards the convening of the International Peace Conference on the Middle East.
S/20564	6 April 1989	Letter dated 3 April 1989 transmitting an excerpt from the <i>Country Reports on Human Rights Practices for 1988</i> , issued by the United States Department of State, which contained information on the human rights situation in the Palestinian and other Arab territories occupied by Israel since 1967.

Repertoire of the Practice of the Security Council

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/20592	14 April 1989	Letter dated 14 April 1989 drawing attention to the escalation of attacks by Israeli troops and settlers against Palestinians and stating that the Committee considered that the international community was duty bound to redouble its efforts to ensure protection for the Palestinians under occupation and the withdrawal of Israel from the occupied territory, in accordance with the Geneva Convention on the Protection of Civilian Persons in Time of War of 12 August 1949, and United Nations resolutions, and reiterating its appeal to the Secretary-General and to all parties concerned to further intensify their efforts for the convening of the International Peace Conference on the Middle East.
S/20623	10 May 1989	Letter dated 9 May 1989 regarding press reports on the shooting of Palestinian civilians by Israeli troops and Israel's announcement that the West Bank would be considered as a "closed military zone" until 10 May, and calling on the Security Council to adopt urgent measures to provide international protection to the Palestinian civilians, in accordance with General Assembly resolution 43/233 of 20 April 1989.
S/20668	2 June 1989	Letter dated 1 June 1989 drawing attention to the escalation of repression against Palestinians in the occupied territory and, inter alia, an announcement by the Defence Minister of Israel of further repressive measures unless Palestinians in the occupied territories accepted Israel's "offer of elections", and reiterating the need for urgent measures by the Security Council to provide international protection to the Palestinian civilians.
S/20714	5 July 1989	Letter dated 5 July 1989 protesting the renewed deportation of Palestinians from the occupied territory and calling on the international community as a whole and the Security Council, in particular, to ensure compliance by Israel with the Fourth Geneva Convention and Council resolutions.
S/20860	21 September 1989	Letter dated 21 September 1989 drawing attention to Israel's escalation of repression and suppression of the intifada, and urging the Council to adopt urgent measures to provide international protection to the Palestinian civilians.
S/21009	6 December 1989	Letter dated 6 December 1989 drawing attention to the escalation of repression by Israel, in particular the statement of an Israeli army judge that soldiers were permitted to shoot at masked Palestinian youths, and calling for the Security Council to adopt urgent measures to provide international protection to the Palestinian civilians, in accordance with General Assembly resolutions 43/233 of 20 April 1989 and 44/2 of 6 October 1989.
S/21089	16 January 1990	Letter dated 15 January 1990 drawing attention to the further escalation of repression by Israel, with large numbers of Palestinians killed and injured, and to a military order closing universities and higher education institutions, and calling upon the Security Council to provide international protection to the Palestinian civilians.

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/21151	16 February 1990	Letter dated 15 February 1990 citing press reports on the demolition in the occupied territory of houses belonging to Palestinians by Israeli military authorities, and urging the Security Council to provide international protection to the Palestinian civilians.
S/21199	21 March 1990	Letter dated 20 March 1990 transmitting an extract from <i>Country Reports on Human Rights Practices for 1989</i> , published by the United States Department of State, on the human rights situation in the Palestinian and other Arab territories occupied by Israel since 1967.
S/21281	1 May 1990	Letter dated 1 May 1990 concerning collective punishment, torture and harsh conditions in detention camps for Palestinians, and Israeli settlement activities, and urging the Security Council to provide international protection to the Palestinian civilians.
S/21303	21 May 1990	Letter dated 21 May 1990 denouncing the massacre near Tel Aviv of Palestinian workers from Gaza and the climate of hate engendered by the repressive policies of the occupying Power; calling upon the Council to adopt urgent measures to protect the Palestinian people under occupation; reiterating its appeal to the High Contracting Parties to the Geneva Convention to ensure compliance with the Convention; stating that ultimately true protection for Palestinians can only be achieved through the exercise of their right to self-determination and the establishment of their own State, alongside Israel, with adequate security guarantees; and calling on all concerned to intensify their efforts to promote a comprehensive, just and lasting settlement through the convening of the International Peace Conference on the Middle East.
S/21362	19 June 1990	Letter dated 15 June 1990 deploring the incursion by the Israeli army into a health-care centre in Gaza City and its use of tear gas; citing Israel's policies and practices in disregard of its obligations under the Geneva Convention, particularly articles 24, 28 and 50, and violation of the Convention on the Rights of the Child of 20 November 1989; and calling upon the Security Council to provide international protection to the Palestinian civilians.
S/21802	25 September 1990	Letter dated 19 September 1990 drawing attention to the increased killing and wounding of children by Israeli forces, harsh collective punishment, injury and torture in Israeli prisons, restriction on freedom of speech and forced closure of press offices; urging again the Security Council to provide international protection to the Palestinians in the occupied territory; underscoring the imperative need for a comprehensive and just settlement of the question of Palestine through the convening of the International Peace Conference on the Middle East.

Repertoire of the Practice of the Security Council

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/22012	18 December 1990	Letter dated 18 December 1990 condemning Israel's resumption of its policy of deportation of Palestinians from the occupied territory, in violation of the Geneva Convention and several Council resolutions, and the reported arrest of more than 1,000 Palestinians. Also reaffirming the need to provide effective protection for Palestinians in the occupied territory and to promote a comprehensive, just and lasting settlement of the question of Palestine through the convening of the International Peace Conference on the Middle East.
S/22040	2 January 1991	Letter dated 31 December 1990 denouncing the indiscriminate shooting and killing of Palestinian civilians and reiterating the need to protect them and to promote a lasting settlement through the convening of the International Peace Conference on the Middle East.
S/22073	14 January 1991	Letter dated 14 January 1991 expressing concern at the mass transfer of Palestinian civilians, noting the recent deterioration of the situation in the occupied territory, and appealing to the Secretary-General and to all concerned to ensure the safety and protection of Palestinians in the occupied territory.
S/22207	8 February 1991	Letter dated 6 February 1991 condemning the use of collective punishment by the Israeli authorities against Palestinians in the occupied territory; citing press reports that approximately 1.7 million Palestinians had been under a strict 24-hour curfew since the beginning of hostilities on 16 January 1991, in violation of Israel's obligations under the Fourth Geneva Convention, particularly its articles 39 and 35; and reiterating the urgent need to make Israel comply with Security Council resolution 681 (1990), and urging its Government to accept the de jure applicability of the Convention to all the territories occupied by Israel since 1967.
S/22294	1 March 1991	Letter dated 1 March 1991 drawing attention to the continuous mass detention of Palestinian civilians, including minors, without trial and as a collective punishment, in violation of Israel's obligations under the Geneva Convention, in particular articles 33, 37, 72 and 78, and of the individual's rights to protection from arbitrary arrest and due process, stipulated by article 10 of the Universal Declaration of Human Rights and article 9 (i) of the International Covenant on Civil and Political Rights.
S/22388	26 March 1991	Letter dated 26 March 1991 condemning Israel's continuous deportation of Palestinians and reaffirming the imperative need for the international community, and in particular the High Contracting Parties to the Fourth Geneva Convention, to ensure Israel's compliance, as the occupying Power, with its obligations under the Convention, and to ensure effective protection for Palestinians under occupation.

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/22511	19 April 1991	Letter dated 18 April 1991 citing a press report that the forthcoming building of 13,000 housing units was part of a plan by the Israeli Government to increase by 50 per cent the Jewish population in the occupied Palestinian territories, and deploring the intensification of its settlements policy and practice, in violation of article 49 of the Fourth Geneva Convention and Council resolutions 446 (1979), 452 (1979) and 465 (1980).
S/23291	17 December 1991	Letter dated 16 December 1991 drawing attention to attacks carried out by the Israeli Government and settlers against the Holy Places and Palestinian property in East Jerusalem and adjoining areas, in violation of Israel's obligations as the occupying Power under the Geneva Convention and numerous Council resolutions, particularly 271 (1969), 298 (1971) and 476 (1980), concerning the Holy Places and religious buildings in Jerusalem, and 446 (1979), 452 (1979) and 465 (1980), concerning settlement activities by Israel, which hampered the establishment of a comprehensive, just and lasting peace in the Middle East.
S/23374	6 January 1992	Letter dated 6 January 1992 condemning Israel's decision to continue the deportation of Palestinians from the occupied territory, in violation of the Fourth Geneva Convention and several Council resolutions, and expressing concern at the increasing imposition of harsh collective punishment, such as curfews, school closings and administrative detention.
S/23570	11 February 1992	Letter dated 11 February 1992 denouncing the death of Palestinians in Israeli custody and the systematic use of torture and ill-treatment of Palestinian detainees, in violation of Israel's obligations under article 2 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and article 7 of the International Covenant on Civil and Political Rights, as well as articles 31 and 32 of the Fourth Geneva Convention.
S/23782	3 April 1992	Letter dated 3 April 1992 condemning the shooting of Palestinian civilians by Israeli military forces in the occupied Palestinian territory, in violation of Israel's obligations under the Fourth Geneva Convention, the International Covenant on Civil and Political Rights, and numerous Security Council and General Assembly resolutions.
S/24045	5 June 1992	Letter dated 5 June 1992 drawing attention to the twenty-fifth anniversary of the Israeli occupation of the Palestinian territory; calling on all concerned, and in particular the High Contracting Parties to the Geneva Convention and the supervisory bodies of the human rights treaties, to ensure compliance by Israel with its obligations under those instruments; calling upon the international community and the Security Council to ensure Israel's withdrawal from the occupied territories, in conformity with Council resolution 242 (1967); recalling that in its first 1976 report, the Committee had recommended, inter alia, the establishment of a timetable for Israel's complete withdrawal; drawing once again the attention of the Security Council and the General Assembly to the fact that their decisions remained unimplemented; and expressing concern at Israel's ongoing efforts to turn the occupation into a permanent fact.

Repertoire of the Practice of the Security Council

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/24304	16 July 1992	Letter dated 16 July 1992 drawing attention to Israel's decision to place Al-Najah University under siege and to impose a curfew on the city of Nablus, and appealing to the Secretary-General and all concerned to induce Israel to abide by its obligations under international law and United Nations resolutions.
S/24436	13 August 1992	Letter dated 13 August 1992 denouncing the reported death of another Palestinian detainee in Israeli custody and appealing to the Secretary-General and all concerned, in particular the Human Rights Committee and the Committee against Torture, as well as the High Contracting Parties to the Fourth Geneva Convention, to ensure that Israel desist forthwith from using illegal methods in the treatment of Palestinian detainees and respect its international obligations.
S/24648	9 October 1992	Letter dated 8 October 1992 drawing attention to the ongoing hunger strike by some 3,000 Palestinian prisoners in Israeli prisons to protest against ill-treatment; expressing concern at the use of live ammunition and rubber bullets against demonstrators; and appealing to the Secretary-General and all concerned, particularly the High Contracting Parties to the Geneva Convention, to ensure Israel's compliance with its international obligations under the Convention and relevant human rights instruments, as well as Security Council resolutions.
S/24974	17 December 1992	Letter dated 17 December 1992 drawing attention to Israel's mass deportation of 418 Palestinians in retaliation for the killing of a kidnapped Israeli soldier, and calling for an immediate end to the deportation policy; noting the recent mass arrests of some 2,000 Palestinians, the curfew imposed on the Gaza Strip and the sealing of the West Bank and Gaza Strip; and appealing to the Secretary-General and all concerned to induce Israel to desist from deportations and cease its collective punishments of Palestinians, in accordance with its obligations under the Fourth Geneva Convention and numerous Security Council resolutions.

(e) Communications from the Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/20634	16 May 1989	Letter dated 11 May 1989 transmitting the report of the Panel on the Hearings on the Oil Embargo Against South Africa, held in New York on 12 and 13 April 1989, which concluded (para. 18) that the Security Council's decision to adopt a mandatory oil embargo against South Africa, under Chapter VII of the Charter, was the most appropriate means to complement the arms embargo imposed under resolution 418 (1977), and recommended (para. 19) measures for tightening the oil embargo.
S/20926 and Add.1	31 October 1989 20 June 1990	Transmitting the report of the Intergovernmental Group, which reaffirmed that a mandatory oil embargo against South Africa was urgently needed to assist its people in the struggle against apartheid, and recommended once again that the General Assembly request the Security Council to impose a mandatory embargo on the supply and shipping of oil and petroleum products to South Africa (para. 61) under Chapter VII of the Charter.
S/21946	19 November 1990	Transmitting the report of the Intergovernmental Group, which stated that the most effective way of enforcing the oil embargo was for the Security Council to invoke Chapter VII of the Charter (para. 32) and put forward a draft model law for the effective enforcement of the oil embargo against South Africa (annex I).
S/23126	9 October 1991	Transmitting the report of the Intergovernmental Group, which concluded that in spite of positive developments in South Africa (para. 62), it was not opportune to lift the oil embargo until there was clear evidence of irreversible changes (para. 64), and concluded that the most effective way to enforce the embargo was the adoption by the Council of a mandatory embargo under Chapter VII of the Charter (para. 67).
S/24775 and Add.1	9 November 1992 11 November 1992	Transmitting the report of the Intergovernmental Group, which noted some positive political developments in South Africa (para. 31) and stated that the oil embargo should be lifted only when an interim government representing the majority of the population was established and upon request by such government (para. 33); and that a premature lifting of the oil embargo would be counterproductive and harm the negotiating process (para. 34).

Part II

Relations with the Economic and Social Council

Practice in relation to Article 65 of the Charter

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Note

During the period under consideration, the Security Council did not formally address a request for information or assistance to the Economic and Social Council or mention Article 65 in its decisions. In 1992, however, the Security Council received information from the Economic and Social Council through one of its subsidiary bodies, the Commission on Human Rights, about grave human rights abuses and violations of international humanitarian law identified by the Security Council as being of concern in two situations before it, the situation between Iraq and Kuwait and the situation in the former Yugoslavia. In the first instance, the Security Council referred to the information thus provided in two of its resolutions. This practice is considered in case 7 below. In relation to the situation in the former Yugoslavia, the Security Council subsequently specifically requested the “relevant United Nations bodies” to make available information relating to the violations of humanitarian law being committed in the territory of the former Yugoslavia. The Security Council also requested those United Nations bodies to provide other appropriate assistance to the Commission of Experts to be established, at its request, by the Secretary-General. This instance is discussed in case 8.

In his report entitled “An agenda for peace: preventive diplomacy, peacemaking and peacekeeping”,³⁴ submitted in June 1992 at the request

³⁴ S/24111. The report of the Secretary-General was submitted pursuant to the presidential statement dated 31 January 1992 (S/23500), by which the Council invited the Secretary-General to report “on ways of strengthening and making more efficient within the framework and provisions of the Charter the capacity of the United Nations for preventive diplomacy, for

of the Security Council, the Secretary-General touched upon the potential relevance of Article 65 as part of an early warning system. He recommended “that the Security Council invite a reinvigorated and restructured Economic and Social Council to provide reports, in accordance with Article 65 of the Charter, on those economic and social developments that may, unless mitigated, threaten international peace and security”.³⁵ This recommendation was not formally discussed or commented upon by the Council in 1992 in the course of its consideration of the Secretary-General’s report.

Case 7

Situation between Iraq and Kuwait

By resolution 688 (1991) of 5 April 1991, the Security Council “condemn[ed] the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, the consequences of which threaten[ed] international peace and security in the region”. It demanded that Iraq, “as a contribution to removing the threat to international peace and security in the region, immediately end this repression”, and expressed the hope that an open dialogue would take place to ensure that the human and political rights of all Iraqi citizens were respected.

When the Council reviewed this matter at its 3059th meeting, on 11 March 1992, several Council members referred to the findings contained in the report on the situation of human rights in Iraq dated 18 February 1992 prepared by Max van der Stoep, Special Rapporteur of the Commission on Human Rights.³⁶⁻³⁷ That report had been circulated to the members of the Security Council at the request of the Permanent Representative of Belgium.³⁸ The covering

peacemaking and for peacekeeping”.

³⁵ S/24111, para. 26.

³⁶ For the relevant statements by Council members, see S/PV.3059, p. 22 (Austria), p. 30 (United Kingdom), pp. 45-46 (United States), pp. 51-52 (Russian Federation) and p. 67 (Belgium).

³⁷ S/23685/Add.1. The report had been prepared in accordance with resolution 1992/71 of the Commission on Human Rights, as approved by the Economic and Social Council in its decision 1992/241.

³⁸ Letter dated 9 March 1992 from the Permanent

letter drew attention to paragraph 159 of the report, in which the Special Rapporteur, after referring to resolution 688 (1991), stated that, inasmuch as the repression continued, he could only conclude that the threat to international peace and security in the region mentioned in that resolution remained. At the same meeting, the President of the Security Council made a statement on behalf of the Council,³⁹ concerning the status of Iraq's compliance with the various obligations imposed upon it by resolutions concerning the situation between Iraq and Kuwait. With respect to the implementation of resolution 688 (1991), the presidential statement referred to a resolution of the Commission on Human Rights and both the findings and conclusion contained in the Special Rapporteur's report. Thus, it stated:

33. The Security Council remains deeply concerned at the grave human rights abuses that, despite the provisions of resolution 688 (1991), the Government of Iraq continues to perpetrate against its population, in particular in the northern region of Iraq, in southern Shi'a centres and in the southern marshes (Commission on Human Rights resolution 1992/71 of 5 March 1992). The Security Council notes that this situation is confirmed by the report of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1992/31, also to be circulated in document S/23685) ...

34. The members of the Council are particularly concerned at the reported restrictions on the supplies of essential commodities, in particular food and fuel, which have been imposed by the Government of Iraq on the three northern governorates of Dohuk, Erbil and Suleimaniyya. In this regard, as the Special Rapporteur has noted in his report, inasmuch as the repression of the population continues, the threat to international peace and security in the region mentioned in resolution 688 (1991) remains.

At an urgent follow-up meeting held on 11 August 1992, the Council had before it the interim report on the human rights situation in Iraq prepared by the Special Rapporteur⁴⁰ which, as in the case of his first report, had been circulated as a Security Council document at the request of the Permanent Representative of Belgium.⁴¹ At the request of four Council members, the Council decided to extend an

Representative of Belgium to the President of the Security Council (S/23685).

³⁹ S/23699.

⁴⁰ S/24386, annex.

⁴¹ Letter dated 3 August 1992 to the President of the Security Council (S/24386).

invitation to Mr. van der Stoel to participate in the meeting under rule 39 of its provisional rules of procedure. Several Council members expressed reservations about the appropriateness of the Security Council inviting Mr. van der Stoel, on the ground that questions of human rights ought to be dealt with by the Commission on Human Rights, the body which had appointed him rapporteur.⁴² Mr. van der Stoel made a statement in which he reported on the Government of Iraq's continued policy of repression against the Kurdish population in the north and the Shiites in the southern marshes, in violation of resolution 688 (1991).

The Council renewed its consideration of this item at its 3139th meeting, on 23 November 1992. Once again, Mr. van der Stoel was invited to participate in the meeting. Some Council members had reiterated their reservations, for the same reasons as cited at the August meeting. At the 3139th meeting, the President of the Council read out a statement on behalf of the Council concerning the status of Iraq's compliance with the various obligations placed upon it by the Council.⁴³ In relation to resolution 688 (1991), the statement referred to a resolution of the Commission on Human Rights, the Special Rapporteur's reports and the public meeting held with Mr. van der Stoel. It did so in the following terms:

30. The Security Council remains deeply concerned at the grave human rights abuses that, despite the provisions of resolution 688 (1991), the Government of Iraq continues to perpetrate against its population, in particular in the northern region of Iraq, in southern Shi'a centres and in the southern marshes (Commission on Human Rights resolution 1992/71 of 5 March 1992). The Security Council notes that this situation is confirmed by the reports of the Special Rapporteur of the Commission on Human Rights (E/CN.4/1992/31, also circulated as document S/23685 and Add.1, and part I of the interim report circulated as document S/24386). The members of the Council recall their public meeting with Mr. Max van der Stoel on 11 August 1992.

Case 8

Situation in the former Yugoslavia

On 13 August 1992, the Security Council adopted resolution 771 (1992), concerning continuing reports of widespread violations of international humanitarian

⁴² See also chapter III.

⁴³ S/24836.

law occurring within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina. Recalling its presidential statement of 4 August 1992,⁴⁴ the Council called upon “States and, as appropriate, international humanitarian organizations” to collate substantiated information on violations of humanitarian law, including grave breaches of the Geneva Conventions, being committed in the territory of the former Yugoslavia, and to make that information available to the Council.

At about the same time, the Commission on Human Rights, meeting in its first special session, adopted a resolution on 14 August on the situation of human rights in the territory of the former Yugoslavia,⁴⁵ in which it took note of the statement by the President of the Security Council on 4 August 1992, and requested its Chairman to appoint a special rapporteur to investigate at first hand the human rights situation in the territory of the former Yugoslavia, in particular within Bosnia and Herzegovina. The Commission requested the Special Rapporteur to report his findings and recommendations to the Commission on Human Rights as well as to the General Assembly, and requested the Secretary-General to make the reports of the Special Rapporteur available also to the Security Council.⁴⁶

At its meeting on 6 October 1992, the Security Council had before it the first report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia.⁴⁷ In his recommendations, the Special Rapporteur noted the need to prosecute those responsible for serious human rights violations and breaches of international humanitarian law. He recommended that a commission should be created to assess and further investigate specific cases in which

prosecution might be warranted.⁴⁸ At the same meeting, the Council adopted resolution 780 (1992), in which it requested “States, relevant United Nations bodies, and relevant organizations” to make available “information relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions ... being committed in the territory of the former Yugoslavia”. The Council also requested those entities “to provide other appropriate assistance to the Commission of Experts” which it requested the Secretary-General to establish to examine and analyse the information submitted pursuant to resolutions 771 (1992) and 780 (1992). In their explanations of vote, several Council members elaborated on their interpretation of paragraph 1 of the resolution. They stated their understanding that the Council’s request to “relevant United Nations bodies” included the Special Rapporteur of the Commission on Human Rights, and that the Special Rapporteur’s report should be taken into account by the impartial Commission of Experts.⁴⁹

The Security Council considered the matter further, under the item entitled “The situation in Bosnia and Herzegovina”, at its 3134th to 3137th meetings, from 13 to 16 November 1992. At its 3134th meeting, the Council invited the Special Rapporteur of the Commission on Human Rights to participate under rule 39 of its provisional rules of procedure. Some Council members reiterated their reservations concerning the appropriateness of inviting the Special Rapporteur to participate in a meeting of the Security Council, on the ground that, as he had been appointed by the Commission on Human Rights, he should report to that body.⁵⁰ The Council had before it the first report, and a further report,⁵¹ prepared by the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia.

At its 3137th meeting, on 16 November 1992, the Security Council adopted resolution 787 (1992). In a preambular paragraph of that resolution, the Council “not[ed] with grave concern the reports⁵² of the Special Rapporteur for Yugoslavia ... which ma[de] clear that

⁴⁴ S/24378. The presidential statement concerned reports of the imprisonment and abuse of civilians in camps, prisons and detention centres within the territory of the former Yugoslavia, and especially in Bosnia and Herzegovina, and called upon “all parties, States, international organizations and non-governmental organizations” to make available to the Council any further information they might possess.

⁴⁵ Resolution 1992/S-1/1.

⁴⁶ The Commission’s resolution was endorsed by the Economic and Social Council by decision 1992/305 of 18 August 1992.

⁴⁷ S/24516 of 3 September 1992.

⁴⁸ *Ibid.*, paras. 69 and 70.

⁴⁹ For the relevant statements, see S/PV.3119, p. 12 (United States), p. 13 (Hungary) and pp. 16-17 (France); see also p. 8 (Venezuela).

⁵⁰ S/PV.3134, pp. 9-11. See also chapter III.

⁵¹ S/24516 and S/24766, dated 3 September and 6 November, respectively.

⁵² *Ibid.*

massive and systematic violations of human rights and grave violations of international humanitarian law continue[d] in the Republic of Bosnia and Herzegovina”. In the operative paragraphs, the Council, *inter alia*, condemned all violations of international law, including in particular the practice of “ethnic cleansing” and the deliberate impeding of the delivery of food and medical supplies to the civilian

population of Bosnia and Herzegovina, and reaffirmed that the perpetrators of such acts would be held individually responsible. It also welcomed the establishment of the Commission of Experts, and asked the Commission to actively pursue investigations with regard to grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia.⁵³

⁵³ Resolution 787 (1992), paras. 7 and 8.

Part III

Relations with the Trusteeship Council

Note

This part of chapter VI concerns the relationship between the Security Council and the Trusteeship Council in relation to those trust territories designated as “a strategic area or areas” under Articles 77 and 82 of the Charter. Article 83 (1) provides that “all functions of the United Nations” relating to strategic areas, “including the approval of the terms of the trusteeship agreements and of their alteration or amendment”, are to be exercised by the Security Council. Article 83 (3) further provides that the Security Council shall avail itself of the assistance of the Trusteeship Council to “perform those functions of the United Nations under the trusteeship system relating to political, economic, social and educational matters in the strategic areas”. Those supervisory functions are specified in Articles 87 and 88 of the Charter. Only one Administering Authority designated a Trust Territory as a strategic area: the United States so designated the Pacific Islands, and a draft trusteeship agreement was approved by the Security Council in April 1947. In March 1949, the Security Council approved a proposal by which the Trusteeship Council was asked to exercise the above-mentioned supervisory functions in relation to this Trust Territory, and to submit to the Security Council its reports and recommendations thereon.

During the period under review, the Security Council adopted resolution 683 (1990), by which it terminated the applicability of the Trusteeship Agreement for the Trust Territory of the Pacific Islands with respect to three of the entities covered by the Agreement: the Federated States of Micronesia, the

Marshall Islands and the Northern Mariana Islands. The Council’s practice in this regard is considered in case 9 below. That left Palau as the sole remaining Trust Territory of the Pacific Islands. As it has done since 1949, the Trusteeship Council continued to submit reports annually to the Security Council on the Trust Territory. Those reports are listed in section B.

A. Practice relating to the partial termination of a trusteeship agreement under Article 83, paragraph 1, of the Charter

Case 9

By letter dated 7 December 1990,⁵⁴ the President of the Trusteeship Council transmitted to the President of the Security Council a draft resolution on the status of the Trust Territory of the Pacific Islands. The draft resolution highlighted, *inter alia*, the following:

- The Council’s responsibility relating to strategic areas, as set forth in Article 83 (1) of the Charter.
- The Administering Authority’s obligation to promote the development of the inhabitants of the Trust Territory towards self-government or independence.
- The negotiations between the Administering Authority and representatives of the Trust Territory, which had begun in 1969 and had resulted in the conclusion of a Compact of Free Association in the case of the Federated States of

⁵⁴ S/22008.

Micronesia and the Marshall Islands, and a Commonwealth Covenant in the case of the Northern Mariana Islands.

- The Council's satisfaction that the peoples of these entities had freely exercised their right to self-determination in approving their respective new status agreements in plebiscites observed by visiting missions of the Trusteeship Council, and that the legislatures of these entities had adopted resolutions approving the respective new status agreements.
- Trusteeship Council resolution 2183 (LIII) of 28 May 1986 and subsequent reports of the Trusteeship Council to the Security Council.

In an operative paragraph of the draft resolution, the Council would determine — in the light of the entry into force of the new status agreements for the Federated States of Micronesia, the Marshall Islands and the Northern Mariana Islands — that the objectives of the Trusteeship Agreement had been fully attained, and that the applicability of the Trusteeship Agreement had terminated, with respect to those entities.

At its 2972nd meeting, on 22 December 1990, the Security Council included in its agenda the item entitled "Letter dated 7 December 1990 from the President of the Trusteeship Council addressed to the President of the Security Council". Following the adoption of the agenda, the representative of Cuba proposed that the meeting should be adjourned for three days. He did so on the ground, *inter alia*, that the Governor of the Northern Mariana Islands had requested that the consideration of the question of termination of the Trusteeship Agreement be delayed to give the representatives of the peoples of that Territory an opportunity to present to the members of the Council their position against termination.⁵⁵ In support, he contended that it was "perfectly reasonable" — even obligatory — before taking a decision to terminate the Trusteeship Council's mandate over this Territory to listen to the representative of its people.⁵⁶

Speaking in opposition to the proposal to adjourn the meeting, the representative of the United States of America said that the issues raised in the Governor's

letter concerned the Compact of Free Association entered into between the Commonwealth of the Northern Mariana Islands and the United States. He explained that a condition of the Compact was that it would replace the Trusteeship Agreement, which had been terminated by the Trusteeship Council in 1986, an act which had been recognized by the United States. The differences that had arisen from the Compact were being worked on and resolved under the terms of the Compact, through negotiations. It was important that the negotiations continue. As the Commonwealth of the Northern Marianas had chosen conclusively, through an act of its own legislature, to join the United States, it had become part of the United States. Its relationship to the United States was therefore clearly covered by Article 2 (7) of the Charter. As a result, he believed that the Council should move to accept immediately the original wishes of the people of the Commonwealth of the Northern Marianas, as expressed through their legislature and through a plebiscite held under United Nations supervision.⁵⁷ The Cuban proposal to adjourn the meeting was then put to the vote, but not adopted.⁵⁸

The Security Council proceeded to vote on a draft resolution⁵⁹ submitted by China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The draft resolution was identical to the one submitted and recommended for adoption by the Trusteeship Council. It was adopted, without amendment, as resolution 683 (1990), by 14 votes in favour, to 1 against (Cuba). By the resolution, the Security Council, *inter alia*, determined, "in the light of the entry into force of the new status agreements for the Federated States of Micronesia, the Marshall Islands and the Northern Mariana Islands, that the objectives of the Trusteeship Agreement have been fully attained, and that the applicability of the Trusteeship Agreement has terminated, with respect to those entities".

Speaking after the vote, the five sponsors of the resolution — all of whom, as permanent members of the Security Council, were also members of the Trusteeship Council⁶⁰ — welcomed its adoption as giving effect to the results of the exercise by the peoples of the Federated States of Micronesia, the

⁵⁵ S/PV.2972, pp. 2-3, citing letter dated 20 December 1990 from the Governor of the Northern Mariana Islands to the President of the Security Council (S/22034, annex I).

⁵⁶ S/PV.2972, p. 3.

⁵⁷ *Ibid.*, pp. 6-7.

⁵⁸ *Ibid.*, p. 8.

⁵⁹ S/22001.

⁶⁰ Articles 86 and 23 of the Charter of the United Nations.

Marshall Islands and the Northern Mariana Islands of their right to self-determination. Several of them underlined that the peoples of those Territories had approved in referendums, monitored by the United Nations, agreements defining the new status of each Territory. The Trusteeship Council had then decided, by its resolution 2183 (LIII) of 23 May 1986, that the necessary conditions to terminate the trusteeship over the three Territories had been met.⁶¹ While some described the action just taken by the Security Council as an endorsement of the Trusteeship Council action, others stressed that, under the Charter, it was for the Security Council to take the final decision on ending the trusteeship status: it had the important task of ensuring that United Nations responsibilities with respect to strategic Trust Territories were carried out.⁶²

In explanation of his country's negative vote, the representative of Cuba expressed the view that the Security Council had not properly discharged its responsibilities with regard to this question. He maintained that the Council ought to have afforded the representatives of the peoples of the Territories concerned an opportunity to explain their reasons for not wanting the Council to take the action it had just taken.

⁶¹ For the relevant statements, see S/PV.2972, p. 13 (France); p. 27 (United Kingdom); and p. 28 (United States).

⁶² *Ibid.*, p. 13 (France); pp. 14-15 (China); and p. 28 (USSR).

B. Transmission of reports to the Security Council by the Trusteeship Council

From 1 January 1989 to 31 December 1992, the Secretary-General transmitted to the Council the following reports of the Trusteeship Council on the Trust Territory of the Pacific Islands, which continued to be the only Territory designated as a strategic area:

(a) Forty-first report, covering the period from 20 July 1988 to 1 August 1989;⁶³

(b) Forty-second report, covering the period from 2 August 1989 to 28 November 1990;⁶⁴

(c) Forty-third report, covering the period from 29 November 1990 to 19 December 1991;⁶⁵

(d) Forty-fourth report, covering the period from 19 December 1991 to 21 December 1992;⁶⁶

(e) Forty-fifth report, covering the period from 22 December 1992 to 18 January 1994.⁶⁷

⁶³ *Official Records of the Security Council, Forty-fourth Year, Special Supplement No. 1 (S/20843).*

⁶⁴ *Ibid.*, *Forty-fifth Year, Special Supplement No. 1 (S/22212).*

⁶⁵ *Ibid.*, *Forty-sixth Year, Special Supplement No. 1 (S/23554).*

⁶⁶ *Ibid.*, *Forty-seventh Year, Special Supplement No. 1 and corrigendum (S/25261 and Corr.1).*

⁶⁷ *Ibid.*, *Forty-eighth Year, Special Supplement No. 1 (S/1994/346).*

Part IV Relations with the International Court of Justice

Note

This part concerns the relationship between the Security Council and the International Court of Justice. Section A deals with the election of members of the Court, which depends upon action to be taken by the Security Council in conjunction with the General Assembly, both organs proceeding independently. During the period under review, three elections were held to elect seven members to fill ad hoc and regular vacancies (see cases 10, 11 and 12). Section B notes the discussion that arose in the Security Council in 1992 regarding the respective roles of the Council and

the Court, in connection with the situation concerning the alleged involvement of Libyan nationals in the destruction of two civilian airliners (see case 13).

A. Practice in relation to the election of members of the International Court of Justice

The procedure for the election of members of the Court is set out in Articles 4 and 8 and 10 to 14 of the Statute of the International Court of Justice; rules 40 and 61 of the provisional rules of procedure of the

Security Council; and rules 150 and 151 of the rules of procedure of the General Assembly. In each instance under consideration here, the Security Council began the election procedure to fill a vacancy by fixing the date of the election, in accordance with Article 14 of the Court's Statute. The Security Council and the General Assembly then proceeded independently with the elections. At the Security Council meetings, the President of the Council drew attention to a memorandum by the Secretary-General describing the composition of the Court and setting out the procedure to be followed in the conduct of the election.⁶⁸ He reminded the Council that, under Article 10 (1) of the Court's Statute, "those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected". He explained further that the voting would be by secret ballot.

Case 10

At its 2854th meeting, on 18 April 1989, the Council met to elect a member of the International Court of Justice, to fill a vacancy caused by the death of one of its members. On the first ballot, one candidate obtained the required majority of votes in the Council.⁶⁹ The President stated that he would communicate the result of the vote to the President of the General Assembly, and requested the Council to remain in session until the result of the voting in the General Assembly had been received. Subsequently, he informed the members of the Council that he had received a letter from the President of the General Assembly informing him that the same candidate had received an absolute majority in the General Assembly at the 91st plenary meeting of its forty-third session. The candidate in question was therefore elected a member of the Court. As the new member was elected to replace a member whose term of office had not expired, he was elected to the remainder of his predecessor's term of office, expiring on 5 February 1991.

Case 11

At its 2955th meeting, on 15 November 1990, the Council proceeded with the election of five members of the International Court of Justice, to fill the seats

⁶⁸ See, for example, memorandum by the Secretary-General of 12 April 1989 (S/20551).

⁶⁹ See S/PV.2854.

which would become vacant on 5 February 1991. The election required three rounds of voting, and a second meeting.⁷⁰ On the first ballot, three candidates obtained the required majority of votes in the Council. Since fewer than five candidates had received the required majority, the Council proceeded to a second ballot for the remaining two vacancies, in accordance with rule 61 of the Council's provisional rules of procedure. On the second ballot, two more candidates obtained the required majority. The Council then remained in session until the result of the voting at the 38th plenary meeting of the forty-fifth session of the General Assembly had been received. The results, when compared, revealed that the Security Council and the General Assembly had agreed on four candidates. Those four candidates had therefore been elected as members of the Court for a term of office of nine years, beginning on 6 February 1991. The President of the Council then stated that, in accordance with Article 11 of the Statute of the Court, the Council would proceed to hold another meeting to elect one candidate, by further ballot, for the seat remaining to be filled. He accordingly adjourned the first meeting and immediately called to order the second meeting — the 2956th meeting. On the first ballot, one candidate received the required majority of votes in the Council. At the 39th plenary meeting of the General Assembly, the same candidate obtained an absolute majority of votes in the Assembly. As both the Security Council and the General Assembly had agreed on the same candidate, the candidate in question was elected to the International Court of Justice for a term of office of nine years, beginning on 6 February 1991.

Case 12

At its 3021st meeting, on 5 December 1991, the Council proceeded with the election of one member of the International Court of Justice, to fill a vacancy that had occurred due to the recent death of one of the members of the Court. On the first ballot, no candidate received the required majority.⁷¹ The Council thus proceeded to a second ballot, in accordance with rule 61 of the provisional rules of procedure. On the second ballot, one candidate received the required majority of votes. The candidate in question, having also obtained an absolute majority of votes in the General Assembly, was accordingly elected a member

⁷⁰ See S/PV.2955 and 2956.

⁷¹ See S/PV.3021.

of the Court for the remainder of his predecessor's term of office, expiring on 5 February 1994.

B. Consideration of the relationship between the Security Council and the Court

Case 13

During consideration by the Council of the item entitled "Letters dated 20 and 23 December 1991 (S/23306, S/23307, S/23308, S/23309 and S/23317)",⁷² concerning the alleged involvement of Libyan nationals in the destruction of two civilian aircraft (Pan Am flight 103 over Lockerbie, Scotland, in 1988 and UTA flight 772 over the Niger in 1989), discussion arose concerning the respective roles of the Security Council and the International Court of Justice.

At the end of 1991, the Governments of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America presented to the Security Council the reports of judicial and police investigations which implicated officials of the Libyan Government in the bombings of the two airliners. The three Governments also presented specific demands to the Libyan authorities relating to the legal procedures that were under way: these included the demand that the Government of the Libyan Arab Jamahiriya surrender for trial the two Libyan officials charged with the destruction of Pan Am flight 103, that it accept responsibility for their actions, and that it pay appropriate compensation.

At its meeting on 21 January 1992, the Security Council considered the matter and unanimously adopted resolution 731 (1992), which urged the Government of the Libyan Arab Jamahiriya immediately to provide a full and effective response to the requests of the three Governments to cooperate fully in establishing responsibility for the terrorist acts against the two aircraft.

Speaking before the vote, the representative of the Libyan Arab Jamahiriya maintained that the issue before the Council was a legal one — "a dispute over the legal determination to be made in connection with a request for extradition". The Security Council was not,

therefore, competent to consider the matter. Instead, it should recommend settlement through the diverse legal channels that were available — in particular, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, 1971 (the Montreal Convention), which provided for arbitration. The Council should bear in mind, moreover, that under Article 36 (3) of the Charter, "legal disputes should as a general rule be referred to the International Court of Justice in accordance with the provisions of the Statute of the Court". He added that the Libyan Arab Jamahiriya had formally requested that the dispute be referred to arbitration under the Montreal Convention and intended, if no agreement was reached on arbitration, to bring the matter before the Court.⁷³ A number of other speakers, who were not Council members, shared the view that the matter before them was essentially a legal one, and thought it inappropriate for the Security Council to consider it. They encouraged the Council to allow the question to be dealt with in a legal framework.⁷⁴

The representatives of the United States and the United Kingdom, on the other hand, stressed that the Council was confronted with a situation of State-sponsored terrorism, to which standard procedures were clearly inapplicable. The former stated that the issue at hand was not a difference of opinion or approach that could be mediated or negotiated. It was, as the Council had just recognized in adopting resolution 731 (1992), conduct that constituted a threat to international peace and security.⁷⁵ The representative of the United Kingdom stressed that it was the exceptional circumstance of government involvement in the destruction of the two flights which had made it appropriate for the Council to adopt a resolution urging the Libyan Arab Jamahiriya to comply with the requests that the accused be made available for trial in Scotland or the United States and to cooperate with the French judicial authorities. Under the circumstances, it was clear that the State which was itself implicated in the acts of terrorism could not try its own officials. Nor was the suggestion of a trial before an international tribunal practical, as there was

⁷³ See S/PV.3033, pp. 12, 14-15, 22-25.

⁷⁴ *Ibid.*, pp. 32-33 (Sudan); 52 (Mauritania, on behalf of the Arab Maghreb Union); 56 (Yemen); and 63-65 (Islamic Republic of Iran).

⁷⁵ *Ibid.*, pp. 78-79.

⁷² This item was considered by the Council at its 3033rd and 3063rd meetings, on 21 January and 31 March 1992, respectively. For details, see the case study in chapter VIII.

no international tribunal with criminal jurisdiction.⁷⁶ Several other speakers who supported the adoption of resolution 731 (1992) concurred that the attacks on the two aircraft were acts of terrorism that threatened international peace and security. They considered it entirely appropriate, therefore, for the Security Council — the United Nations body entrusted with the primary responsibility for the maintenance of international peace and security — to consider these terrorist acts.⁷⁷ A number of those speakers noted that this was not the first time that the problem of terrorism against civil aviation had appeared on the Council's agenda, and recalled that the Council's most recent resolution on the subject, resolution 635 (1989) of 14 June 1989, had condemned all acts of unlawful interference with the security of civil aviation.

On 3 March 1992, the Libyan Arab Jamahiriya instituted separate proceedings against the United Kingdom and the United States before the International Court of Justice, in respect of "a dispute" between them "over the interpretation or application of the Montreal Convention", arising from the aerial incident at Lockerbie. In its applications, the Libyan Arab Jamahiriya contended that the acts alleged in the indictment constituted an offence under the 1971 Montreal Convention and should be dealt with in the framework of that Convention, and that the United Kingdom and the United States were in breach of the Convention by virtue of the pressure they were applying on the Libyan Arab Jamahiriya to surrender the two Libyan nationals for trial. Later on the same day, the Libyan Arab Jamahiriya also filed a request for provisional measures to preserve the rights of the Libyan Arab Jamahiriya and to cause the United Kingdom and the United States "to abstain from any action capable of having a prejudicial effect on the Court's decision in the case, and to refrain from taking any step that might aggravate or extend the dispute, as would surely happen if sanctions were imposed against the Libyan Arab Jamahiriya or force were employed".⁷⁸ In the course of the oral proceedings

before the Court, the United Kingdom and the United States contended, inter alia, that the provisional measures sought by the Libyan Arab Jamahiriya should be refused as they were designed to fetter the Security Council in the exercise of its proper powers and to preclude the Security Council from acting in relation to a wider dispute involving allegations that the Libyan State was guilty of State terrorism.

On 31 March 1992 — three days after the close of the hearings and before the Court had rendered its decision on the request for provisional measures — the Security Council adopted resolution 748 (1992). Acting under Chapter VII of the Charter, the Council imposed aviation and diplomatic sanctions and an arms embargo on the Libyan Arab Jamahiriya, on the basis of its determination that the failure of the Libyan Arab Jamahiriya to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992), constituted a threat to international peace and security.

At the Council meeting at which resolution 748 (1992) was adopted, the representative of the Libyan Arab Jamahiriya had questioned the appropriateness of the Security Council once again considering this item. He contended that it was doing so without taking into consideration the framework in which the issue should be examined, namely, the legal framework; and without awaiting the final word on the subject from a neutral and objective jurisdiction. Why, he asked, was there such haste? Why did the other parties refuse to await the decision of the Court on the question? Why were they exerting pressure on the Council to consider the question at the same time as the Court was considering it?⁷⁹ Several speakers, including three Council members who abstained in the voting, expressed the view that the Council should have avoided adopting any resolution imposing sanctions pending a decision by the Court.⁸⁰ Some speakers also observed that, although nothing in the Charter precluded the parallel consideration of the dispute by the Court and the Security Council, these two principal organs should complement each other's efforts rather than proceed in a manner that could produce contradictory results.⁸¹

⁷⁶ Ibid., pp. 102-104.

⁷⁷ Ibid., pp. 43-46 (Italy); 47-48 (Canada); 70 (Zimbabwe); 82 (France); 83-84 (Belgium); 87-88 (Russian Federation); 91 (Hungary); 92 (Austria); and 94 (India).

⁷⁸ *Aerial incident at Lockerbie (Libyan Arab Jamahiriya v. United Kingdom)*, Provisional Measures, Order of 14 April 1992, ICJ Reports 1992, p. 3 at p. 8. The corresponding order in the case against the United States is at ICJ Reports 1992, p. 114.

⁷⁹ S/PV.3063, pp. 4 and 14-15.

⁸⁰ Ibid., pp. 27 (Jordan, on behalf of the League of Arab States); 32 (Mauritania, on behalf of the Arab Maghreb Union); 46 (Cape Verde); 53 (Zimbabwe); and 58 (India).

⁸¹ Ibid., pp. 52-53 (Zimbabwe); 58 (India); and 84 (Venezuela).

The representative of Zimbabwe contended that, by invoking Chapter VII while the matter was still pending before the Court, the Security Council was “risking a major institutional crisis”.⁸²

Speaking in support of resolution 748 (1992), on the other hand, the representative of the United States stressed that the evidence of involvement by the Libyan Arab Jamahiriya in the acts of terrorism under consideration indicated a serious breach of international peace and security, which fully justified the adoption by the Council of measures pursuant to Chapter VII. The message sent by the resolution was the surest guarantee that the Security Council, using its specific, unique powers under the Charter, would preserve the rule of law and ensure the peaceful resolution of threats to international peace and security, then and in the future.⁸³ The representative of the United Kingdom rejected the Libyan suggestion that compliance with the requests in resolution 731 (1992) should await the outcome of the proceedings instituted by the Libyan Arab Jamahiriya in the Court. He believed that the Libyan application to the Court, while purporting to enjoin action by the United Kingdom against the Libyan Arab Jamahiriya, was in fact directed at interfering with the exercise by the Security Council of its rightful functions and prerogatives under the Charter. He stressed that the Security Council was fully entitled to concern itself with issues of terrorism and the measures needed to address acts of terrorism in any particular case or to prevent it in the future. Any other view, he stated, would undermine the primary responsibility for the maintenance of international peace and security conferred on the Council by Article 24 of the Charter.⁸⁴ A number of other Council members similarly stressed that terrorism was a threat to international peace and security, and stated that the

Security Council had acted appropriately in taking enforcement action.⁸⁵ The President of the Council, speaking in his capacity as the representative of Venezuela, observed that both the Council and the Court were independent of each other, and that each of these organs in the United Nations system must exercise its jurisdiction autonomously. It was important, however, that public opinion should understand that, although it would have been desirable for there to be a simultaneous decision by the two forums, the absence of such a simultaneous decision could not inhibit the actions which one or the other might take, and that their actions did not imply a disregard for their respective responsibilities.⁸⁶

Following the adoption of resolution 748 (1992), the Court invited the parties to submit their views on the possible implications of the resolution for the proceedings before it. After receiving these views, the Court found that the obligation of the Libyan Arab Jamahiriya, the United Kingdom and the United States to accept and carry out the decisions of the Security Council in accordance with Article 25 of the Charter extended to the decision contained in resolution 748 (1992); and that, in accordance with Article 103 of the Charter, the obligations of the parties in that respect prevailed over their obligations under any other international agreement, including the Montreal Convention. Emphasizing that it was not at this stage called upon to determine definitively the legal effect of resolution 748 (1992), the Court considered that “whatever the situation previous to the adoption of that resolution, the rights claimed by Libya under the Montreal Convention cannot now be regarded as appropriate for protection by the indication of provisional measures”. It declined, therefore, to indicate provisional measures.⁸⁷

⁸² *Ibid.*, p. 53.

⁸³ *Ibid.*, pp. 66-67.

⁸⁴ *Ibid.*, pp. 68-69.

⁸⁵ *Ibid.*, pp. 73-74 (France); 77 (Austria); and 79-80 (Russian Federation).

⁸⁶ *Ibid.*, p. 84.

⁸⁷ ICJ Reports 1992, pp. 15 and 126-127.

Part V Relations with the Secretariat

Note

This part is concerned with the functions other than those of an administrative nature entrusted to the Secretary-General by the Security Council under Article 98 of the Charter,⁸⁸ and with the Secretary-General's power of initiative under Article 99.

Article 98

The Secretary-General shall act in that capacity [as the chief administrative officer of the Organization] in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. ...

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.

A. Functions entrusted to the Secretary-General by the Security Council

Note

During the period under review, the Secretary-General was requested or authorized by the Security Council to carry out a broad range of actions, particularly in relation to the peaceful settlement of disputes and peacekeeping. Those actions included the following:⁸⁹

⁸⁸ The functions and powers of the Secretary-General in regard to the meetings of the Security Council, conferred under Article 98, are delineated in rules 21 to 26 of the Council's provisional rules of procedure; see chapter I, part IV.

⁸⁹ The practice cited is illustrative and does not purport to be comprehensive. For details of these and other instances of the Security Council entrusting functions to the Secretary-General, see the case studies in chapter VIII.

Measures to ascertain the facts

In a number of instances, the Secretary-General was asked to investigate the facts of a particular situation or his efforts to do so were endorsed:

(a) In relation to the situation in the occupied Arab territories, the Council welcomed the decision of the Secretary-General to send a mission to the region to "look into the circumstances surrounding the recent tragic events in Jerusalem and other similar developments in the occupied territories" and requested him to submit a report containing his findings and recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation;⁹⁰

(b) In relation to the same item, the Council requested the Secretary-General to "monitor and observe the situation regarding Palestinian civilians under Israeli occupation, making new efforts in this regard on an urgent basis";⁹¹

(c) In connection with the situation between Iraq and Kuwait, the Council requested the Secretary-General to "report forthwith, if appropriate on the basis of a further mission to the region, on the plight of the Iraqi civilian population, and in particular the Kurdish population, suffering from the repression in all its forms inflicted by the Iraqi authorities";⁹²

(d) With regard to the situation in the former Yugoslavia, the Council requested the Secretary-General to collate the information submitted to the Council by States and international humanitarian organizations "relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions, being committed in the territory of the former Yugoslavia", and to submit a report summarizing the information and recommending

⁹⁰ Resolution 672 (1990) of 12 October 1990, para. 4; clarifying statement by the President conveyed to the Council on 12 October 1990 (S/PV.2948, p. 27); resolution 673 (1990) of 24 October 1990.

⁹¹ Resolution 681 (1990) of 20 December 1990, para. 7.

⁹² Resolution 688 (1991) of 5 April 1991, para. 4.

additional measures that might be appropriate in response to it;⁹³

(e) With regard to the same issue, the Council subsequently requested the Secretary-General to establish an impartial Commission of Experts to examine and analyse the information submitted pursuant to resolutions 771 (1992) and 780 (1992), together with such further information as the Commission of Experts might obtain through its own investigations or efforts, with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia. The Council requested the Secretary-General to report to it on the Commission's conclusions;⁹⁴

(f) Also in relation to the situation in the former Yugoslavia, and specifically the situation in Bosnia and Herzegovina, the Council invited the Secretary-General to inform it of the findings of the inquiry into the circumstances of a fatal attack carried out against personnel of the United Nations Protection Force (UNPROFOR) near Sarajevo and similar incidents involving the United Nations activities in Bosnia and Herzegovina, and of any information which he could gather on the responsibility for those incidents.⁹⁵

Good offices

The Secretary-General was often requested to exercise or continue to exercise his "good offices" function — his independent political role in preventing or mediating conflicts between or within States — or his role in this regard was endorsed:

(a) In relation to the situation in Cyprus, the Secretary-General was requested to "continue to exercise his mission of good offices" to assist the two communities to reach a negotiated settlement of all aspects of the Cyprus problem. He acted on the basis of Security Council authorization, renewed semi-annually,⁹⁶ and in the context of a long-standing United

Nations peacekeeping operation (UNFICYP). In March 1990, the Council requested the Secretary-General "toward this end, to assist the two communities by making suggestions to facilitate the discussions".⁹⁷

(b) In connection with the item "Central America: efforts towards peace", the Council lent "its full support to the Secretary-General to continue his mission of good offices, in consultation with the Security Council, in support of the Central America Governments, in their effort to achieve the goals set forth in the Guatemala agreement".⁹⁸ It subsequently reiterated its full support for his mission of good offices in the region.⁹⁹ In the case of El Salvador, the Council "welcomed the efforts of the Secretary-General to promote the achievement of a negotiated political solution to the conflict in El Salvador".¹⁰⁰ It later commended the Secretary-General and his Personal Representative for Central America "for their efforts at good offices, and express[ed] its full support for their continuing efforts to facilitate a peaceful settlement to the conflict".¹⁰¹

(c) With regard to the situation between Iraq and Kuwait, shortly after Iraq's invasion of Kuwait, the Council "welcomed the Secretary-General's use of his good offices to advance a peaceful solution based on the relevant resolutions of the Council".¹⁰² More specifically, by resolution 674 (1990), the Council "repose[d] its trust in the Secretary-General to make available his good offices and, as he consider[ed] appropriate, to pursue them and to undertake diplomatic efforts in order to reach a peaceful solution to the crisis caused by the Iraqi invasion and occupation of Kuwait, on the basis of resolutions 660 (1990), 662 (1990) and 664 (1990)".¹⁰³

⁹³ Resolution 771 (1992) of 13 August 1992, paras. 5 and 6.

⁹⁴ Resolution 780 (1992) of 6 October 1992, paras. 2 and 4.

⁹⁵ Statement by the President of the Security Council of 9 September 1992 (S/24539).

⁹⁶ The first authorizing resolution during this period was resolution 634 (1989) of 9 June 1989, para. 2; the last was resolution 796 (1992) of 14 December 1992, para. 2.

⁹⁷ Resolution 649 (1990) of 12 March 1990. See also statement by the President of 28 March 1991 (S/22415), para. 2.

⁹⁸ Resolution 637 (1989) of 27 July 1989, para. 5.

⁹⁹ Resolution 650 (1990) of 27 March 1990, third preambular paragraph.

¹⁰⁰ Resolution 654 (1990) of 4 May 1990, para. 3.

¹⁰¹ Resolution 693 (1991) of 20 May 1991, sixth preambular paragraph.

¹⁰² Resolution 670 (1990) of 25 September 1990, tenth preambular paragraph.

¹⁰³ Resolution 674 (1990), para. 12. In the resolutions cited, the Council, acting under Chapter VII, had, *inter alia*, demanded Iraq's immediate and unconditional withdrawal.

(d) In connection with the same item, the Secretary-General was also requested to “use his good offices to facilitate the delivery and distribution of foodstuffs” to the civilians in Kuwait and Iraq;¹⁰⁴ and to continue to exercise his good offices concerning the safety and well-being of third-State nationals in Iraq and Kuwait.¹⁰⁵

(e) In connection with items relating to the Libyan Arab Jamahiriya, the Council requested the Secretary-General “to seek the cooperation of the Libyan Government to provide a full and effective response” to the requests addressed to the Libyan authorities by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America for the extradition of the suspects involved in two airline bombings.¹⁰⁶ The Secretary-General sent an Under-Secretary-General as his Special Envoy to Tripoli, emphasizing in his personal message to the Libyan leader, Colonel Muammar Al-Qadhafi, that he was “acting under the terms of paragraph 4 of resolution 731 and not as a mediator between the Security Council and the Libyan authorities”.¹⁰⁷

(f) At the conclusion of the first meeting of the Security Council held at the level of Heads of State and Government on 31 January 1992, the President of the Council made a statement on behalf of the members of the Council in which they invited the Secretary-General “to consider how greater use might be made of his good offices”.¹⁰⁸

Joint efforts to promote a political settlement

In several instances, the Secretary-General was asked to undertake diplomatic efforts in conjunction with regional arrangements or other actors:

(a) In the context of the situation in the Middle East, with regard to the situation in Lebanon, the members of the Council, in a presidential statement, invited the Secretary-General — in collaboration with the Ministerial Committee of the League of Arab States — “to make all possible efforts and to make all contacts which could be deemed useful” for putting an

end to the loss of human lives, alleviating the suffering of the Lebanese people and achieving an effective ceasefire indispensable for a settlement of the Lebanese crisis.¹⁰⁹ The members of the Council subsequently invited the Secretary-General to pursue all appropriate contacts, in liaison with the Tripartite High Committee set up to resolve the Lebanese crisis, to ensure observance of the ceasefire;¹¹⁰ welcomed the contacts he had maintained with the members of the Tripartite High Committee, and invited him to pursue those contacts.¹¹¹

(b) In relation to the situation concerning Western Sahara, the Council expressed its full support to the Secretary-General “in his mission of good offices, pursued jointly with the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity, with a view to settling the question of Western Sahara”.¹¹²

(c) In connection with the situation in the former Yugoslavia, in September 1991, the Council invited the Secretary-General “to offer his assistance” in relation to the Croatian aspect of the conflict, in consultation with the Government of Yugoslavia and those promoting the efforts to restore peace and dialogue in Yugoslavia, namely, the States members of the European Community with the support of the States participating in the Conference on Security and Cooperation in Europe.¹¹³

(d) In connection with the same item, in April 1992, the Council expressed alarm at the rapid deterioration of the situation in Bosnia and Herzegovina. It invited the Secretary-General “to dispatch urgently to the area his Personal Envoy for Yugoslavia to act in close cooperation with representatives of the European Community” whose efforts were “aimed at stopping the fighting and at bringing about a peaceful solution to the crisis”.¹¹⁴ The Council subsequently requested the Secretary-General to “keep close contacts with the developments within the framework of the Conference on Yugoslavia and to

¹⁰⁴ Resolution 666 (1990) of 13 September 1990, para. 7.

¹⁰⁵ Resolution 674 (1990) of 29 October 1990, para. 7.

¹⁰⁶ Resolution 731 (1992) of 21 January 1992, para. 4.

¹⁰⁷ Report of the Secretary-General of 11 February 1992 (S/23574), para. 2. See also report of the Secretary-General of 3 March 1992 (S/23672).

¹⁰⁸ S/23500, p. 4.

¹⁰⁹ Statement by the President of 24 April 1989 (S/20602), para. 3.

¹¹⁰ Statement by the President of 15 August 1989 (S/20790), para. 4.

¹¹¹ Statement by the President of 20 September 1989 (S/20855), para. 5.

¹¹² Resolution 658 (1990) of 27 June 1990, para. 4.

¹¹³ Resolution 713 (1991) of 25 September 1991, para. 3.

¹¹⁴ Statement by the President of 10 April 1992 (S/23802).

assist in finding a negotiated political solution for the conflict in Bosnia and Herzegovina.¹¹⁵

(e) With regard to the situation in Somalia, the Council, early in 1992, requested the Secretary-General, together with the Secretaries-General of the Organization of African Unity and the League of Arab States, “to contact all parties involved in the conflict, to seek their commitment to the cessation of hostilities in order to permit the humanitarian assistance to be distributed, to promote a ceasefire and compliance therewith, and to assist in the process of a political settlement of the conflict in Somalia.”¹¹⁶

(f) In relation to the same item, the Council also called upon the Secretary-General to continue, in close cooperation with the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference, “his consultations with all Somali parties, movements and factions towards the convening of a conference for national reconciliation and unity in Somalia”.¹¹⁷ This call was reiterated in several subsequent resolutions.¹¹⁸

Peacekeeping and implementation of peace agreements

The Secretary-General was also entrusted with a leading role in dispatching and directing a number of peacekeeping missions authorized by the Council.¹¹⁹ Some of these missions, such as those in Cyprus, the Middle East, and along the Iraq-Kuwait border, involved the interposition of military forces to monitor ceasefire lines. Other missions during this period were multifaceted operations, which assisted the parties in the implementation of complex peace agreements. They verified troop demobilizations, supervised elections, monitored human rights, and repatriated refugees. This was the case, for example, in the sizeable operations in Namibia, Cambodia, Mozambique and Central America.

¹¹⁵ Resolution 764 (1992) of 13 July 1992, para. 9.

¹¹⁶ Resolution 733 (1992) of 23 January 1992, para. 3.

¹¹⁷ Resolution 746 (1992) of 17 March 1992, para. 9.

¹¹⁸ Resolutions 751 (1992), para. 10; 767 (1992), para. 16; and 775 (1992), para. 10.

¹¹⁹ As peacekeeping missions are created as subsidiary organs of the Security Council, under Article 29 of the Charter, they are dealt with in chapter V.

B. Matters brought to the attention of the Security Council by the Secretary-General

Note

The period under consideration saw an explicit invocation of Article 99 by the then Secretary-General, Javier Pérez de Cuéllar. It occurred in August 1989 in connection with events in Lebanon and is considered briefly in case 14 below. At the end of 1992, the members of the Council formally endorsed the Secretary-General’s role in taking the initiative to draw potential conflicts to the attention of the Security Council, as an element of conflict prevention. They did so in a presidential statement of 30 November 1992, adopted in connection with their examination of the report of the Secretary-General entitled “An agenda for peace”. This is dealt with in case 15 below.

Case 14

By a letter dated 15 August 1989 addressed to the President of the Security Council,¹²⁰ the Secretary-General expressed deep concern about the tragic events in Lebanon, and reported that the violence in and around Beirut had escalated to a level unprecedented in 14 years of conflict. He stressed that the United Nations had a responsibility to prevent further bloodshed in Lebanon and to support the wider efforts, led by the Tripartite Committee,¹²¹ for a resolution of the conflict. As a step in that direction, an effective ceasefire was imperative. What was required, he believed, was a concerted effort by the Council as a whole to impress upon the parties to the conflict that there was an immediate need to halt all military activities and to adhere to a ceasefire so that the efforts of the Tripartite Committee might continue unimpeded. The Secretary-General concluded as follows: “In my opinion, the present crisis poses a serious threat to international peace and security. Accordingly, in the exercise of my responsibility under the Charter of the United Nations, I ask that the Security Council be convened urgently in order to contribute to a peaceful solution of the problem.” Looking back at the end of

¹²⁰ S/20789.

¹²¹ The Tripartite Committee comprised King Hassan II of Morocco, King Fahd bin Abdul-Aziz Al Saud of the Kingdom of Saudi Arabia, and President Chadli Bendjedid of Algeria.

1989 on these events in Lebanon, the Secretary-General recalled that in August he had “felt compelled, for the first time in [his] tenure as Secretary-General, to invoke Article 99 of the Charter”.¹²²

In response to the Secretary-General’s urgent appeal, the Security Council met immediately¹²³ and adopted a presidential statement¹²⁴ in which it appealed to all the parties to observe a total and immediate ceasefire, and expressed its full support for the Tripartite Committee of the Arab Heads of State in the efforts it was making with a view to the establishment of an effective and definitive ceasefire and the putting into effect of a plan for the settlement of the Lebanese crisis in all its aspects. The Council also appealed to all States and to all the parties to support the efforts of the Tripartite Committee, and invited the Secretary-General to pursue all appropriate contacts, in liaison with the Tripartite Committee, in order to ensure observance of the ceasefire.

Case 15

At the meeting of the Security Council held at the level of Heads of State and Government, held on 31 January 1992 to consider the responsibility of the Security Council in the maintenance of international peace and security, several Council members touched on the role of the Secretary-General under Article 99. They encouraged him to use his initiative to draw potential conflicts to the attention of the Council as part of a more active role he might usefully play in preventive diplomacy.¹²⁵ In a presidential statement

adopted at the conclusion of the summit, the members of the Council invited the Secretary-General to prepare an analysis and recommendations on strengthening the capacity of the United Nations for preventive diplomacy, peacemaking and peacekeeping.¹²⁶ In that context, he was asked to consider how greater use might be made of his good offices, and of his other functions under the Charter.

In his report of 17 June 1992 entitled “An agenda for peace”,¹²⁷ pursuant to the presidential statement of 31 January 1992 (S/23500), the Secretary-General stressed that preventive diplomacy required timely and accurate knowledge of the facts. An increased resort to fact-finding was needed, he said, initiated either by the Secretary-General — to enable him to meet his responsibilities under the Charter, including Article 99 — or by the Security Council or the General Assembly. He made a number of proposals in that regard on enhancing informal and formal fact-finding.

In a presidential statement adopted on 30 November 1992, in connection with their examination of the Secretary-General’s report, the members of the Council welcomed and supported the proposals on fact-finding in paragraph 25 of the report. They were of the view that “an increased resort to fact-finding as a tool of preventive diplomacy ... [could] result in the best possible understanding of the objective facts of the situation which [would] enable the Secretary-General to meet his responsibilities under Article 99 of the Charter and facilitate the Security Council’s deliberations”. In the same presidential statement, the members of the Council “welcome[d] the Secretary-General’s readiness to make full use of his powers under Article 99 of the Charter to draw the attention of the Security Council to any matter which in his opinion m[ight] threaten international peace and security”.

¹²² Report of the Secretary-General of 22 November 1989 on the situation in the Middle East (S/20971), para. 43.

¹²³ The agenda item was entitled: “The situation in the Middle East: letter dated 15 August 1989 from the Secretary-General addressed to the President of the Security Council”.

¹²⁴ S/20790.

¹²⁵ For the relevant statements, see S/PV.3046, pp. 68-69, 71 (Belgium); 82 (Cape Verde); 137-138 (United Kingdom); and 134 (Zimbabwe).

¹²⁶ S/23500, section entitled “Peacemaking and peacekeeping”.

¹²⁷ S/24111, paras. 23-27.

Part VI

Relations with the Military Staff Committee

Note

The Military Staff Committee, established pursuant to Article 47 of the Charter, is composed of the Chiefs of Staff of the permanent members or their representatives. Its function is “to advise and assist the Security Council on all questions relating to the Security Council’s military requirements for the maintenance of international peace and security, the employment and command of forces at its disposal, the regulation of armaments, and possible disarmament”.¹²⁸

During the period under review, the Military Staff Committee met every other week in closed session and remained prepared to carry out the functions assigned to it under Article 47.¹²⁹ In mid-1990, the Security Council adopted a resolution by which it contemplated a potential role for the Military Staff Committee in coordinating a naval interdiction authorized in the case of the situation between Iraq and Kuwait. There was some discussion by Council members of the role of the Committee in the debate before and after the vote on the resolution in question. This practice is considered in case 16 below. The Committee’s role was also referred to in various contexts at the Council’s summit meeting on the responsibility of the Security Council in the maintenance of international peace and security. This is dealt with in case 17.

Case 16

Situation between Iraq and Kuwait

By resolution 665 (1990) of 25 August 1990, the Security Council authorized those Member States

cooperating with the Government of Kuwait which were deploying maritime forces to the area to interdict maritime shipping in order to ensure compliance with the economic sanctions against Iraq and occupied Kuwait imposed by resolution 661 (1990). In paragraph 4 of resolution 665 (1990), the Council requested the States concerned “to coordinate their actions in pursuit of the above ... using, as appropriate, mechanisms of the Military Staff Committee”. The resolution was adopted by 13 votes to none, with two abstentions (Cuba and Yemen).

A number of Council members referred to the Military Staff Committee in statements made before or after the vote leading to the adoption of resolution 665 (1990). Some expressed concern that its exact role had not been made clear in the resolution. The representative of Cuba contended that the draft resolution violated several provisions of the Charter relating to the use of force, including Articles 46 and 47 (1). In his view, if the Council were really acting responsibly and seriously when it talked of using military force, then it should have drawn on those articles of Chapter VII that clearly spelled out how that responsibility and authority should be exercised. He noted, for example, that under Article 46, “Plans for the application of armed forces shall be made by the Security Council with the assistance of the Military Staff Committee”. Although there was a reference to the Military Staff Committee in paragraph 4 of the draft resolution, as far as he was aware, it had not been convened either formally or informally “to draw up any plan for the deployment of any forces in any part of the world”. Article 47, moreover, in specifying the functions of that Committee, provided, *inter alia*, that it should assist the Security Council in the “employment and command of forces placed at its disposal”. It was impossible, however, to find those criteria or requirements in the draft resolution before the Council.¹³⁰ The representative of Colombia noted that, in adopting the resolution, the Council would be establishing a naval blockade and that it would be acting pursuant to Article 42 even if the resolution did not say so. Although that did not cause him concern,

¹²⁸ Article 47. See also Articles 45 and 46, elaborating on the Military Staff Committee’s role in assisting the Security Council, respectively, in determining the readiness of national air force contingents made available for combined international enforcement action; and in making plans for the application of armed force. The Committee’s task in assisting the Council in formulating plans for the regulation of armaments is addressed in Article 26.

¹²⁹ See part III of the report of the Security Council for the periods 16 June 1988-15 June 1989; 16 June 1989-15 June 1990; 16 June 1990-15 June 1991; 16 June 1991-15 June 1992; and 16 June 1992-15 June 1993.

¹³⁰ S/PV.2938, pp. 12-17. See also the statement by the representative of Iraq (S/PV.2938, pp. 67-70).

other points of the draft resolution did, namely, the failure to specify to whom the Council was delegating authority, and the apparent lack of accountability for the exercise of the delegated powers. Looking to the future, he believed that the Council must be prepared to deal with situations of the kind under consideration so that it would not find itself faced with a fait accompli. To that end, his country believed that, “after 45 years, the Security Council must finally implement Article 43 — and, of course, the following articles — of the Charter”.¹³¹

Other Council members, speaking after the vote, indicated their readiness to consider a role for the Military Staff Committee in coordinating the naval interdiction. The representative of the United States stated in this regard: “In accordance with its responsibilities under this resolution and at the request of the legitimate Government of Kuwait, the Government of the United States will coordinate its actions with those of the many other nations that have sent naval forces to the region. ... We are also ready to discuss an appropriate role in this process for the Military Staff Committee.”¹³² The representative of the Union of Soviet Socialist Republics stated: “Our unambiguous support for the resolutions of the Security Council reflects the Soviet Union’s intention to act exclusively within the framework of collective efforts to settle this crisis. ... It is also important that the Security Council should continue to concern itself on an ongoing basis with this extremely grave problem. We are prepared to make full use of the opportunities offered by the machinery of the Military Staff Committee.”¹³³

Later in the year, in the discussion preceding the adoption by the Council of resolution 678 (1990), authorizing the use of “all necessary means” to ensure Iraq’s compliance with its previous resolutions,¹³⁴ the representative of Iraq argued that the draft resolution was unlawful. He contended that the Security Council

could act collectively under Article 42 and could use force to implement sanctions only in accordance with a mechanism provided for in Article 43. He added: “In other words ... only collective action under the command and control of the Security Council, in coordination with the Military Staff Committee, can lead to the use of force against any country”.¹³⁵ This view seems to have found support among two Council members.¹³⁶

Case 17

Summit meeting on the responsibility of the Security Council in the maintenance of international peace and security

At the Council’s 3046th meeting, held at the level of Heads of State and Government on 31 January 1992 in connection with the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”, two Council members alluded briefly to the role of the Military Staff Committee.

The President of France did so while making a proposal aimed at ensuring the greater effectiveness of peacekeeping operations. He stated that France was ready to make available to the Secretary-General a stand-by contingent for peacekeeping operations. He added that “such deployments would involve activity by the Military Staff Committee, as provided for in the Charter”.¹³⁷ The Minister for Foreign Affairs and Personal Emissary of the President of Zimbabwe addressed the role of the Military Staff Committee in future collective enforcement actions and in relation to multilateral disarmament. In relation to the first point, he expressed the view that, in order to avoid the misgivings expressed by some regarding the prosecution of the Gulf War, future collective enforcement operations must be fully accountable to the Security Council and should be truly representative. That could be achieved “by

¹³¹ Ibid., pp. 22-25.

¹³² Ibid., pp. 29-30.

¹³³ Ibid., pp. 41 and 43. At an earlier meeting in relation to the same item, the representative of the USSR expressed his delegation’s readiness “to undertake consultations immediately in the Military Staff Committee, which, under the Charter of the United Nations, can perform very important functions” (S/PV.2934, p. 12).

¹³⁴ Adopted at the 2963rd meeting on 29 November 1990 by 12 votes to 2 (Cuba, Yemen), with 1 abstention (China).

¹³⁵ S/PV.2963, p. 21. See also the statement by the representative of Iraq to the same effect in relation to resolution 665 (1990), authorizing the naval interdiction (S/PV.2938, pp. 67-70).

¹³⁶ See the statements by the representatives of Cuba and Malaysia (S/PV.2963, pp. 58 and 76, respectively). See also letter dated 13 February 1991 from the representative of Tunisia addressed to the President of the Security Council (S/22225, p. 6).

¹³⁷ S/PV.3046, p. 18.

strengthening Article 46 of the Charter, which gives a role to the Military Staff Committee". He added, however, that if the Military Staff Committee were to be given such an important role, its membership could not remain limited to only a few members of the Council. He stated: "Non-permanent members should also participate in all the work of the Committee. This would ensure that collective enforcement actions are not dominated by a single group of countries". On the question of disarmament, the Foreign Minister stated that, in tandem with the Arms Transfer Register, multilateral disarmament could further be boosted by the use of the provisions of Article 26 and of Article 47 (1), of the Charter, which empowered the Security Council, with the assistance of the Military Staff Committee, to put in place a system for the regulation of armaments. He contended that those provisions, which had been dormant since the founding of the Organization, would have rendered unnecessary the ad hoc creation by resolution 687 (1991) of the Special Commission dealing with the disarmament measures imposed on Iraq. In his view, an opportunity still existed to utilize them in implementing the disarmament measures for the wider Middle East region provided for in that resolution.¹³⁸

¹³⁸ Ibid., pp. 126-127.

Pursuant to the presidential statement¹³⁹ adopted at the conclusion of the summit meeting, the Secretary-General submitted to the Council on 17 June 1992 a report entitled "An Agenda for Peace: preventive diplomacy, peacemaking and peacekeeping".¹⁴⁰ In connection with "peacemaking", he expressed the view that the detailed approach governing the use of military force in Chapter VII of the Charter merited the attention of Member States. The special agreements foreseen in Article 43, in accordance with which Member States undertake to make available to the Security Council, on its call, armed forces, assistance and facilities, should be brought into being. He recommended, in that regard, "that the Security Council initiate negotiations in accordance with Article 43, supported by the Military Staff Committee, which may be augmented if necessary by others in accordance with Article 47, paragraph 2". He added that, in his view, "the role of the Military Staff Committee should be seen in the context of Chapter VII and not that of the planning or conduct of peacekeeping operations".¹⁴¹ These suggestions were not referred to by the Council in the series of presidential statements adopted following its consideration of the Secretary-General's report.¹⁴²

¹³⁹ S/23500.

¹⁴⁰ S/24111.

¹⁴¹ Ibid., paras. 42-43.

¹⁴² See S/24210 of 30 June 1992, S/24728 of 29 October 1992, S/24872 of 30 November 1992 and S/25036 of 30 December 1992.

Chapter VII

Practice relative to recommendations to the General Assembly regarding membership in the United Nations

Contents

	<i>Page</i>
Introductory note	227
Part I. Applications for admission to membership in the United Nations and action taken thereon by the Security Council and the General Assembly, 1989-1992	230
Note	230
A. Applications recommended by the Security Council	230
B. Discussion of the question in the Security Council	231
C. Applications pending on 1 January 1989	231
D. Applications submitted and action taken thereon by the Security Council and the General Assembly from 1 January 1989 to 31 December 1992	232
E. Applications pending on 31 December 1992	243
Part II. Presentation of applications	243
Note	243
Part III. Referral of applications to the Committee on the Admission of New Members	243
Note	243
Part IV. Procedures in the consideration of applications within the Security Council	244
Note	244
Part V. Roles of the General Assembly and the Security Council	245
Note	245
Part VI. Practices relative to the applicability of Articles 4, 5 and 6 of the Charter	245
Note	245

Introductory note

The present chapter follows generally the format adopted for previous *Supplements*.

Part I sets forth the applications for admission considered and the decisions taken thereon by the Security Council and the General Assembly during the period under review. A new comprehensive table, similar to the table of applications included in the first volume of the *Repertoire*, shows the chain of proceedings from the submission of the applications to the decisions taken thereon by the General Assembly.

Parts II to V concern the procedures employed by the Council in the consideration of the applications. The part entitled “Consideration of the adoption or amendment of rules 58 to 60 of the provisional rules of procedure” contained in previous *Supplements* has been omitted as there was no material for inclusion.

Part VI deals with practices relating to the applicability of Articles 4, 5 and 6 of the Charter.

During the period under review, the Council recommended the admission of 22 States to membership in the United Nations.

The issue of the applications submitted by the Republic of Korea and the Democratic People’s Republic of Korea, which had been pending since 1949, was finally resolved when the Council recommended unanimously,¹ and the General Assembly decided,² to admit the two countries to membership in the United Nations.

In three instances, the discussion involved the applications of newly independent States emerging from decolonization: the Republic of the Marshall Islands, the Federated States of Micronesia and the Republic of Namibia.

On two occasions, the Council was informed of the merger of two separate Member States in a single sovereign State, with unitary membership in the United Nations. In the first instance, the Ministers for Foreign Affairs of the Yemen Arab Republic and the People’s Democratic Republic of Yemen informed the Secretary-General by a letter dated 19 May 1990 that their countries would merge in a single sovereign State called the Republic of Yemen on 22 May 1990. The Republic of Yemen would have single membership in the United Nations. At the request of the two Ministers for Foreign Affairs, the Secretary-General communicated the letter to all States Members of the United Nations, to all the principal organs of the United Nations and any other organs of the Organization on which either one of the two former countries was represented, and to all the specialized agencies and related organizations by a note verbale dated 21 May 1990.³ In the other instance, the Prime Minister of the German Democratic Republic informed the Secretary-General by a letter dated 27 September 1990 of the accession of his country, as from 3 October 1990, to the scope of the Basic Law of the Federal Republic of Germany so as to unite Germany in a single State. He added that it would consequently be for the united Germany thereafter as a member of the United Nations to remain committed to the provisions of the Charter in accordance with the declarations made by the two

¹ Resolution 702 (1991) of 8 August 1991.

² Resolution 46/1 of 17 September 1991.

³ A/44/946.

German States on 12 June 1973. As before, the Secretary-General circulated the letter in a note verbale, dated 28 September 1990.⁴ The Security Council took no action in these cases.

Conversely, the Council had to deal with the emergence of new States as a result of the dissolution of the Union of Soviet Socialist Republics, the Socialist Federal Republic of Yugoslavia and Czechoslovakia.

With respect to the Union of Soviet Socialist Republics, the Council recommended the admission, as sovereign States, of 12 of the 15 former constituent republics. Two were already members of the Organization.⁵ The Russian Federation did not apply for membership. By a letter dated 24 December 1991,⁶ the representative of the Union of Soviet Socialist Republics transmitted to the Secretary-General a letter of the same date by which the President of the Russian Federation informed the Secretary-General that the membership of the Union of Soviet Socialist Republics in the United Nations, including the Security Council and all other organs and organizations of the United Nations system, was being continued by the Russian Federation, with the support of the countries of the Commonwealth of Independent States. The President of the Russian Federation requested that the name “Russian Federation” be used in the United Nations, in place of the name “Union of Soviet Socialist Republics”. He affirmed that the Russian Federation maintained full responsibility for all the rights and obligations of the Union of Soviet Socialist Republics under the Charter of the United Nations, including the financial obligations. The Secretary-General informed the President of the General Assembly and the President of the Security Council of these letters and steps were taken to inform all organs and organizations of the United Nations system. The position of the Russian Federation was not challenged.

In the case of the former Yugoslavia, the Security Council recommended the admission as sovereign States of three of the six former constituent republics. The status of the former Yugoslav Republic of Macedonia and of the Federal Republic of Yugoslavia (Serbia and Montenegro) remained unresolved at the end of 1992. With respect to the Federal Republic of Yugoslavia (Serbia and Montenegro), the Council considered that it could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia. It recommended to the General Assembly “that it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly”.⁷ The General Assembly so decided.⁸ The Council’s recommendation and the General Assembly’s decision were seen as falling under neither Article 5 nor Article 6 of the Charter (case in part VI below).

As for Czechoslovakia, by a letter dated 10 December 1992,⁹ the representative of the Czech and Slovak Federal Republic informed the Secretary-General of the dissolution of his country as from 31 December 1992. The successor States of the Czech and Slovak Federal Republic, namely, the Czech Republic and

⁴ A/45/557.

⁵ Belarus and Ukraine.

⁶ Not issued as a United Nations document. For a summary of the letter, see *Official Records of the General Assembly, Forty-seventh Session, Supplement No. 2 (A/47/2)*, p. 277.

⁷ Resolution 777 (1992) of 19 September 1992.

⁸ Resolution 47/1 of 22 September 1992.

⁹ A/47/774.

the Slovak Republic, would apply for membership in the United Nations as soon as possible. At the request of the representative, the letter was circulated as a document of the General Assembly.

Part I

Applications for admission to membership in the United Nations and action taken thereon by the Security Council and the General Assembly, 1989-1992

Note

As in the previous volumes of the *Repertoire*, part I provides information on the applications before the Security Council during the period under review and the decisions taken thereon by the Council and the General Assembly. Section A (Applications recommended by the Security Council), section B (Discussion of the question in the Security Council) and section C (Applications pending on 1 January 1989) have been maintained. The section entitled "Applications that failed to obtain a recommendation" contained in previous *Supplements* has been omitted as there was no material for inclusion.

The new table in section D includes additional information on the dates of circulation of the applications, as distinct from their dates of submission, the meetings at which the applications were first considered by the Council and their referral to the Committee on the Admission of New Members, the meetings, reports and recommendations of the Committee, and the presidential statements adopted by the Council in addition to its resolutions.

A new section E has also been added showing applications pending at the end of the period under review.

A. Applications recommended by the Security Council

In the period 1 January 1989 to 31 December 1992, the Council recommended the following States for admission to membership in the United Nations:

- Armenia
- Azerbaijan
- Bosnia and Herzegovina
- Croatia
- Democratic People's Republic of Korea
- Estonia
- Georgia
- Kazakhstan
- Kyrgyzstan
- Latvia
- Liechtenstein
- Lithuania
- Marshall Islands
- Micronesia (Federated States of)
- Namibia
- Republic of Korea
- Republic of Moldova
- San Marino

Slovenia
Tajikistan
Turkmenistan
Uzbekistan

B. Discussion of the question in the Security Council

The Council held 38 meetings to consider applications for admission during the four-year period 1989-1992.¹⁰ At a separate meeting,¹¹ the question of the membership of the Federal Republic of Yugoslavia (Serbia and Montenegro) was discussed, since its claim to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia had not been generally accepted (see case in part VI).

C. Applications pending on 1 January 1989

<i>Applicant</i>	<i>Date of application</i>	<i>Document</i>
Republic of Korea ¹²	19 January 1949	S/1238 (<i>Official Records of the Security Council, Fourth Year, Supplement for February 1949</i>)
Democratic People's Republic of Korea ¹³	9 February 1949	S/1247 (<i>ibid.</i>)

¹⁰ See table in section D.

¹¹ 3116th meeting, held on 19 September 1992.

¹² A new application was submitted on 19 July 1991 (S/22778) (see table in section D).

¹³ A new application was submitted on 2 July 1991 (S/22777) (see table in section D).

D. Applications submitted and action taken thereon by the Security Council and the General Assembly from 1 January 1989 to 31 December 1992

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Committee: Council meeting and date</i>	<i>Committee meeting and date: Committee report and recommendations</i>	<i>Decision of the Council: Council meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Namibia	S/21241 6.4.90 10.4.90	2917th mtg. 17.4.90 Referred by President	72nd meeting 17.4.90 S/21251 Draft resolution recommending admission; request that an item be included in the agenda of the 18th special session of the General Assembly	2918th mtg. 17.4.90	Draft resolution (S/21251) adopted as resolution 652 (1990)	Adopted unanimously	18th special session, 1st mtg. 23.4.90	S-18/1	Adopted unanimously	Admitted
Liechtenstein	S/21486 10.8.90 10.8.90	2935th mtg. 13.8.90 Referred by President	73rd meeting 14.8.90 S/21506 Draft resolution recommending admission	2936th mtg. 14.8.90	Draft resolution (S/21506) adopted as resolution 663 (1990)	Adopted unanimously	45th session, 1st mtg. 18.9.90	45/1	Adopted unanimously	Admitted
Democratic People's Republic of Korea	S/22777 2.7.91 10.7.91	2998th mtg. 6.8.91 Referred by President	74th meeting 6.8.91 S/22895 Draft resolution recommending admission	3001st mtg. 8.8.91	Draft resolution (S/22895) adopted as resolution 702 (1991)	Adopted without vote	46th session, 1st mtg. 17.9.91	46/1	Adopted without vote	Admitted
					President made a statement (S/22911)					

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Republic of Korea	S/22778 19.7.91 7.8.91	2998th mtg. 6.8.91 Referred by President	74th meeting 6.8.91 S/22895 Draft resolution recommending admission	3301st mtg. 8.8.91	Draft resolution (S/22895) adopted as resolution 702 (1991)	Adopted without vote	46th session, 1st mtg. 17.9.91	46/1	Adopted without vote	Admitted
Micronesia (Federated States of)	S/22864 and Corr.1 17.7.91 6.8.91	2999th mtg. 6.8.91 Referred by President	75th meeting 7.8.91 S/22896 Draft resolution recommending admission	3002nd mtg. 9.8.91	Draft resolution (S/22896) adopted as resolution 703 (1991)	Adopted without vote	46th session, 1st mtg. 17.9.91	46/2	Adopted without vote	Admitted
Marshall Islands	S/22865 and Corr.1 25.7.91 6.8.91	3000th mtg. 6.8.91 Referred by President	76th meeting 6.8.91 S/22897 Draft resolution recommending admission	3003rd mtg. 9.8.91	Draft resolution (S/22897) adopted as resolution 704 (1991)	Adopted without vote	46th session, 1st mtg. 17.9.91	46/3	Adopted without vote	Admitted
					President made a statement (S/22917)					
					President made a statement (S/22918)					

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Estonia	S/23002	3006th mtg. 10.9.91	77th meeting 10.9.91	3007th mtg. 12.9.91	Draft resolution (S/23021)	Adopted without vote	46th session, 1st mtg. 17.9.91	46/4	Adopted without vote	Admitted
	30.8.91 4.9.91	Referred by President	Draft resolution recommending admission Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		(A) adopted as resolution 709 (1991) President made a statement (S/23032)					
Latvia	S/23003	3006th mtg. 10.9.91	77th meeting 10.9.91	3007th mtg. 12.9.91	Draft resolution (S/23021)	Adopted without vote	46th session, 1st mtg. 17.9.91	46/5	Adopted without vote	Admitted
	30.8.91 4.9.91	Referred by President	Draft resolution recommending admission Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		(B) adopted as resolution 710 (1991) President made a statement (S/23032)					

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Lithuania	S/23004 29.8.91 4.9.91	3006th mtg. 10.9.91 Referred by President	77th meeting 10.9.91 Draft resolution recommending admission	3007th mtg. 12.9.91	Draft resolution (S/23021) (C) adopted as resolution 711 (1991) President made a statement (S/23032)	Adopted without vote	46th session, 1st mtg. 17.9.91	46/6	Adopted without vote	Admitted
Kazakhstan	S/23353 31.12.91 3.1.92	3032nd mtg. 16.1.92 Referred by President	78th meeting 21.1.92 Draft resolution recommending admission Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure	3034th mtg. 23.1.92	Draft resolution (S/23456) adopted as resolution 732 (1992) President made a statement (S/23470)	Adopted without vote	46th session, 82nd mtg. 2.3.92	46/224	Adopted without vote	Admitted

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Armenia	S/23405	3035th mtg. 23.1.92	79th meeting 24.1.92	3041st mtg. 29.1.92	Draft resolution (S/23475)	Adopted without vote	46th session, 82nd mtg. 2.3.92	46/227	Adopted without vote	Admitted
	17.1.92	Referred by President	Draft resolution recommending admission		adopted as resolution 735 (1992)					
Kyrgyzstan	S/23450	3036th mtg. 23.1.92	80th meeting 24.1.92	3042nd mtg. 29.1.92	Draft resolution (S/23476)	Adopted without vote	46th session, 82nd mtg. 2.3.92	46/225	Adopted without vote	Admitted
	6.1.92 21.1.92	Referred by President	Draft resolution recommending admission		adopted as resolution 736 (1992)					
			Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		President made a statement (S/23496)					
			Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		President made a statement (S/23497)					

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Uzbekistan	S/23451	3037th mtg. 23.1.92	81st meeting 24.1.92	3043rd mtg. 29.1.92	Draft resolution (S/23477)	Adopted without vote	46th session, 82nd mtg. 2.3.92	46/226	Adopted without vote	Admitted
	6.1.92 21.1.92	Referred by President	Draft resolution recommending admission Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		adopted as resolution 737 (1992) President made a statement (S/23498)					
Tajikistan	S/23455	3038th mtg. 23.1.92	82nd meeting 24.1.92	3044th mtg. 29.1.92	Draft resolution (S/23478)	Adopted without vote	46th session, 82nd mtg. 2.3.92	46/228	Adopted without vote	Admitted
	16.1.92 21.1.92	Referred by President	Draft resolution recommending admission Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		adopted as resolution 738 (1992) President made a statement (S/23499)					

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Republic of Moldova	S/23468 17.1.92 23.1.92	3045th mtg. 29.1.92 Referred by President	83rd meeting 4.2.92 Draft resolution recommending admission	3047th mtg. 5.2.92	Draft resolution (S/23511) adopted as resolution 739 (1992) President made a statement (S/23516)	Adopted without vote	46th session, 82nd mtg. 2.3.92	46/223	Adopted without vote	Admitted
Turkmenistan	S/23489 and Corr.1 20 1.1.92 30.1.92	3048th mtg. 5.2.92 Referred by President	84th meeting 6.2.92 Draft resolution recommending admission Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure	3050th mtg. 7.2.92	Draft resolution (S/23523) adopted as resolution 741 (1992) President made a statement (S/23547)	Adopted without vote	46th session, 82nd mtg. 2.3.92	46/229	Adopted without vote	Admitted

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: Council meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Azerbaijan	S/23558	3051st mtg.	85th meeting	3052nd mtg.	Draft	Adopted	46th session, 82nd mtg.	46/230	Adopted	Admitted
	14.1.92	11.2.92	11.2.92	14.2.92	resolution (S/23569)	without vote	2.3.92		without vote	
	7.2.92	Referred by President	Draft resolution recommending admission		adopted as resolution 742 (1992)					
			Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		President made a statement (S/23597)					
San Marino	S/23619	3054th mtg.	86th meeting	3056th mtg.	Draft	Adopted	46th session, 82nd mtg.	46/231	Adopted	Admitted
	19.2.92	21.2.92	24.2.92	25.2.92	resolution (S/23634)	without vote	2.3.92		without vote	
	21.2.92	Referred by President	Draft resolution recommending admission		adopted as resolution 744 (1992)					
			Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		President made a statement (S/23640)					

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Croatia	S/23884	3073rd mtg.	87th meeting	3076th mtg.	Draft	Adopted	46th session, 46/238	Adopted	without vote	Admitted
	11.2.92	14.5.92	15.5.92	18.5.92	resolution (S/23935)	without vote	86th mtg.	46/238	without vote	
	7.5.92	Referred by President	Draft resolution recommending admission		adopted as resolution 753 (1992)		22.5.92			
			Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		President made a statement (S/23945)					
Slovenia	S/23885	3074th mtg.	88th meeting	3077th mtg.	Draft	Adopted	46th session, 46/236	Adopted	without vote	Admitted
	5.5.92	14.5.92	15.5.92	18.5.92	resolution (S/23936)	without vote	86th mtg.	46/236	without vote	
	7.5.92	Referred by President	Draft resolution recommending admission		adopted as resolution 754 (1992)		22.5.92			
			Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure		President made a statement (S/23946)					

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: Council meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
Bosnia and Herzegovina	S/23971 8.5.92 19.5.92	3078th mtg. 20.5.92 Referred by President	89th meeting 20.5.92 Draft resolution recommending admission	3079th mtg. 20.5.92	Draft resolution (S/23974) adopted as resolution 755 (1992) President made a statement (S/23982)	Adopted without vote	46th session, 86th mtg. 22.5.92	46/237	Adopted without vote	Admitted
Georgia	S/24116 6.5.92 18.6.92	3090th mtg. 2.7.92 Referred by President	90th meeting 2.7.92 Draft resolution recommending admission Committee recommended that the Council have recourse to the provisions of the last paragraph of rule 60 of the provisional rules of procedure	3091st mtg. 6.7.92	Draft resolution (S/24231) adopted as resolution 763 (1992) President made a statement (S/24241)	Adopted without vote	46th session, 88th mtg. 31.7.92	46/241	Adopted without vote	Admitted

<i>Applicant</i>	<i>Application and dates of submission and circulation</i>	<i>Referral to Council meeting and date</i>	<i>Committee meeting and date; Committee report and recommendations</i>	<i>Decision of the Council: meeting and date</i>	<i>Security Council resolution/ presidential statement</i>	<i>Vote</i>	<i>General Assembly plenary meeting and date</i>	<i>General Assembly resolution</i>	<i>Vote</i>	<i>Result of proceedings</i>
The former Yugoslav Republic of Macedonia	S/25147 ^a 30.7.92 22.1.93									

^a The application was received on 30 July 1992 and circulated by the Secretary-General in a note dated 22 January 1993 (S/25147). Details will be covered in the next *Supplement* to the *Repertoire*.

E. Applications pending on 31 December 1992

Action was taken by the Security Council on all applications circulated during the period under review. The application of the former Yugoslav Republic of Macedonia, dated 30 July 1992, was circulated after the end of the period under review in a note of the Secretary-General dated 22 January 1993.¹⁴ No application was submitted by the Federal Republic of Yugoslavia (Serbia and Montenegro), which claimed to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia (see case in part VI).

Part II Presentation of applications

Note

Material concerning the presentation of applications — that is, the submission of applications to the Secretary-General, their communication to representatives on the Security Council and their subsequent inclusion in the provisional agenda of the Council — may be found in the table of applications in section D of part I above. It should be noted that the applications of the Democratic People's Republic of Korea and the Republic of Korea, which had been pending since 1949, were resubmitted on 2 July and 19 July 1991, respectively. The application of the Republic of Croatia, contained in a letter dated 11 February 1992, was circulated by the Secretary-General on 7 May 1992. The case of the application submitted by the former Yugoslav Republic of Macedonia on 30 July 1992, and circulated in a note by the Secretary-General dated 22 January 1993, will be dealt with in the next *Supplement*.

Part III Referral of applications to the Committee on the Admission of New Members

Note

During the period under review, all applications were referred by the President of the Security Council to the Committee on the Admission of New Members. There were no proposals to waive the application of rule 59 of the provisional rules of procedure.¹⁵ On one occasion, the Council adopted a proposal¹⁶ to waive the time limit provided for in the last sentence of rule 59.¹⁷ On 16 occasions,¹⁸ upon the

¹⁴ S/25147.

¹⁵ Rule 59 provides, inter alia, that “unless the Security Council decides otherwise, the application shall be referred by the President to a committee of the Security Council upon which each member of the Security Council shall be represented”.

¹⁶ S/PV.2917, p. 3 (Namibia).

¹⁷ The sentence reads: “The Committee shall examine any application referred to it and report its conclusions thereon to the Council not less than thirty-five days in advance on a regular session of the General Assembly or, if a special session of the General Assembly is called, not less than fourteen days in advance of such session.”

¹⁸ See table in part I, section D.

recommendation of the Committee on the Admission of New Members, the Council waived the time limits set forth in the fourth paragraph of rule 60, in accordance with the fifth paragraph of that rule.¹⁹

Part IV

Procedures in the consideration of applications within the Security Council

Note

The practice of deciding upon applications in the chronological order of their receipt was not strictly observed. The application for membership of Azerbaijan, received on 14 January 1992, was recommended after the applications of Tajikistan, the Republic of Moldova and Turkmenistan, dated 16, 17 and 20 January 1992, respectively. The application of Croatia, received on 11 February 1992, was recommended after that of San Marino, dated 19 February 1992. The application of Georgia, received on 6 May 1992, was recommended after that of Bosnia and Herzegovina, received on 8 May 1992.²⁰

The Council decided upon all applications separately with the exception of the applications of the Democratic People's Republic of Korea and the Republic of Korea, which were recommended by a single resolution, as proposed by the Committee on the Admission of New Members.

In one instance, the Committee examined jointly the applications of Estonia, Latvia and Lithuania, but recommended in its report the adoption of three separate draft resolutions. The Council adopted the three resolutions at one meeting.²¹

In all but two instances, the Council adopted the draft resolutions submitted by the Committee on the Admission of New Members, without a vote, "in accordance with the understanding reached in prior consultations among members of the Council". Following the vote, the President of the Council made a statement on behalf of the members of the Council. The two exceptional cases were those of Liechtenstein and Namibia. In those instances, the draft resolutions submitted by the Committee were put to the vote and adopted unanimously. Statements were made following the voting by members of the Council and, in the case of Namibia, by other Member States and the Secretary-General.

¹⁹ The fourth and fifth paragraphs of rule 60 read:

"In order to ensure the consideration of its recommendation at the next session of the General Assembly following the receipt of the application, the Security Council shall make its recommendation not less than twenty-five days in advance of a regular session of the General Assembly, nor less than four days in advance of a special session.

"In special circumstances, the Security Council may decide to make a recommendation to the General Assembly concerning an application for membership subsequent to the expiration of the time limits set forth in the preceding paragraph."

²⁰ See table in part I, section D.

²¹ 3007th meeting.

Part V

Roles of the General Assembly and the Security Council

Note

The roles of the General Assembly and the Security Council were considered at the 3116th meeting, on 19 September 1992, when the issue of the membership of the Federal Republic of Yugoslavia was discussed (case in part VI). It is also worth noting that the Council requested, as recommended by the Committee on the Admission of New Members in its report on the application of Namibia, the inclusion of an item entitled “Admission of new Members to the United Nations” in the supplementary list of items for the agenda of the eighteenth special session of the General Assembly.²²

²² See S/PV.2918, p. 6.

Part VI

Practices relative to the applicability of Articles 4, 5 and 6 of the Charter

Note

During the period under review, the Security Council did not take or consider any measures involving Articles 5 or 6 of the Charter, concerning, respectively, suspension and expulsion. However, in the deliberations of the Council on the question of the membership of the Federal Republic of Yugoslavia (Serbia and Montenegro), Articles 4, 5 and 6 of the Charter were explicitly invoked, as shown in the case history below.

Case

Membership of the Federal Republic of Yugoslavia (Serbia and Montenegro)

At its 3116th meeting, on 19 September 1992, the Council considered the item entitled “Draft resolution contained in document S/24570”. By the draft resolution,²³ the Security Council would consider that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations, and would therefore recommend to the General Assembly “that it

decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly”.

During the deliberations in the Council, a constitutional discussion arose over the conformity of the draft resolution with the provisions of the Charter relating to membership. On the one hand, it was maintained that the proposed recommendation did not conform to either Article 5 or Article 6 of the Charter. While the Council was competent to recommend suspension or expulsion of a State, it had no authority to recommend to the General Assembly that a country’s participation in the Assembly be withdrawn or suspended. That authority belonged to the General Assembly, which did not need any recommendation to that effect from the Security Council. Indeed, the General Assembly was under no legal obligation to act on any such recommendation. It was also noted that the question of succession had never been raised in the Council and that nowhere in the Charter was the resolution of succession matters stipulated as a condition for membership in the United Nations. Indeed, such matters had been considered in the past as extraneous to the question of membership. It was further maintained that the continuation of the membership of the Socialist Federal Republic of Yugoslavia should be settled through consultations and

²³ Submitted by Belgium, France, Morocco, the United Kingdom and the United States.

negotiations between all parties of the former Yugoslavia.²⁴ On the other hand, it was noted that the situation was unprecedented, in that the United Nations had never before faced the dissolution of one of its Members without agreement by the successor States on the status of the original United Nations seat. It was also contended that the resolution respected the apportioning of competence established by the Charter between the Security Council and the General Assembly.²⁵

On the question of the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations, it was noted that the prevailing view in the international community was that none of the republics that had emerged in the place of the former Socialist Federal Republic of Yugoslavia could claim automatic membership in the United Nations. It was also stated that none of the former republics of the former Yugoslavia was so clearly a predominant portion of the original State as to be entitled to be treated as a continuation of that State. It was further maintained that there was no legal basis for the Federal Republic of Yugoslavia's automatic continuation of the legal existence of the Socialist Federal Republic of Yugoslavia. It was therefore held that the Federal Republic of Yugoslavia's claim to the seat of the former Socialist Federal Republic of Yugoslavia in the United Nations could not be accepted and that the Federal Republic of Yugoslavia should apply for membership in the United Nations.²⁶

With respect to the participation of the Federal Republic of Yugoslavia in the United Nations, it was contended that the decision of the Council had to be strictly interpreted, since it did not provide for the expulsion of the Federal Republic of Yugoslavia from the United Nations. It was emphasized, in particular, that the Federal Republic of Yugoslavia's participation in the work of United Nations organs other than the General Assembly, as well as the functioning of its mission and the issuance of documents to it or from it, would not be affected. It was also noted that the nameplate "Yugoslavia" would be kept in the General

Assembly Hall and the rooms in which the Assembly's organs met.²⁷ The view was, however, expressed that "Serbia and Montenegro ... must apply for membership if it wishes to participate in the United Nations" and that "other bodies in the United Nations system should be guided by this action of the Security Council and the General Assembly on this matter".²⁸

Regarding the admission of the Federal Republic of Yugoslavia to membership in the United Nations, it was maintained that "Serbia and Montenegro, like any other new State, ... should be held to the criteria in the United Nations Charter ... [that] require that the applicant be both willing and able to fulfil United Nations obligations, including compliance with Chapter VII Security Council resolutions".²⁹ It was also stated that the Federal Republic of Yugoslavia's application for membership "should be studied and decided upon in accordance with the same criteria which prevailed in the discussion of the admission to the United Nations of all the other successor States of the former Yugoslav Federation".³⁰ It was further asserted that the principles set out in Articles 4, 5 and 6 of the Charter "should be uniformly applied in the quest for universality that the founding fathers of the United Nations had in mind when they formulated these provisions".³¹

At the same meeting, the draft resolution was adopted as resolution 777 (1992) by 12 votes to none, with 3 abstentions.³² The resolution reads as follows:

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

Considering that the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist,

Recalling in particular its resolution 757 (1992) of 30 May 1992 in which it noted that "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted",

²⁷ *Ibid.*, pp. 2-5 (Russian Federation); and pp. 14-15 (China).

²⁸ *Ibid.*, pp. 12-14 (United States).

²⁹ *Ibid.*, p. 13 (United States).

³⁰ *Ibid.*, p. 17 (Hungary).

³¹ *Ibid.*, pp. 8-10 (Zimbabwe).

³² China, India, Zimbabwe.

²⁴ S/PV.3116, pp. 6-7 (India); pp. 7-11 (Zimbabwe); and pp. 14-15 (China).

²⁵ *Ibid.*, p. 12 (France); and pp. 12-13 (United States).

²⁶ *Ibid.*, pp. 2-5 (Russian Federation); pp. 12-14 (United States); and p. 16 (Austria).

1. *Considers* that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations, and therefore recommends to the General Assembly that it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly;

2. *Decides* to consider the matter again before the end of the main part of the forty-seventh session of the General Assembly.

By a letter dated 19 September 1992 addressed to the President of the Security Council,³³ the representative of the Federal Republic of Yugoslavia transmitted the text of a statement that, to his regret, he had not been able to deliver at the 3116th meeting of the Council. In his statement, he contended that the suspension of his country's participation in the work of the General Assembly threatened the principle of universality of the Organization, its democratic character and its role as guardian of world peace and forum for equal cooperation between States and peoples. Moreover, he argued that the positions put forward in the Council's recommendation denied the sovereign right of the peoples of a country to preserve their own State and its international and legal personality in case of secession of part of that country.

In a note dated 28 September 1992,³⁴ the Secretary-General indicated that, on 22 September 1992, the General Assembly had adopted a resolution entitled "Recommendation of the Security Council of 19 September 1992".³⁵ He cited the operative paragraphs of the resolution, in which the General Assembly considered that the Federal Republic of Yugoslavia (Serbia and Montenegro) could not continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations; and therefore decided that it "should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly"; and took note of the intention of the Security Council to consider the matter again before the end of the main part of the forty-seventh session of the General Assembly.

Following the adoption by the General Assembly of resolution 47/1, the representatives of Bosnia and

Herzegovina and Croatia addressed to the Secretary-General a joint letter dated 25 September 1992.³⁶ In that letter, they noted that Security Council resolution 777 (1992) clearly stated that the Socialist Federal Republic of Yugoslavia had "ceased to exist"; thus, it was not a member of the United Nations anymore". They observed that, at the same time, the Federal Republic of Yugoslavia was clearly not yet a member, since it had to apply for membership. They further maintained that the flag flying in front of the United Nations and the nameplate bearing the name "Yugoslavia" did not represent anything or anybody anymore. Consequently, they requested the Secretary-General to provide a legal explanatory statement concerning the decision to keep the flag and nameplate of the former Socialist Federal Republic of Yugoslavia on United Nations premises.

By a letter dated 28 September 1992 addressed to the Secretary-General,³⁷ the Federal Minister for Foreign Affairs of the Federal Republic of Yugoslavia considered that the interpretation of the resolutions of the Security Council and the General Assembly contained in the above-mentioned joint letter was contrary to the provisions of the said resolutions and to the general thrust prevailing at the time of their adoption.

By a letter dated 29 September 1992,³⁸ the Legal Counsel responded to the representatives of Bosnia and Herzegovina and Croatia. He stated that General Assembly resolution 47/1 dealt with a membership issue which was not foreseen in the Charter, "namely the consequences for purposes of membership in the United Nations of the disintegration of a Member State on which there was no agreement among the immediate successors of that State or among the membership of the Organization at large". As a result, resolution 47/1 had not been adopted pursuant to Article 5 (suspension) or Article 6 (expulsion) of the Charter, nor did it refer to those Articles or the criteria they contained. The Legal Counsel pointed out that the only practical conclusion drawn by the resolution from the fact that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations was that it "shall not *participate* in the work of the General Assembly". Its representatives, therefore, could no longer "*participate* in the work of

³³ S/24577.

³⁴ S/24590.

³⁵ Resolution 47/1.

³⁶ A/47/474.

³⁷ S/24599 (A/47/478).

³⁸ A/47/485. Emphasis in the original.

the General Assembly, its subsidiary organs, nor conferences and meetings convened by it". He noted, on the other hand, that the resolution neither terminated nor suspended "Yugoslavia's *membership* in the Organization". Consequently, the seat and nameplate remained as before, but the representatives of the Federal Republic of Yugoslavia (Serbia and Montenegro) could not sit behind the sign "Yugoslavia" in Assembly bodies; Yugoslav missions might continue to function and receive and circulate documents; the Secretariat would continue to fly the flag of the old Yugoslavia at Headquarters; and the resolution had not taken away "the right of Yugoslavia

to participate in the work of organs other than Assembly bodies". The Legal Counsel concluded that the admission to the United Nations of a new Yugoslavia under Article 4 of the Charter would terminate the situation created by General Assembly resolution 47/1.

By a letter dated 9 December 1992,³⁹ the President of the Security Council informed the President of the General Assembly that the members of the Council had agreed to keep the subject matter of resolution 777 (1992) under continuous review and to consider it again at a later date.

³⁹ S/24924.

Chapter VIII

Consideration of questions under the responsibility of the Security Council for the maintenance of international peace and security

Contents

	<i>Page</i>
Introductory note	252
Africa	
1. Items relating to the situation in Angola	253
2. The situation in Liberia	268
3. Items relating to the Libyan Arab Jamahiriya	275
4. The situation in Mozambique	294
5. The situation in Namibia	299
6. Items relating to the situation in Somalia	312
7. The question of South Africa	336
8. The situation concerning Western Sahara	350
Americas	
9. Central America: efforts towards peace	358
10. Letter dated 27 November 1989 from the Permanent Representative of El Salvador to the United Nations addressed to the President of the Security Council Letter dated 28 November 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council	381
11. Items relating to Cuba	384
12. Items relating to Haiti	387
13. Items relating to the situation in Panama	391
Asia	
14. The situation relating to Afghanistan	404
15. Items relating to the situation in Cambodia	414
16. The situation in Tajikistan	435
Europe	
17. The situation in Cyprus	437
18. The situation in Georgia	467
19. The situation relating to Nagorny-Karabakh	469
20. Items relating to the situation in the former Yugoslavia	473
Middle East	
21. The situation between Iran and Iraq	558
22. Items relating to the situation between Iraq and Kuwait	568
23. The situation in the Middle East	734

24. The situation in the occupied Arab territories.	758
General issues	
25. Marking of plastic or sheet explosives for the purpose of detection.	810
26. The question of hostage-taking and abduction	811
27. United Nations peacekeeping operations	812
28. The responsibility of the Security Council in the maintenance of international peace and security	813
29. An agenda for peace: preventive diplomacy, peacemaking and peacekeeping	822

Introductory note

Chapter VIII indicates the chain of proceedings on the substance of each of the questions included in the report of the Security Council to the General Assembly under the heading “Questions considered by the Security Council under its responsibility for the maintenance of international peace and security”.¹ The range of questions covers broadly those that may be deemed to fall under Chapters VI and VII of the Charter. Ancillary material from the provisional verbatim records bearing on relevant Articles of the Charter is presented in chapters X to XII.

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

The questions are dealt with by region, for ease of reference. There is also a category of general issues.²

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

¹ The chapter does not, however, cover informal consultations among the members of the Security Council at which some of these questions may have been discussed. Such consultations are not meetings of the Council.

² As indicated in the editorial note at the beginning of this volume, the questions included in the agenda of the Council during the years 1989 to 1992 appear under conventional short titles. In those instances where the case history pertains to a new question brought before the Council, the section bears the heading “Initial proceedings”.

Africa

1. Items relating to the situation in Angola

Initial proceedings

A. Letter dated 17 May 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Angola to the United Nations addressed to the Secretary-General

Report of the Secretary-General on the United Nations Angola Verification Mission

Decision of 30 May 1991 (2991st meeting): resolution 696 (1991)

By a letter dated 17 May 1991 addressed to the Secretary-General,¹ the representative of Angola transmitted a letter dated 8 May from the Minister for External Relations of Angola to the Secretary-General, enclosing the texts of the Peace Accords for Angola concluded by the Government of the People's Republic of Angola and the National Union for the Total Independence of Angola (UNITA). The Accords were initialled at Estoril, Portugal, on 1 May 1991 by the respective heads of delegation, and signed on 31 May 1991. The Minister requested the Secretary-General to take action to ensure the participation of the United Nations in verifying the implementation of the Peace Accords, as agreed by both sides, and accordingly to inform the Security Council of the need to prolong the presence in the country of the United Nations Angola Verification Mission (UNAVEM) until the general elections scheduled for September and November 1992 had been held. He noted that, although the Peace Accords would come into force only after their formal signature at the end of May 1991, a de facto suspension of hostilities was to take effect as of 15 May 1991, on which date the verification mechanisms should be started.

On 20 May 1991, the Secretary-General submitted to the Security Council a report on

¹ S/22609.

UNAVEM,² in which he considered how the Council might wish to respond to the request from the Government of Angola, which, if accepted, would entail the enlargement and extension of the Mission's mandate. The verification tasks earmarked for the United Nations from the Peace Accords would include (a) verification of the monitoring of the ceasefire by the Angolan parties; and (b) participation in the monitoring of the Angolan police during the ceasefire period. The Secretary-General observed that it was a matter of great satisfaction that an end was at last in sight to the cruel war that had ravaged Angola for too long. Now that the two sides had confirmed their acceptance of the Accords, it was of the greatest importance that all hostilities cease and that the de facto ceasefire should be observed. He added that the concepts set out in the Ceasefire Agreement for the monitoring and verification of the ceasefire seemed to be sound, provided that the two sides adhered scrupulously to their commitments under the Accords and that their representatives worked together in a new spirit of cooperation and national reconciliation. By entrusting the main tasks to the parties themselves, the arrangements proposed would have the advantage of reducing the costs to the international community at a time when there was an ever-growing demand for funds for peacekeeping. The Secretary-General accordingly recommended that the Council take the earliest possible decision to enlarge and prolong the mandate of UNAVEM in order to enable it to carry out the new verification tasks arising from the Peace Accords. He proposed further that the Mission's new mandate should commence from the date on which the ceasefire was to enter into force (31 May 1991) and end on the day following the completion of presidential and legislative elections in Angola, which were to be held between 1 September and 30 November 1992.

At its 2991st meeting, held on 30 May 1991 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the letter from the representative of Angola and

² S/22627; see also S/22627/Add.1 of 29 May 1991.

the Secretary-General's report of 20 May. Following the adoption of the agenda, the Council invited the representatives of Angola and Portugal, at their request, to participate in the discussion without the right to vote. The President (China) also drew the attention of the members of the Council to two letters addressed to the Secretary-General: a letter dated 17 May 1991 from the representative of Portugal;³ and a letter dated 24 May 1991 from the representatives of Angola and Cuba.⁴ By his letter of 17 May, the representative of Portugal transmitted the joint communiqué of a meeting held in Lisbon on 15 and 16 May between the representatives of the Government of Angola and of UNITA, in the presence of the Portuguese mediators and observers from the Union of Soviet Socialist Republics and the United States, which recorded, *inter alia*, that the question of the participation of the United Nations in the observance of the ceasefire had been discussed and that the delegations had agreed to request the Security Council for its support of the process. By their letter of 24 May, the representatives of Angola and Cuba transmitted a joint declaration, issued on 23 May by their respective Governments, concerning the completion on 25 May, ahead of schedule, of the withdrawal of the Cuban "internationalist troops" from Angola. The President of the Council also drew members' attention to a draft resolution⁵ that had been prepared in the course of prior consultations.

The draft resolution was then put to the vote and adopted unanimously as resolution 696 (1991), which reads:

The Security Council,

Welcoming the decision of the Government of the People's Republic of Angola and the National Union for the Total Independence of Angola to conclude the Peace Accords for Angola,

Stressing the importance it attaches to the signing of the Peace Accords and to the fulfilment by the parties in good faith of the obligations contained therein,

Stressing also the importance of all States refraining from taking any actions which could undermine the agreements mentioned above and contributing to their implementation, as well as respecting fully the independence, sovereignty and territorial integrity of Angola,

Noting with satisfaction the decision taken by the Government of the People's Republic of Angola and the Government of the Republic of Cuba to complete the withdrawal, ahead of schedule, of all Cuban troops from Angola by 25 May 1991,

Considering the request submitted to the Secretary-General by the Minister for Foreign Affairs of the People's Republic of Angola in his letter dated 8 May 1991,

Having considered the report of the Secretary-General of 20 and 29 May 1991,

Taking into account that the mandate of the United Nations Angola Verification Mission established by Council resolution 626 (1988) of 20 December 1988 expires on 22 July 1991,

1. *Approves* the report of the Secretary-General of 20 and 29 May 1991 and the recommendations therein;

2. *Decides accordingly* to entrust a new mandate to the United Nations Angola Verification Mission (henceforth United Nations Angola Verification Mission II) as proposed by the Secretary-General in line with the Peace Accords for Angola, and requests the Secretary-General to take the necessary steps to this effect;

3. *Also decides* to establish the United Nations Angola Verification Mission II for a period of seventeen months from the date of adoption of the present resolution in order to accomplish the objectives stated in the report of the Secretary-General;

4. *Requests* the Secretary-General to report to the Security Council immediately after the signature of the Peace Accords and to keep the Council fully informed of further developments.

On 4 June 1991, the Secretary-General submitted to the Council his report in pursuance of resolution 696 (1991).⁶ He stated that he had been present at the ceremony at which the Peace Accords were signed on 31 May and had immediately taken steps to implement the new mandate entrusted to the United Nations Angola Verification Mission (henceforth UNAVEM II).⁷

On 6 June 1991, the Secretary-General, pursuant to resolution 626 (1988), submitted to the Security Council a report on the last phase of UNAVEM operations.⁸ He reported that UNAVEM had successfully carried out its mandate ahead of schedule, following the completion on 25 May 1991 of the

³ S/22617.

⁴ S/22644.

⁵ S/22652.

⁶ S/22672.

⁷ For further details concerning the establishment and operation of UNAVEM II, see chapter V.

⁸ S/22678.

withdrawal of Cuban troops from Angola. The Mission's original mandate, set out by the Council in resolution 626 (1988), included verification of the redeployment to the north and the staged and total withdrawal of Cuban troops from Angola by 1 July 1991, under a timetable agreed to by Angola and Cuba in December 1988.

B. Further reports of the Secretary-General on the United Nations Angola Verification Mission II

Decision of 24 March 1992 (3062nd meeting): resolution 747 (1992)

On 31 October 1991, pursuant to resolution 696 (1991), the Secretary-General submitted to the Council a report on the activities of United Nations Angola Verification Mission II (UNAVEM II) during its first five months of operation, beginning on 31 May 1991 when the ceasefire entered into force, and ending on 25 October.⁹ He stated that the ceasefire had, in general, been well respected by both sides, providing a sound basis for implementation of the other provisions of the Peace Accords. The two sides had been less successful, however, in complying with those provisions of the Accords that dealt with the confinement of troops to assembly areas. With regard to the forthcoming elections, the Secretary-General had expressed to both sides his view that, at least as a first step, the United Nations should be invited to provide technical assistance to those who would be responsible for planning and conducting the elections, particularly as Angola would be holding its first democratic elections. Regarding a possible role for the United Nations in observing the elections, that was a formidable prospect, given the devastated condition of the country and the almost total lack of the infrastructure that would be necessary to support electoral observers. Although no decision had yet been taken by the Angolan authorities to request the United Nations to provide either technical assistance or electoral observers, there were strong indications of a growing consensus in the country that the United Nations should be involved. It had been explained to the Angolan authorities that the provision of election observers would require a further decision of the Security Council and that, given the extreme

complexities of such an operation, it was important that any request for United Nations involvement should be received as quickly as possible, so that appropriate recommendations could be made.

On 3 March 1992, the Secretary-General submitted to the Security Council a further report on UNAVEM II.¹⁰ He recalled that his predecessor had informed members of the Council of the requests he had received from the Minister for External Relations of Angola in two letters dated 8 November 1991: for United Nations technical assistance to help prepare for and conduct the elections scheduled for September 1992; and for United Nations observers to follow the electoral procedure until its completion. The Secretary-General stated that he had already initiated the early provision of technical assistance on electoral matters to Angola. With regard to United Nations observation of the elections, he recalled that, during informal consultations on 20 December, his predecessor had stated that the following points were particularly relevant to the Angolan request: (a) the request clearly pertained to a situation with an international dimension with which the Council had been seized since it established UNAVEM II to monitor the ceasefire arrangements agreed to in the Peace Accords; (b) the conduct of internationally supervised elections constituted the central element in the implementation of the Peace Accords; (c) in order to verify the fairness and impartiality of the elections, the monitoring should cover the entire electoral process, including voter registration; (d) the introduction of a United Nations presence in the electoral process had been officially requested by the Government of Angola at an important point in the peace process; and (e) there was broad public support in Angola for the United Nations to assume such a role. Bearing those points in mind, his predecessor had informed the Council of his intention to recommend that it authorize a mission to observe the elections in Angola, on the basis of the views of a preliminary survey team which he proposed to send first to the country. The Secretary-General recalled further that he had subsequently informed the Council of his decision to appoint a Special Representative for Angola who would be in charge of all current and projected activities of the United Nations in connection with the Angola Peace Accords and would also be Chief of UNAVEM II; as well as of

⁹ S/23191.

¹⁰ S/23671; see also S/23671/Add.1 of 20 March 1992.

his intention to recommend that UNAVEM II be enlarged to include an electoral division.¹¹

The Secretary-General outlined the proposed terms of reference¹² and an operational plan for United Nations observation of the elections and the enlargement of UNAVEM II, underlining the need for the electoral mission to have the explicit agreement of the two parties to the Peace Accords.¹³ He observed that, although much had been achieved in implementing the peace process, much remained to be done to ensure that the gains were followed through to completion. The timetable for implementation of the Accords could not be delayed further. All Angolan parties and forces had to join in making renewed commitments to realistic timetables until the goal of free and fair elections in September 1992 was achieved. To ensure the success of the electoral process, the Secretary-General called for the demobilization of troops, the establishment of a unified civilian police force and the formation of joint military police units within the new national army, and an extension of the Government's administration and the restoration of security throughout the country. He emphasized that the Angolan elections were essentially a national, sovereign affair: the role of the United Nations was to observe and verify the elections, not to organize them. Within the limits of its mandate and resources, however, the United Nations should make every possible effort to assist the process. He accordingly recommended that the mandate, strength and composition of UNAVEM II be enlarged in the manner described in his report.

At its 3062nd meeting, held on 24 March 1992 in accordance with the understanding reached in its prior consultations, the Security Council included the Secretary-General's report of 3 March in its agenda. Following the adoption of the agenda, the Council invited the representatives of Angola and Portugal, at their request, to participate in the discussion without the right to vote. The President (Venezuela) drew the attention of the members of the Council to a draft resolution¹⁴ that had been prepared in the course of the Council's prior consultations, and to a minor revision

to operative paragraph 8 of the provisional version of the draft resolution.

The representative of Angola welcomed the draft resolution as another "very important landmark" in the process of peace and democratization of Angola, since it would guarantee the presence of international observers in his country's electoral process. He also reaffirmed his Government's commitment to implement the Peace Accords.¹⁵

The representative of Cape Verde believed that the decision to enlarge the mandate of UNAVEM II was an important one, as it would confer upon the electoral process the international credibility that would further contribute to the creation of a climate of confidence and stability in Angola.¹⁶

The representative of Portugal observed that the signing of the Peace Accords on 31 May 1991 marked the beginning of a new era for Angola, with the leaders of the parties involved in the conflict that had devastated Angola for more than 15 years now committing themselves to working together for a period that would end with the holding of free elections. In that regard, the role of the United Nations in observing and verifying the elections was essential.¹⁷

Speaking before the vote, several Council members welcomed the broadening of the mandate of UNAVEM II to include electoral monitoring, observing that the United Nations had an important role to play in that process. They called on the Angolan parties to comply with the Peace Accords and to ensure that free and fair elections were held in September, as agreed.¹⁸

The draft resolution, as orally revised in its provisional form, was then put to the vote and adopted unanimously as resolution 747 (1992), which reads:

The Security Council,

Recalling its resolution 696 (1991) of 30 May 1991 by which it decided to entrust a new mandate to the United Nations Angola Verification Mission II as proposed by the Secretary-General in line with the Peace Accords for Angola,

¹¹ Letter dated 6 February 1992 from the Secretary-General to the President of the Security Council (S/23556).

¹² S/23671, para. 22; see also, chapter V.

¹³ S/23671, para. 18.

¹⁴ S/23743.

¹⁵ S/PV.3062, pp. 3-6.

¹⁶ *Ibid.*, pp. 6-7.

¹⁷ *Ibid.*, pp. 7-8.

¹⁸ For the relevant statements, see S/PV.3062, pp. 9-10 (United States); p. 11 (Russian Federation); p. 12 (France); and pp. 13-14 (Belgium).

Welcoming the continuing efforts of the Secretary-General to implement fully the mandate entrusted to the Mission,

Noting with satisfaction the efforts made so far by the Government of the People's Republic of Angola and the National Union for the Total Independence of Angola to maintain the ceasefire and expressing concern over the delays and gaps in the completion of some major tasks arising from the Accords,

Stressing again the importance it attaches to the fulfilment by the parties in good faith of all obligations contained in the Accords,

Welcoming the appointment by the Secretary-General of a Special Representative for Angola who will be in charge of all current and projected activities of the United Nations in connection with the Accords and will also be the Chief of the Mission,

Taking into account the report of the Secretary-General of 31 October 1991 on the United Nations Angola Verification Mission II,

Having considered the further report of the Secretary-General of 3 and 20 March 1992 on the United Nations Angola Verification Mission II,

1. *Approves* the further report of the Secretary-General of 3 and 20 March 1992 on the United Nations Angola Verification Mission II and the recommendations contained therein concerning the operational plan for United Nations observation of the elections and the enlargement of the Mission;

2. *Calls upon* the Angolan parties to cooperate fully with the Special Representative of the Secretary-General for Angola and with the Mission, including in the discharge of its expanded mandate;

3. *Underlines* the necessity recalled in paragraph 18 of the report of the Secretary-General for the United Nations electoral mission to have the explicit agreement of the two parties to the Peace Accords for Angola;

4. *Decides* to enlarge the mandate of the Mission to include the mission provided for in paragraph 22 of the report of the Secretary-General for the remainder of its existing mandate period;

5. *Urges* the Angolan parties to comply scrupulously with the provisions of the Accords and with the agreed deadlines; and to this end, to proceed without delay with the demobilization of their troops, formation of a unified national armed force, effective operation of joint police monitoring units, extension of the central administration and other major tasks;

6. *Calls upon* the Angolan authorities and parties to finalize political, legal, organizational and budgetary preparations for free and fair multi-party elections to be held in September 1992 and to make available as soon as possible all available resources for the electoral process;

7. *Encourages* all States to contribute voluntarily and requests the United Nations programmes and specialized agencies to provide the assistance and support necessary to prepare for free and fair multi-party elections in Angola;

8. *Urges* the parties to establish as soon as possible a precise timetable for the electoral process in Angola so that elections can take place at the date fixed and requests the Secretary-General to extend his cooperation to this end;

9. *Requests* the Secretary-General to keep the Security Council informed of developments and to submit a further report to the Council within three months of the adoption of the present resolution.

Decision of 20 May 1992: letter from the President of the Security Council to the Secretary-General

By a letter dated 14 May 1992 addressed to the President of the Council,¹⁹ the Secretary-General reported that his Special Representative had informed him that noticeable progress had been made with regard to the police monitoring arrangements envisaged by the Peace Accords. Three joint (Government and UNITA) police monitoring groups, to be verified by UNAVEM police observers, had been established in each of 18 Angolan provinces. His Special Representative had concluded that it was necessary to expand the Mission's police strength in each province from four police officers to six; she also believed it to be important to expand the tasks assigned to the Mission's police contingent, to include a role in the Mission's electoral tasks through the monitoring of rallies during the election campaign and observation of the registration process and polling stations at the time of the elections. The Secretary-General accordingly recommended that the police strength of UNAVEM II should be increased from 90 to 126 officers.

By a letter dated 20 May 1992,²⁰ the President of the Council informed the Secretary-General as follows:

I have the honour to inform you that your letter dated 14 May 1992 concerning the increase in the strength of the United Nations Angola Verification Mission (UNAVEM) II has been brought to the attention of the members of the Council. They agree with your recommendation contained therein.

¹⁹ S/23985.

²⁰ S/23986.

**Decision of 7 July 1992 (3092nd meeting):
statement by the President**

On 24 June 1992, the Secretary-General submitted to the Council a further report, pursuant to resolution 747 (1992), on the activities of UNAVEM II and the electoral process in Angola.²¹ He observed that the Angolans had achieved a great deal in implementing the peace process and that they were being actively assisted by the three observers — Portugal, the Russian Federation and the United States — as well as by the international community and UNAVEM II. Much work, however, needed to be done urgently by all the parties concerned, mainly the Government and UNITA, if they were to achieve the goal of free and fair multiparty elections on 29 and 30 September 1992. He remarked that the attention of the Angolan people and their leaders had increasingly turned towards the election process and away from the major unfinished tasks of the Peace Accords, such as confinement of troops and weapons, demobilization, and formation of the new armed forces and police. He stressed that the Government and UNITA must now make all possible progress on those vital tasks if the peace process was to succeed and endure. They must also work together to reduce and bring under control the current brinkmanship, since the political and security atmosphere throughout the country remained tense and could derail the peace process if not contained. Recalling that the United Nations was in Angola to observe and verify the peace process and the elections, not to organize them, he called on Angolans to maintain their political commitment and on donor countries to provide the promised assistance expeditiously.

At its 3092nd meeting, held on 7 July 1992 in accordance with the understanding reached in its prior consultations, the Security Council included the Secretary-General's report of 24 June in its agenda. Following the adoption of the agenda, the Council invited the representative of Angola, at his request, to participate in the discussion without the right to vote.

The President (Cape Verde) stated that, following consultations held earlier among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²²

The Council has considered carefully the further report of the Secretary-General on the United Nations Angola Verification Mission II of 24 June 1992, and notes the efforts of the Angolan parties to implement commitments agreed to in the Peace Accords for Angola. It commends the efforts of the Angolans to move their country towards free and fair multi-party elections on 29 and 30 September 1992 in accordance with the established timetable. There is no viable alternative to this. The Council calls on all interested parties to cooperate fully with the electoral process to ensure that elections are free and fair.

The Council re-emphasizes the observation of the Secretary-General in his report, that Angola being a sovereign and independent country, the organization and supervision of all tasks under the Accords is the responsibility of the Angolan parties themselves. Nevertheless, the Council, which has mandated United Nations observation and verification of the peace process, at the request of the Angolan parties, remains seriously concerned at some constraints holding back the process at the moment.

The maintenance of peace since May 1991, and the commitment by all parties to the electoral process, are encouraging. Nevertheless, the Council reaffirms the importance it attaches to the fulfilment by the parties in good faith of all obligations contained in the Accords. In this connection, it strongly appeals to the Government and the National Union for the Total Independence of Angola to overcome rapidly the delays and inadequacies described in the report, and increase the momentum of progress on the issues of confinement of troops and weapons, demobilization and the formation of the new armed forces and police.

The Council also expresses its concern at the political and security situation in Angola, which requires the greatest restraint. Violent incidents, mutual accusations and hostile propaganda should be terminated and give way to tolerance, cooperation, and reconciliation. It is imperative to agree, without delay, on a brief and clear code of electoral conduct and to ensure that everybody is allowed freedom of movement and speech and the ability to register to vote without fear in all areas of the country. The Council calls on the Government and all parties to work closely with the Special Representative for Angola and all United Nations specialized agencies engaged in the electoral process to ensure that voter registration is conducted in accordance with established procedures and completed in a timely manner.

The Council calls on both parties to devote all available resources to preparations for the elections in order that their commitment to elections on 29 and 30 September 1992 may be met and welcomes with appreciation commitments by donor countries to provide all support for all vital tasks relating to the final three months of the peace process. Since the logistical difficulties are major constraints on the process, the Council strongly appeals to the Member States concerned to provide the promised assistance expeditiously and urges Member States as well as the United Nations agencies to display flexibility and pragmatism in this cooperation to ensure that a successful

²¹ S/24145 and Corr.1.

²² S/24249.

conclusion of the Angolan operation leads to stability and prosperity in Angola.

The Council calls on all parties to take all necessary measures to ensure the security and safety of Mission staff and property.

The Council will continue to keep the situation in Angola under close review and looks forward to a further report by the Secretary-General at the beginning of the electoral campaign.

Decision of 18 September 1992 (3115th meeting): statement by the President

On 9 September 1992, the Secretary-General submitted to the Council a further report, pursuant to the statement by the President of 7 July, on the activities of UNAVEM II and the electoral process in Angola.²³ He stated that the Angolans were to be congratulated for maintaining the ceasefire for 15 months, and for registering the great majority of the adult population to vote in the presidential and legislative elections on 29 and 30 September. However, he noted that both sides had failed to complete certain very important tasks provided for in the Peace Accords, including the demobilization of the remaining Government and UNITA troops, the collection and centralized storage of weapons, the formation of the new unified Angolan armed forces and the establishment of a neutral police force. These tasks were essential to the creation of conditions conducive to free and fair elections. The political and security situation throughout the country had, moreover, deteriorated significantly, with reports of intimidation and provocation by both Government and UNITA supporters. The Secretary-General considered it essential that all political parties pledge to respect the results of the elections, as verified by UNAVEM II. He appealed to the Government and UNITA to ensure that their supporters and the media under their control did not present inaccurate, distorted or inflammatory reports during the next few crucial weeks, and appealed to the President of Angola and the President of UNITA to continue honouring their commitments under the Peace Accords.

The Secretary-General reported further that doubts had recently been expressed in some provinces about the effectiveness and impartiality of UNAVEM II. Where his Special Representative for Angola had been able to obtain specific examples, they mainly

reflected misunderstanding of the Mission's role and an overestimation of the United Nations capacity and mandate. He recalled that, according to the Peace Accords and the mandate of the Security Council, UNAVEM II was in Angola not to organize or implement the ceasefire and electoral arrangements, but to observe and verify the monitoring of their implementation by the Angolan parties themselves. While interpreting this mandate in the widest and most active manner, UNAVEM had constantly stressed that it could only work through the consultative mechanisms set up under the Peace Accords. The Secretary-General said that he had assured the President of UNITA, who had raised such concerns, that they would be thoroughly investigated and that he had the fullest confidence in his Special Representative.²⁴

Noting that the elections — the culminating point of the peace process — were not an end in themselves, but the springboard for a new era, the Secretary-General stated that concerns had been expressed, both by Angolans and by foreign observers, as to what would happen during the delicate period of transition after the elections. The Presidents of Angola and UNITA had both referred publicly to the possibility of UNAVEM being asked to remain for a limited period, and there were indications that the issue would be discussed further. When this possibility had been mentioned to his Special Representative, she had stressed that any such extension would require an official request by the Government of Angola, based on a consensus, and thereafter a decision by the Security Council; and that the mandate would need to be clearly defined and limited in both time and scope.

At its 3115th meeting, held on 18 September 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report of 9 September in its agenda. Following the adoption of the agenda, the Council invited the representative of Angola, at his request, to participate in the discussion without the right to vote.

The President (Ecuador) stated that, following consultations among the members of the Council, he

²³ S/24556.

²⁴ *Ibid.*, para. 9.

had been authorized to make the following statement on behalf of the Council:²⁵

The Council has noted with appreciation the further report of the Secretary-General on the United Nations Angola Verification Mission II of 9 September 1992, which it has studied carefully.

It reaffirms the importance it attaches to the full implementation of the Peace Accords for Angola, culminating in free and fair multi-party elections on 29 and 30 September 1992. It congratulates the Angolans on their success in maintaining the ceasefire and in registering the great majority of the population to vote in the elections. It is convinced of the irreversibility of this process.

At the same time, the Council calls on the Angolan parties to take urgent and determined steps to complete certain essential measures. These include the demobilization of the remaining Government and National Union for the Total Independence of Angola troops, the collection and centralized storage of weapons, and the rapid completion of the formation of the new Angolan national armed forces. It is also essential that the police should operate as a neutral, national force.

The Council is also concerned at the recent deterioration of the political and security situation in Angola. It endorses the Secretary-General's appeal to President dos Santos and Mr. Savimbi to exercise leadership at this critical juncture and to ensure that their followers act with restraint and tolerance. The Council is encouraged by the reports of positive decisions reached by the two leaders at their meeting on 7 September 1992 and urges them to implement these without delay. Of particular importance is their reported agreement in principle to the formation of a government of national reconciliation after the elections.

The Council calls upon the Angolan electoral authorities to ensure that all registered persons are given the opportunity to exercise their vote and to extend polling hours on the second day, if this should prove necessary. The Council also underlines the importance of adequate logistical planning and support and urges the donor community to move speedily to provide the remaining requirements identified in the Secretary-General's report.

The Council is concerned that doubts have recently been expressed in Angola about the United Nations Angola Verification Mission II's effectiveness and impartiality and welcomes the decision of the Secretary-General as expressed in paragraph 9 of his report to investigate thoroughly all matters raised in this regard. It expresses strong support for the Secretary-General and his Special Representative for Angola and commends Mission personnel who are tackling their challenging tasks with courage, impartiality and dedication. It urges the Angolan parties to continue to cooperate closely with the United Nations and to take all necessary steps to ensure the security of United Nations personnel and property.

²⁵ S/24573.

The Council takes note of a reported agreement between the Government and the National Union for the Total Independence of Angola that the United Nations should be asked to extend the Mission's presence in Angola during the period of transition after the elections. It will be prepared to consider such a request if it is based on wide support in Angola and if it proposes for the Mission a mandate which is clearly defined in scope and time.

The Council will continue to keep the situation in Angola under close review and looks forward to a further report by the Secretary-General after the elections.

C. Oral report of the Secretary-General on the United Nations Angola Verification Mission II

Decision of 6 October 1992 (3120th meeting): statement by the President

At its 3120th meeting, held on 6 October 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda an oral report of the Secretary-General on UNAVEM II. Following the adoption of the agenda, the Council invited the representative of Angola, at her request, to participate in the discussion without the right to vote.

The President (France) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²⁶

The Council has followed closely the electoral process which took place in Angola on 29 and 30 September 1992 in accordance with resolution 696 (1991), which it adopted on 30 May 1991 following the Peace Accords for Angola. The Council is gratified that the presidential and parliamentary elections were held throughout the country in a calm atmosphere and with the participation of a large number of voters. It also wishes to express once again its full support for the Special Representative of the Secretary-General for Angola and its gratitude for the outstanding efforts that she has made, together with all the personnel of the United Nations Angola Verification Mission II, to ensure the implementation of that resolution and in particular the smooth conduct of the electoral process.

The Council expresses its concern at the reports it has received, according to which one of the parties to the Accords is contesting the validity of the elections. It is also concerned that certain Generals belonging to the same party have announced their intention of withdrawing from the new Angolan armed forces.

²⁶ S/24623.

The Council calls upon all the parties to respect the obligations they have assumed within the framework of the Accords, and in particular the obligation to respect the final election results. Any challenge must be settled through the mechanisms established for that purpose.

The Council has decided to send to Angola as quickly as possible an ad hoc commission, composed of members of the Council to support the implementation of the Accords, in close cooperation with the Special Representative. The membership of this Commission will be established in the near future following consultations among the members of the Council.

On 8 October 1992, the President of the Council issued a note in which he stated that, following consultations among the members of the Council, the members had agreed that the ad hoc Commission should comprise the following four members of the Council: Cape Verde, Morocco, the Russian Federation and the United States.²⁷

**Decision of 19 October 1992: statement by
the President**

On 19 October 1992, following consultations among the members of the Council, the President issued the following statement to the media on behalf of the Council:²⁸

The members of the Security Council heard on 19 October 1992 an oral report of the members of the ad hoc Commission of the Council which was dispatched to Angola from 11 to 14 October 1992.

They expressed gratitude to the members of this Commission and welcomed its contribution to reducing the tension in Angola and to finding a solution to the difficulties that arose after the elections of 29 and 30 September 1992.

The members of the Council once again called upon the parties to abide scrupulously by all the commitments entered into within the framework of the Peace Accords for Angola, in particular with regard to the demobilization of their troops and formation of the united armed forces, and to refrain from any action that could increase the tension.

The members of the Council noted with satisfaction that in her public announcement of 17 October 1992 the Special Representative of the Secretary-General for Angola certified that, with all deficiencies taken into account, the elections held on 29 and 30 September 1992 can be considered to have been generally free and fair.

²⁷ S/24639.

²⁸ S/24683; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, p. 88.

They also noted with satisfaction that the leaders of the two parties to the Accords agreed to start a dialogue with a view to the completion of the presidential elections.

The members of the Council look forward to the recommendations of the Secretary-General on the contribution of the United Nations to ensuring the completion of the presidential elections. They are ready to act without delay on the basis of these recommendations.

**D. Letter dated 27 October 1992 from the
Secretary-General addressed to the
President of the Security Council**

**Decision of 27 October 1992 (3126th meeting):
statement by the President**

At its 3126th meeting, held on 27 October 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda a letter dated 27 October 1992 from the Secretary-General, addressed to the President of the Security Council, on the situation in Angola.²⁹ Following the adoption of the agenda, the Council invited the representative of Angola, at his request, to participate in the discussion without the right to vote.

The President (France) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:³⁰

The Council has taken note of the letter dated 27 October 1992 from the Secretary-General addressed to the President of the Security Council concerning the situation in Angola. It expresses its serious concern at the deterioration of the political situation and the rising tension in that country.

The Council once again calls on the parties to the Peace Accords for Angola to respect all the commitments undertaken in accordance with these accords, in particular with regard to the confinement of their troops and weapons, demobilization, and formation of the unified national armed forces. It also calls on the parties to refrain from any act that might heighten tension, impair the conduct of the electoral process and threaten the territorial integrity of Angola.

The Council calls on the National Union for the Total Independence of Angola and the other parties in the electoral process in Angola to respect the results of the elections held on 29 and 30 September 1992, which the Special Representative of the Secretary-General for Angola certified as being generally

²⁹ The letter was circulated to the members of the Council, but not issued as a document of the Council.

³⁰ S/24720.

free and fair. It urges the leaders of the two parties to the Accords to engage in a dialogue without delay so as to enable the second round of the presidential elections to be held. The Council will hold responsible any party which refuses to take part in such a dialogue, thereby jeopardizing the entire process.

The Council strongly condemns the attacks and baseless accusations made by Vorgan, the radio station of the National Union for the Total Independence of Angola, against the Special Representative and the United Nations Angola Verification Mission II. It calls for the immediate cessation of these attacks and accusations, and reiterates its full support for the Special Representative and for the Mission.

The Council reiterates its readiness to act without delay on the basis of recommendations that the Secretary-General might make concerning the contribution of the United Nations to the completion of the electoral process.

E. Letter dated 29 October 1992 from the Secretary-General addressed to the President of the Security Council

Decision of 30 October 1992 (3130th meeting): resolution 785 (1992)

By a letter dated 29 October 1992 addressed to the President of the Security Council,³¹ the Secretary-General recommended an extension of the mandate of UNAVEM II for an interim period. He recalled that, in his letter of 27 October to the President, he had described the difficulties which had arisen in Angola since the elections of 29 and 30 September, including the lack of agreement between the two parties to the Peace Accords on arrangements for the holding of a second round of presidential elections. Both parties, however, had declared their wish that UNAVEM II should play a role in organizing and verifying that round when it took place. The Secretary-General also recalled that just before the elections he had received a letter from the Minister for Foreign Affairs of Angola,³² conveying his Government's request for an extension of the activities of UNAVEM II until 31 December 1992, the date which the Government believed to be reasonable for the conclusion of the democratization process in the country. Given the uncertainties that had arisen following the Angolan elections, the Secretary-General had deferred making a recommendation to the Council about that request. In these circumstances, he saw no alternative but to

recommend the extension of the mandate of UNAVEM II for an interim period of 31 days, until 30 November. He hoped that, with the cooperation of the two parties to the Peace Accords, he would then be in a better position to make a substantive recommendation on the future mandate and strength of UNAVEM II.

At its 3130th meeting, held on 30 October 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's letter of 29 October in its agenda. Following the adoption of the agenda, the Council invited the representatives of Angola, Brazil, Portugal and South Africa, at their request, to participate in the discussion without the right to vote. The President (France) drew the attention of the members of the Council to the following letters addressed to the Secretary-General: (a) a letter dated 24 September from the representative of Angola,³³ requesting the extension of the activities of UNAVEM II until 31 December 1992; (b) a letter dated 23 October from the representative of the United Kingdom,³⁴ transmitting a statement on Angola made by the European Community and its member States on 22 October; and (c) a letter dated 27 October from the representative of South Africa,³⁵ concerning the position of the Government of South Africa on the recent elections in Angola and their aftermath. The President also drew members' attention to a draft resolution that had been prepared in the course of the Council's prior consultations,³⁶ and to some oral revisions made to the draft resolution in its provisional form.

The representative of Portugal stated that his country considered the presence and the role of the United Nations in Angola to be of vital importance, and favoured the strengthening of the future mandate of UNAVEM II. He also welcomed the active engagement of the Security Council in this grave matter. The disturbing increase in tension was taking the country to the brink of war once again, and the international community must make clear that it would not accept the disruption of the commitments made in the Peace Accords. Any support given to any of the parties outside the framework and spirit of those agreements should be unequivocally condemned. He appreciated the fact that, in its draft resolution, the

³¹ S/24736.

³² Letter dated 24 September 1992 (S/24585).

³³ S/24585.

³⁴ S/24712.

³⁵ S/24732.

³⁶ S/24738.

Council would reiterate its readiness to consider all appropriate measures to ensure that all parties abstained from the use of force and fully respected the final outcome of the democratic process. The seriousness of the situation not only caused deep concern over what might occur in Angola, but could also jeopardize the peace and stability of the whole region.³⁷

The representative of Brazil noted that, since the statement made by the President of the Council on 27 October, the situation in Angola had continued to deteriorate; like the previous speaker, he feared that it had now reached proportions at which it might come to affect peace and security both in Angola and in the surrounding region. Expressing firm support for the draft resolution the Council was about to adopt, he stressed in particular the importance of “its readiness to consider all appropriate measures” under the Charter of the United Nations to secure implementation of the Peace Accords.³⁸

The representative of Angola expressed his Government’s concern about the grave situation in his country, created by the “irresponsible attitude” of UNITA in refusing to accept the results of the elections which had been declared “free and fair” by the Council. That attitude was in clear violation of the Peace Accords. His Government asked that strong measures be taken to force UNITA to accept the election results and the implementation of the Peace Accords. He also expressed concern about information regarding the presence of South African fighting forces alongside UNITA; if proved to be correct, that would have dangerous implications for the entire region.³⁹

The representative of South Africa categorically dismissed the allegations of South African military cooperation with UNITA against the Government of Angola. He insisted that his Government would in no way support any party that opted for a violent solution or perpetrated aggression in Angola. Military action was not an option, and his Government had done its best to bring that home to the leaders of Angola; a democratic process was absolutely essential to solve the problems in the country. Differences had to be resolved around the conference table. The Government of South Africa would therefore support any suggestion

that would bring about peace, and urged the Security Council to act in such a way as would facilitate its achievement.⁴⁰

Speaking before the vote on the draft resolution, the representative of the United States urged the Presidents of Angola and UNITA to act decisively to stop the spiral of violence from leading Angola towards renewed civil war. He signalled his country’s deep concern at reports that UNITA was trying to extend its authority over parts of Angolan territory; if true, that would represent a major breach of the Peace Accords. The speaker stated that his country would continue, in full cooperation with the United Nations, to seek peace, national reconciliation and democracy in Angola. Those goals could be achieved only if violence was ended, troops were returned to their barracks, and meaningful political dialogue was resumed at the highest level. He called on the parties to implement those actions urgently. It was imperative that the two Angolan leaders hold a summit meeting immediately to overcome the current crisis. The speaker hoped that the draft resolution would contribute to a rapid and peaceful conclusion of the process laid out in the Peace Accords.⁴¹

The draft resolution in its provisional form was then put to the vote and adopted unanimously, as resolution 785 (1992), which reads:

The Security Council,

Recalling its resolutions 696 (1991) of 30 May 1991 and 747 (1992) of 24 March 1992,

Recalling also the statement made on its behalf by the President of the Security Council on 27 October 1992,

Taking note of the letter dated 29 October 1992 from the Secretary-General addressed to the President of the Security Council, in which he recommends an extension of the existing mandate of the United Nations Angola Verification Mission II for an interim period,

Deeply concerned at the deterioration of the political situation and the rising tension in Angola,

Deeply concerned also at the reports of the recent resumption of hostilities by the National Union for the Total Independence of Angola in Luanda and Huambo,

Affirming that any party which fails to abide by all the commitments entered into under the Peace Accords for Angola

³⁷ S/PV.3130, pp. 6-7.

³⁸ *Ibid.*, pp. 7-10.

³⁹ *Ibid.*, pp. 10-12.

⁴⁰ *Ibid.*, pp. 12-17.

⁴¹ *Ibid.*, p. 19.

will be rejected by the international community, and that the results of the use of force will not be accepted,

1. *Approves* the recommendation of the Secretary-General to extend the existing mandate of the United Nations Angola Verification Mission II for an interim period, until 30 November 1992;

2. *Requests* the Secretary-General to submit to the Security Council by that date a detailed report on the situation in Angola together with long-term recommendations, accompanied by the financial implications thereof, on the mandate and strength of the Mission;

3. *Strongly condemns* any such resumption of hostilities and urgently demands that such acts cease forthwith;

4. *Calls on* all States to refrain from any action which directly or indirectly could jeopardize the implementation of the Peace Accords for Angola and increase the tension in the country;

5. *Reiterates* its full support for the Special Representative of the Secretary-General for Angola and the Mission, and its strong condemnation of the attacks and baseless accusations made by Vorgan, the radio station of the National Union for the Total Independence of Angola, against the Special Representative and the Mission;

6. *Supports* the statement by the Special Representative certifying that the elections held on 29 and 30 September 1992 were generally free and fair and calls upon the National Union for the Total Independence of Angola and the other parties to the electoral process in Angola to respect the results of the elections;

7. *Calls upon* the parties to the Accords to abide by all the commitments entered into under the Accords, in particular with regard to the confinement of their troops and collection of their weapons, demobilization and the formation of the unified national armed force, and to refrain from any act that might heighten tension, jeopardize the continuation of the electoral process and threaten the territorial integrity of Angola;

8. *Urges* the leaders of the two parties to engage in a dialogue without delay so as to enable the second round of the presidential elections to be held promptly;

9. *Reaffirms* that it will hold responsible any party which refuses to take part in such a dialogue, thereby jeopardizing the entire process, and reiterates its readiness to consider all appropriate measures under the Charter of the United Nations to secure implementation of the Accords;

10. *Decides* to remain seized of the question.

Speaking after the vote, the representative of the United Kingdom noted that since the signing of the peace agreements much progress had been made in Angola, due, in particular, to the United Nations agencies and UNAVEM II, under the leadership of the

Secretary-General's Special Representative. That progress was now being put at risk by the unwillingness of one of the parties to accept the results of the elections and to carry the presidential elections to their conclusion in a second round, and by a threatening to resort to force. Such a denial of the results of the elections and a resort to force would not be accepted by the international community. Noting that it was not too late to get the peace process back on track, the speaker stated that his Government hoped that the clear warning of international isolation conveyed in resolution 785 (1992) would be heeded.⁴²

The representative of the Russian Federation, too, stated that UNITA must heed the grave warnings contained in the resolution just adopted. Its attempt once again to plunge Angola into civil war not only threatened the settlement process in that country but could also have a negative impact on the situation in the region as a whole. The Russian delegation believed that the Security Council must continue to take all necessary measures to ensure implementation by the parties of the peace agreements and promote an early dialogue between the two Angolan leaders for the purpose of holding a second round of presidential elections. For its part, the Russian Federation was ready actively to support any steps by the international community and the Council to call for the peaceful development of Angola.⁴³

The representative of Zimbabwe supported the resolution just adopted because Zimbabwe strongly believed that no party should "seek to achieve through the bullet what it failed to achieve through the ballot". He hoped that UNITA would heed the demand by the Security Council to cease all hostilities forthwith and abide fully by the provisions of the Angola Peace Accords.⁴⁴

The President, speaking in his capacity as the representative of France, stated that, in adopting resolution 785 (1992), the Council had demonstrated that it stood ready to continue active participation in the implementation of the Peace Accords. It was clear, however, that the United Nations would not be able to accomplish anything without the cooperation of the parties. Like the previous speakers, he hoped that the

⁴² Ibid., pp. 21-22.

⁴³ Ibid., pp. 22-23.

⁴⁴ Ibid., pp. 24-25.

message sent by the Security Council would be heard and understood.⁴⁵

F. Further report of the Secretary-General on the United Nations Angola Verification Mission II

Decision of 30 November 1992 (3144th meeting): resolution 793 (1992)

On 25 November 1992, the Secretary-General, pursuant to the statement made by the President of the Council on 18 September and resolution 785 (1992), submitted to the Council a further report on the situation in Angola after the elections.⁴⁶ He also provided his recommendations for action to be taken by the Council before the expiration of the mandate of UNAVEM II on 30 November. The Secretary-General observed that the situation in the country had deteriorated and that the successful completion of the peace process and the establishment of multi-party democracy seemed further off than at any time since the signing of the Peace Accords in May 1991. The original ceasefire had been seriously broken for the first time since the Accords were signed. A new ceasefire of 1 November was barely holding and both sides had undertaken preparations for renewed war. One of the root causes of what had gone wrong in Angola was the incomplete fulfilment, within an admittedly tight timetable, of key provisions in the Peace Accords that were intended to create the conditions for elections to be held. Foremost among those failings were the less than effective demobilization and storage of weapons; the delay in creating unified armed forces; the failure to re-establish effective central administration in many parts of the country; and the dilatoriness in setting up a neutral police force.

Both sides, however, had reiterated their commitment to peace and dialogue and had expressed a wish for assistance from the international community in that regard. UNITA had, moreover, eventually accepted the results of the elections. Both sides had agreed on the need for an enlarged UNAVEM presence in order to create, within six months, conditions in which the second round of presidential elections could take place and the peace process could be successfully

concluded. The Secretary-General stressed that he had made it clear to both sides that, unless they could convince him of their genuine adherence to and fulfilment of the Peace Accords, he would not be prepared to recommend an enlargement of the Mission's mandate and strength, or even its continuation at its present strength. It would also be necessary for the parties to agree on a clear timetable and on formal evaluation at regular intervals of the fulfilment of their commitments. There had to be evidence, as well, of a genuine commitment to national reconciliation, which could not be achieved without the full participation of UNITA, whose legitimate concerns had to be addressed.

As it was not possible at that stage to assess whether his own efforts and those of interested Member States would succeed in persuading the Government and UNITA to reactivate the peace process, the Secretary-General said that he was not yet in a position to make the long-term recommendations on the mandate and strength of UNAVEM II requested by the Council in its resolution 785 (1992). He accordingly recommended an extension of the existing mandate of UNAVEM II, for a further two months, until 31 January 1993. Before then, he would submit a further report with recommendations on the future involvement of the United Nations in the Angolan peace process. He added that if his present recommendation were approved, the Security Council might wish to make it clear to the parties that the international community could not wait indefinitely for them to take the difficult decisions required of them if the peace process were to be put back on track. In the meantime, the Secretary-General proposed to take urgent steps, with the cooperation of the Member States involved, to restore the Mission's strength to its authorized levels. This would both demonstrate the international community's continuing commitment to the peace process and be a practical measure to improve the security of UNAVEM personnel in the field and strengthen their ability to consolidate the ceasefire.

At its 3144th meeting, held on 30 November 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report of 25 November in its agenda.

⁴⁵ Ibid., pp. 26-27.

⁴⁶ S/24858; see also S/24858/Add.1 of 30 November 1992.

The President (Hungary) drew the attention of the members of the Council to a draft resolution⁴⁷ that had been prepared in the course of the Council's prior consultations, as well as to some oral amendments to the draft resolution in its provisional form.

At the same meeting, the Secretary-General made a statement regretting the death of a police observer with UNAVEM II, who had been killed in the crossfire during an outbreak in hostilities between the two sides at the mission camp in Uige, northern Angola. He deplored the incident as a further serious violation of the Peace Accords, and appealed strongly to both parties to cease hostilities and to seek a peaceful solution to the current crisis through dialogue.⁴⁸

The draft resolution, as orally revised in its provisional form, was then put to the vote and adopted unanimously as resolution 793 (1992), which reads:

The Security Council,

Recalling its resolutions 696 (1991) of 30 May 1991, 747 (1992) of 24 March 1992 and 785 (1992) of 30 October 1992,

Taking note of the further report of the Secretary-General of 25 and 30 November 1992 on the United Nations Angola Verification Mission II,

Deeply concerned by deterioration in the political and military situation in Angola and especially by the troop movements which have taken place and by the hostilities which occurred on 31 October and 1 November 1992,

Welcoming and supporting the efforts of the Secretary-General and his Special Representative for Angola aimed at resolving the present crisis,

Disturbed by the continuing non-implementation of major aspects of the Peace Accords for Angola,

Reiterating its support for the statement by the Special Representative that the elections held on 29 and 30 September 1992 were generally free and fair and taking note of the acceptance by the National Union for the Total Independence of Angola of the results of the elections,

Noting the intention of the Secretary-General to continue, in this as in other peacekeeping operations, to monitor expenditures carefully during this period of increasing demands on peacekeeping resources,

1. *Approves* the recommendation of the Secretary-General to extend the existing mandate of the United Nations Angola Verification Mission II for a further period of two months until 31 January 1993;

2. *Appeals* to the troop- and police-contributing States to lend cooperation to the Mission in order to restore as soon as possible its mandated strength;

3. *Welcomes* the joint declaration of the Government of Angola and the National Union for the Total Independence of Angola made in Namibe on 26 November 1992 and urges them to take immediate and effective actions in accordance with the declaration;

4. *Demands* that the two parties scrupulously observe the ceasefire, immediately stop all military confrontations, and in particular offensive troop movements, and create all the conditions necessary for the completion of the peace process;

5. *Urges* the two parties to demonstrate their adherence to, and fulfilment without exception of the Peace Accords for Angola, in particular with regard to the confinement of their troops and collection of their weapons, demobilization and the formation of the unified national armed force and to refrain from any action which might heighten tension or jeopardize the return to normalcy;

6. *Strongly appeals* to the two parties to engage in a continuous and meaningful dialogue aimed at national reconciliation and at the participation of all parties in the democratic process and to agree on a clear timetable for the fulfilment of their commitments in accordance with the Accords;

7. *Reaffirms* that it will hold responsible any party which refuses to take part in such a dialogue, thereby jeopardizing the entire process, and reiterates its readiness to consider all appropriate measures under the Charter of the United Nations to secure implementation of the Accords;

8. *Calls on* all States to refrain from any action which directly or indirectly could jeopardize the implementation of the Accords and increase the tension in the country;

9. *Requests* the Secretary-General to submit to the Security Council by 31 January 1993 a further report on the situation in Angola together with his longer-term recommendations for the further role of the United Nations in the peace process, which should be clearly defined in scope and time and based on a wide degree of support in Angola;

10. *Decides* to remain seized of the question.

Decision of 2 December 1992: statement by the President

Following consultations among the members of the Council held on 2 December 1992, the President (India) made a statement to the media on behalf of the Council concerning the safety and security of United Nations peacekeeping personnel.⁴⁹ The relevant part reads as follows:

⁴⁹ S/24884; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, pp. 90-91.

⁴⁷ S/24863.

⁴⁸ S/PV.3144, pp. 2-3.

The members of the Council wish to express their deep concern and outrage about the increasing number of attacks against United Nations personnel serving in various peacekeeping operations.

A number of serious incidents affecting military and civilian personnel serving with the United Nations Angola Verification Mission II, the United Nations Transitional Authority in Cambodia and the United Nations Protection Force have occurred during the last few days.

On 29 November 1992 in Uige, northern Angola, a Brazilian police observer with the United Nations Angola Verification Mission II was killed as a result of an outbreak of hostilities between the National Union for the Total Independence of Angola and Government forces, during which the Mission camp was caught in the cross-fire. The members of the Council convey their deep sympathy and condolences to the Government of Brazil and to the bereaved family.

...

...

The members of the Council condemn these attacks on the safety and security of United Nations personnel and demand that all parties concerned take all necessary measures to prevent their recurrence

G. Letter dated 18 December 1992 from the Secretary-General addressed to the President of the Security Council

Decision of 22 December 1992 (3152nd meeting): statement by the President

By a letter dated 18 December 1992 addressed to the President of the Council,⁵⁰ the Secretary-General informed the Council about the situation in Angola since the adoption of resolution 793 (1992) on 30 November. He reported that there had been little or no progress in putting the peace process back on track and that, unless there was rapid improvement, it was difficult to believe that by the end of January 1993 conditions would exist for him to recommend an enlarged United Nations presence in Angola, which both sides said they wanted. Since the end of November, when UNITA forces took the northern cities of Uige and Negage, the latter being the site of an important airbase, all attempts to restore a dialogue between the two sides had failed. UNITA forces continued to occupy up to two thirds of the municipalities in Angola, which the Government

⁵⁰ S/24996.

administration had had to leave or from which it had been expelled. There was disturbing evidence that both sides were continuing preparations for a resumption of war on a large scale, a possibility of which the Government's public statements spoke openly.

On the political front, the Government had announced the formation of a Government of National Unity, in which a number of posts had been offered to UNITA. UNITA had decided to take up its seats in the new Assembly and to nominate persons to the posts offered by the Government. It had also decided to return its Generals to the structures of the new Angolan armed forces, from which they had withdrawn shortly after the September elections. However, the hopes that a political dialogue could be resumed and agreement reached on a programme of action to complete the implementation of the Peace Accords had not been fulfilled. Recriminations continued between the two sides on a variety of issues: the situation in Uige and Negage; the refusal of UNITA to withdraw its troops and its resistance to the restoration of Government administration in municipalities which it had seized since the elections; the release of persons held by each side, in particular the UNITA personalities living "under Government protection" in Luanda; the exchange of bodies of those killed in the recent fighting; and mutual accusations of preparations for war.

A further obstacle to progress was the legitimate concern of UNITA about the security of its members in Luanda and other Government-controlled parts of the country; that was a matter for which both sides would like the United Nations to assume responsibility. The Secretary-General stated that, while it would be difficult for the United Nations to do so directly, a number of ideas had been offered to both sides and, if certain conditions were met, he would be ready to seek the Council's authority to make some United Nations military personnel available, on a temporary basis, to facilitate the return to Luanda of the President of UNITA, and the UNITA members of the new Government and of the elected Assembly.

As to the role the two sides would like the United Nations to play in the future, they agreed in principle on the need to enlarge the mandate of UNAVEM II and increase its strength on the ground, including the provision of armed troops. However, differences existed between them, especially on the extent to which the Mission should in future exercise a good

offices or mediation function, and the extent to which it should be involved in the organization and conduct of the second round of presidential elections.

The Secretary-General stated that he had continued to maintain his position that he would be prepared to recommend an enlargement of the mandate and strength of UNAVEM II, but only if the two sides had demonstrated their continuing commitment to the Peace Accords by agreeing on a realistic plan of action to get the implementation process back on track. They had so far failed to satisfy these conditions. In those circumstances, he had invited the two Angolan leaders to meet together, under his auspices and in his presence, to make a determined effort to move forward. In bringing the situation to the Council's attention, the Secretary-General said that he would value any support which it might wish to give to his efforts, perhaps in the form of an appeal to both leaders to accept his invitation to a joint meeting at an agreed location.

At its 3152nd meeting, held on 22 December 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's letter of 18 December in its agenda. The Council invited the representative of Angola, at his request, to participate in the discussion without the right to vote.

The President (India) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁵¹

The Council has taken note of the letter dated 18 December 1992 from the Secretary-General addressed to the President of the Security Council concerning the situation in Angola. It expresses serious concern at the lack of progress in

⁵¹ S/25002.

implementing the Peace Accords for Angola and at the continuation of the dangerous political and security situation in the country.

The Council reiterates its strong appeal to the two parties to engage in a continuous and meaningful dialogue aimed at national reconciliation and at the participation of all parties in the democratic process, and to agree on a clear timetable and programme of action to complete the implementation of the Accords. The Security Council urges that the military forces of the National Union for the Total Independence of Angola be immediately withdrawn from Uige and Negage and that the Government administration be fully restored there and that the two parties resume the direct talks started in Namibe on 26 November 1992. It again urges both parties to demonstrate their commitment to the Accords, in particular with regard to confinement of their troops and collection of their weapons, demobilization, formation of the national armed forces and restoration of the central administration throughout the country.

The Council also considers it essential that both parties agree without delay on security and other arrangements which would allow all ministers and other high-ranking officials to occupy the posts which have been offered by the Government and for all deputies to assume their functions in the National Assembly.

The Council also considers it imperative that both parties agree on a realistic plan of action for full implementation of the Accords, and to facilitate a continuing United Nations presence in Angola. It underlines the need for the two sides to produce early evidence of their willingness and ability to work together to implement the Accords, so that the international community would feel encouraged to continue to commit its scarce resources to the continuation of the United Nations operation in Angola on its present scale.

The Council fully supports the action of the Secretary-General aimed at resolving the present crisis and appeals to President dos Santos and Mr. Savimbi to accept the Secretary-General's invitation to attend, under his auspices, a joint meeting at an agreed location, to confirm that real progress has been made in the reactivation of the Bicesse Accords with a view to their full implementation and that agreement has been reached on a continuing United Nations presence in Angola.

2. The situation in Liberia

Initial proceedings

Decision of 22 January 1991 (2974th meeting): statement by the President

By a letter dated 15 January 1991 addressed to the President of the Security Council,¹ the representative of Côte d'Ivoire requested the convening of a meeting of the Council to consider the

deterioration of the situation in Liberia. He submitted a draft presidential statement.

At its 2974th meeting, on 22 January 1991, the Council included the letter from Côte d'Ivoire in its agenda, and invited the representatives of Liberia and Nigeria, at their request, to participate in the discussion without the right to vote. The President of the Council (Zaire) drew the attention of the members of the

¹ S/22076.

Council to a letter dated 14 December 1990 from the representative of the Gambia, addressed to the Secretary-General,² transmitting the final communiqué of the first extraordinary session of the Authority of Heads of State and Government of the Economic Community of West African States (ECOWAS), issued at Bamako on 28 November 1990, on the crisis in Liberia. The Authority, *inter alia*, endorsed the ECOWAS peace plan for Liberia as embodied in the Banjul communiqué and decisions of the Standing Mediation Committee adopted on 7 August 1990.

Commencing the discussion, the representative of Liberia welcomed the opportunity to speak before the Council as it sought, for the first time, to respond to the tragic consequences of the civil war that had devastated Liberia for over a year. That a response was now being made, more than one year after the conflict had started, raised, in his opinion, the need to review, and perhaps reinterpret, the Charter — particularly the provision calling for non-interference in the internal affairs of Member States. Regrettably, the strict application of that provision had hampered the effectiveness of the Council and its principal objective of maintaining international peace and security. Despite previous efforts seven months before to have the Council seized, it was only now — after the displacement of nearly half of Liberia's population, the loss of thousands of innocent lives, and the virtual destruction of the country — that the Council was finally meeting to address the tragic civil war in Liberia. He stressed that full implementation of the peace plan formulated by ECOWAS could lead to the establishment of a durable peace in Liberia provided that all the parties to the conflict were truly committed to peace. He said that there was also a need to address the deteriorating social and economic conditions in the country, and urged the international community to support the humanitarian and other relief programmes that needed to be implemented.³

The representative of Nigeria, speaking as the alternate Chairman of the group of States members of ECOWAS at the United Nations, stated that the leaders of ECOWAS had responded collectively to the conflict in Liberia by authorizing and supporting the operations of the ECOWAS Ceasefire Monitoring Group (ECOMOG). The ECOMOG mandate was not to take

sides, but to reconcile them; it was to restore peace and stability, and to create an atmosphere conducive to the resumption of free political activity and, eventually, democratic elections. The speaker stressed the importance of the Council's urging all the parties to the conflict to continue to respect the ceasefire to which they had agreed, and added that ECOWAS should be commended for its efforts to restore peace and stability in Liberia. Nigeria endorsed the draft statement on Liberia which was to be issued on behalf of the Security Council. It also called on the international community to intensify its humanitarian support for Liberia and for the Liberian refugees, and to provide financial and logistical support for ECOMOG, whose mission had been endorsed by all the leaders of the West African subregion and by the Organization of African Unity (OAU).⁴

At the same meeting, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁵

The members of the Security Council took note of the final communiqué of the first extraordinary session of the Authority of Heads of State and Government of the Economic Community of West African States, issued in Bamako on 28 November 1990.

The members of the Council commend the efforts made by the heads of State and Government of the Community to promote peace and normalcy in Liberia.

The members of the Council call upon the parties to the conflict in Liberia to continue to respect the ceasefire agreement which they have signed and to cooperate fully with the Community to restore peace and normalcy in Liberia.

The members of the Council express appreciation to the Member States, the Secretary-General and humanitarian organizations for the humanitarian assistance to Liberia and call for additional assistance. In this connection the Council welcomes the resumption of the United Nations emergency programme in Liberia following the acceptance of a general ceasefire.

The members of the Council support the appeal launched by the heads of State and Government of the Economic Community of West African States to the international community for increased humanitarian assistance to the people of Liberia.

⁴ *Ibid.*, pp. 7-8.

⁵ S/22133.

² S/22025.

³ S/PV.2974, pp. 3-7.

**Decision of 7 May 1992 (3071st meeting):
statement by the President**

At its 3071st meeting, held on 7 May 1992 in accordance with the understanding reached during its prior consultations, the Council continued its consideration of the item entitled “The situation in Liberia”. The President (Austria) drew the attention of the members of the Council to a letter dated 30 April 1992 from the representative of Senegal addressed to the Secretary-General,⁶ transmitting, on behalf of the President of Senegal and Chairman of ECOWAS, the final communiqué of the ECOWAS Committee of Five on Liberia, issued at Geneva on 7 April 1992. He then stated that, following prior consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁷

The members of the Council recalled the statement made by the President of the Council on behalf of the Council on 22 January 1991 concerning the situation in Liberia.

The members of the Council noted with appreciation the final communiqué issued at Geneva on 7 April 1992 of the informal consultative meeting of the Economic Community of West African States Committee of Five on Liberia.

The members of the Council commend the Community and its various organs, in particular the Committee of Five, for their untiring efforts to bring the Liberian conflict to a speedy conclusion.

In this connection the members of the Council believe that the Yamoussoukro Accord of 30 October 1991 offers the best possible framework for a peaceful resolution of the Liberian conflict by creating the necessary conditions for free and fair elections in Liberia.

The members of the Council renew their call to all parties to the conflict in Liberia to respect and implement the various accords of the peace process of the Committee of Five, including refraining from actions which endanger the security of neighbouring States.

The members of the Council commend the efforts of the Secretary-General in providing humanitarian assistance to the victims of the civil war in Liberia and in this regard reaffirm their support for increased assistance.

⁶ S/23863.

⁷ S/23886.

**Decision of 19 November 1992 (3138th
meeting): resolution 788 (1992)**

By a letter dated 28 October 1992 addressed to the President of the Security Council,⁸ the representative of Benin informed the Council of the decision taken by the Standing Mediation Committee and the ECOWAS Committee of Five on Liberia to send a ministerial mission to the Council for the following purposes: (a) to report on the latest developments in the crisis; (b) to request United Nations assistance in imposing, in accordance with the relevant provisions of Chapter VIII of the Charter, sanctions against those parties to the conflict that did not respect the provisions of the Yamoussoukro IV Agreement — the sanctions to consist of a blockade of all points of entry to Liberia in order to prevent the parties concerned from having access to war materiel and from exporting products from the zones they controlled; and (c) to request the presence of a group of United Nations observers to facilitate the verification and monitoring of the electoral process in Liberia, on the understanding that they would visit the country during the period of confinement and disarmament in order to build trust between the parties to the conflict. The representative requested the holding of an emergency meeting of the Council when the ministerial mission was in New York in order to consider the Liberian crisis whose persistence threatened peace and security, especially in the West African subregion.

By a letter dated 18 November 1992 addressed to the President of the Security Council,⁹ the representative of Liberia endorsed the request by the representative of Benin that the Council convene as soon as possible to discuss the situation in Liberia.

At its 3138th meeting, on 19 November 1992, the Council included both letters in its agenda and continued its consideration of the item. The Council invited, at their request, the representatives of Benin, Burkina Faso, Côte d’Ivoire, Egypt, the Gambia, Ghana, Guinea, Liberia, Mauritius, Nigeria, Senegal, Sierra Leone and Togo to participate in the discussion without the right to vote. The President (Hungary) then drew the attention of the members of the Council to several documents that had been transmitted to him by the representative of Benin: (a) by a letter dated

⁸ S/24735.

⁹ S/24825.

30 October 1992,¹⁰ the final communiqué on the Liberian crisis, issued by the first joint summit meeting of the Standing Mediation Committee and the Committee of Five of ECOWAS, held at Cotonou on 20 October 1992, together with the decision taken with respect to the implementation of sanctions (the ECOWAS sanctions decision); (b) by a letter dated 13 November 1992,¹¹ the final communiqué of the first summit meeting of the Monitoring Committee of Nine of ECOWAS, held at Abuja on 7 November 1992, on the peaceful settlement of the conflict; and (c) by a letter dated 17 November 1992,¹² the Yamoussoukro IV Agreement of 30 October 1991 on the peaceful settlement of the Liberian conflict.

A delegation of Foreign Ministers from nine States members of ECOWAS participated in the Council's meeting. The ministerial mission included the Ministers for Foreign Affairs of Benin, Burkina Faso, Côte d'Ivoire, the Gambia, Ghana, Guinea, Nigeria, Senegal and Togo (sometimes referred to as the "Committee of Nine"). They reported on the recent developments in Liberia, as well as on the ECOWAS efforts to restore peace and stability to the country. They also sought the Council's support for ECOWAS efforts, by such measures as the dispatch of a Special Representative of the Secretary-General to Liberia and the imposition of an arms embargo in line with the above-mentioned ECOWAS sanctions decision.

As head of the ECOWAS delegation, the representative of Benin recalled that, since the outbreak of hostilities in Liberia in 1989, numerous initiatives to solve the conflict had been taken by the Heads of State and Government of ECOWAS. Among the more recent, he reported that the first joint summit meeting of the Standing Mediation Committee and the Committee of Five, established to resolve the Liberian conflict, had been held at Cotonou on 20 October 1992. He stated that, at that meeting, a new deadline had been set for a ceasefire and for the complete implementation of the provisions of the Yamoussoukro IV Agreement. A decision had also been adopted on the prospective imposition of sanctions against any party to the Liberian conflict that failed to comply with the provisions of that Agreement. The sanctions were intended to blockade all points of entry into Liberia by land, sea and air so as to prevent the delivery of war

materiel to those parties and the export of products from zones they controlled in Liberia. He added that a follow-up committee, the Committee of Nine, had noted at its summit meeting in Abuja on 7 November 1992 that the deadline set by the Cotonou meeting had expired, that the Agreement had not been implemented and that the sanctions decision had, accordingly, entered into force against all the warring factions on 5 November 1992. He warned that there was a great risk that the conflict in Liberia could spread to the entire West African subregion and urged the Council to support ECOWAS efforts by adopting a number of measures. The measures included a call for effective compliance with the ceasefire established on 28 November 1990 and for the disarming and encampment of the troops of the warring factions; the appointment by the Secretary-General of a Special Representative; a total arms embargo against Liberia, with the exception of arms for ECOMOG; and a ban on the export of Liberian resources by the warring parties from the areas they controlled. It was hoped that those measures would create conditions that would allow the organization of free and democratic elections in Liberia.¹³

The representative of Liberia commended the Council for its earlier support of the ECOWAS peace initiatives in his country, as evidenced by the presidential statements of 22 January 1991 and 7 May 1992. He regretted, however, that the statements had proved to be the most that Liberia could elicit from the Council at the most critical hour of its history. He stated that, in 1990, at the height of the Liberian civil conflict, international opinion had been divided between the imperatives for humanitarian intervention and classical conceptions of sovereignty, however anachronistic. As the ECOWAS peace plan continued to be violated by some warring parties, an arms embargo, binding not only on all ECOWAS member States but also internationally, was essential. Noting that, by its spillover effects, the Liberian conflict was already a "clear and present danger" to neighbouring Sierra Leone, the speaker warned that it could degenerate into a wider conflagration in West Africa. He therefore urged the Council, in the context of its responsibility to maintain international peace and security, to support the measures ECOWAS had taken

¹⁰ S/24811.

¹¹ S/24812.

¹² S/24815.

¹³ S/PV.3138, pp. 3-12.

and to adopt unanimously the draft resolution before it along the lines proposed.¹⁴

The representative of Senegal also stressed that the crisis in Liberia presented a genuine threat to the peace and security of the region. Among the many destabilizing factors, he pointed to the existence of a huge quantity of weapons now circulating in that part of Africa accompanied by a whole range of military experts; hundreds of thousands of refugees scattered about the various neighbouring countries, putting an increasingly intolerable burden on those countries; and the spreading of the war across the borders of Liberia into Sierra Leone. Noting that ECOWAS had, with the support of all the parties to the conflict, prepared the framework for a peaceful settlement, in the form of a peace plan, and that a consensus had even been reached on the arrangements for implementing the plan, he trusted that the Council would support its efforts.¹⁵

The representative of Côte d'Ivoire stated that ECOWAS had striven to restore peace in Liberia, in accordance with the provisions of Article 52 of the Charter. It was imperative now that, with the support of the Council, an effective ceasefire be put into effect and that the Secretary-General be authorized to appoint a Special Representative who would work in close cooperation with ECOWAS in implementing the ECOWAS peace plan. The presence of a United Nations observer group, by helping to build confidence among the parties, would contribute to the encampment and disarming of the factions. So, too, would the imposition of an arms embargo.¹⁶

The representative of Burkina Faso stated that the situation in Liberia was first and foremost a Liberian matter and that any peace process should aim at resuming dialogue among the warring parties, without outside interference. Despite some previously expressed reservations over certain ECOWAS measures and the manner in which they had been implemented, his country agreed with the reaffirmation of the role of ECOMOG as a neutral disengagement force and supported the implementation of the Yamoussoukro IV Agreement, stressing that the Liberian people should have the final word in the resolution of the crisis through free and democratic elections. Burkina Faso affirmed its hope that

subregional joint efforts would enable the Liberians finally to lay the groundwork for a lasting peace.¹⁷

The representative of the Gambia said that the climate of instability and disorder created by the crisis in Liberia was hampering the socio-economic development of the region. The pre-eminent challenge was the restoration of peace in Liberia, in particular, and the consolidation of democracy in the region, in general. It was in that spirit that the Yamoussoukro IV Agreement had been adopted by the Heads of State of ECOWAS. The successful implementation of their collective commitments under that Agreement depended largely on the adoption of the draft resolution before the Council, which called for a general arms embargo.¹⁸

The representative of Guinea stated that the efforts of ECOWAS were being hampered by the continuous refusal of one of the parties to implement the various agreements and by that party's attacks against ECOMOG. Having assumed its responsibilities in response to the threat to the region's peace and security, ECOWAS now needed the support of the Council, in conformity with Chapter VIII of the Charter. Guinea urged adoption of the draft resolution and the monitoring of its implementation, which would bring relief to the countries of the region.¹⁹

The representative of Nigeria stated that ECOMOG, which had been deployed in accordance with Chapter VIII of the Charter, had suffered substantial losses. He refuted allegations by one of the parties that the ECOWAS peacekeeping force was part of the problem in Liberia, underlining its even-handedness and lack of territorial ambitions in the country. He urged West Africa's powerful friends to assist in providing humanitarian aid; to join in putting the weight of the United Nations behind the prohibition of arms transfers to the warring factions, in order to promote an environment conducive to the holding of free and fair elections; and to join in condemning war crimes and crimes against humanity.²⁰

The representative of Sierra Leone stated that, with the exception of Liberia itself, his country had been the most seriously affected victim of the conflict. One of the factions had launched an armed invasion of

¹⁴ Ibid., pp. 13-20.

¹⁵ Ibid., pp. 21-25.

¹⁶ Ibid., pp. 26-32.

¹⁷ Ibid., pp. 33-35.

¹⁸ Ibid., pp. 36-38.

¹⁹ Ibid., pp. 39-43.

²⁰ Ibid., pp. 44-48.

Sierra Leone and continued to occupy parts of the country. The same faction continued to violate the peace agreements, which it had entered into voluntarily. Sierra Leone was also providing refuge to thousands of Liberians who had fled from their country. He stressed that his country was appearing before the Council to request its assistance in repelling the aggressors whose actions could lead to instability and insecurity in the whole subregion. He supported the call to impose a complete arms embargo on Liberia and to request all States to respect the measures adopted by ECOWAS to restore peace in Liberia. He also called on the United Nations to render it all necessary military, economic and diplomatic support to enable it to resist the aggressors, and said that ECOWAS deserved the full support of the United Nations.²¹

The representative of Togo stated that the Liberian crisis, presented at the outset and for a long time as a mere civil war and hence an internal matter, had become a breeding ground for economic, political and social destabilization in the region. The Heads of State and Government of ECOWAS had proved their determination to prevent the disintegration of Liberia. However, the continued failure of one of the factions to respect the agreements and the ensuing escalation of violence had shown the urgent need to secure the support of the international community. He urged the Council to impose an arms embargo on Liberia and to authorize the Secretary-General to appoint a Special Representative for Liberia in order to evaluate the situation and to consider the means of deploying a United Nations observer group to assist ECOMOG in monitoring the ceasefire and the electoral process.²²

Following the statements made by the ECOWAS delegation, a number of speakers commended the peace initiatives of ECOWAS; expressed deep concern over the renewed fighting in the country; called on all parties to respect and implement the ECOWAS peace plan; called for cooperation between the United Nations and ECOWAS; and supported the adoption of the draft resolution, by which the Council, *inter alia*, would request the Secretary-General to appoint a Special Representative for Liberia; and impose a mandatory arms embargo on the country.²³

²¹ *Ibid.*, pp. 49-56.

²² *Ibid.*, pp. 57-61.

²³ For the relevant statements, see S/PV.3138, pp. 61-65 (Zimbabwe); pp. 66-67 (Russian Federation); pp. 68-70

The representative of Zimbabwe said that, although his country would have liked to see the Council take immediate concrete measures on Liberia along the lines that had been requested by the ECOWAS delegation, his delegation appreciated the difficulty of doing so in the absence of a report and recommendations by the Secretary-General. It therefore welcomed the request for the Secretary-General to dispatch expeditiously to Liberia a Special Rapporteur to evaluate how best the United Nations could cooperate with ECOWAS towards implementing the Yamoussoukro IV Agreement, with respect to bringing about a durable cessation of hostilities and nurturing the democratic process.²⁴

The representative of the United States insisted that, to ensure real progress, comprehensive disarmament was necessary. Peace without disarmament was tenuous at best. He also stressed that it was imperative that the regional peacekeeping effort in Liberia succeed. If it failed, ECOWAS would be unlikely to venture into the difficult realm of peacekeeping and conflict resolution in the future, and pressure would build rapidly for direct United States or United Nations intervention. The Council owed ECOWAS its full support as it considered means for pressuring the Liberian warring factions to implement the ECOWAS peace plan.²⁵

The representative of France observed that, with respect to the monitoring role the Council should legitimately play in the context of action under Chapter VII of the Charter, his country welcomed the provision in the draft resolution by which the Council, on the basis of the report of the Secretary-General, would consider certain modalities for the implementation of the draft resolution, in particular its paragraph 8, imposing the arms embargo.²⁶

At the same meeting, the President drew the attention of the members of the Council to a draft resolution that had been prepared in the course of its prior consultations.²⁷ The draft resolution was then put

(Cape Verde); pp. 71-72 (China); pp. 77-79 (France); pp. 79-80 (United Kingdom); pp. 81-82 (Ecuador); p. 83 (Japan); pp. 83-86 (Venezuela); pp. 86-88 (India); pp. 89-91 (Morocco); pp. 91-93 (Mauritius) and pp. 93-96 (Egypt).

²⁴ S/PV.3138, pp. 61-65.

²⁵ *Ibid.*, pp. 72-77.

²⁶ *Ibid.*, pp. 77-79.

²⁷ S/24827.

to vote and adopted unanimously as resolution 788 (1992), which reads:

The Security Council,

Recalling the statements by the President of the Security Council on its behalf on 22 January 1991 and 7 May 1992 on the situation in Liberia,

Reaffirming its belief that the Yamoussoukro IV Agreement of 30 October 1991 offers the best possible framework for a peaceful resolution of the Liberian conflict by creating the necessary conditions for free and fair elections in Liberia,

Taking into account the decision of 20 October 1992 of the Joint Meeting of the Standing Mediation Committee and the Committee of Five on Liberia of the Economic Community of West African States, held at Cotonou, and the final communiqué of the first meeting of the Monitoring Committee of Nine on the Liberian conflict issued at Abuja on 7 November 1992,

Regretting that parties to the conflict in Liberia have not respected or implemented the various accords to date, especially the Yamoussoukro IV Agreement,

Determining that the deterioration of the situation in Liberia constitutes a threat to international peace and security, particularly in West Africa as a whole,

Recalling the provisions of Chapter VIII of the Charter of the United Nations,

Noting that the deterioration of the situation hinders the creation of conditions conducive to the holding of free and fair elections in accordance with the Yamoussoukro IV Agreement,

Welcoming the continued commitment of the Economic Community of West African States to and the efforts towards a peaceful resolution of the Liberian conflict,

Also welcoming the endorsement and support by the Organization of African Unity of these efforts,

Noting the request of 29 July 1992 from the Economic Community of West African States for the United Nations to dispatch an observer group to Liberia to verify and monitor the electoral process,

Taking note of the invitation of the Economic Community of West African States of 20 October 1992 in Cotonou for the Secretary-General to consider, if necessary, the dispatch of a group to observe the encampment and disarmament of the warring parties,

Recognizing the need for increased humanitarian assistance to Liberia,

Taking into account the request made by the Permanent Representative of Benin to the United Nations on behalf of the Economic Community of West African States in a letter it addressed to the President of the Security Council on 28 October 1992,

Also taking into account the letter of 18 November 1992 from the Minister for Foreign Minister of Liberia addressed to the President of the Security Council endorsing the request made by the Permanent Representative of Benin to the United Nations on behalf of the Economic Community of West African States,

Convinced that it is vital to find a peaceful, just and lasting solution to the conflict in Liberia,

1. *Commends* the Economic Community of West African States for its efforts to restore peace, security and stability in Liberia;

2. *Reaffirms* its belief that the Yamoussoukro IV Agreement offers the best possible framework for a peaceful resolution of the Liberian conflict by creating the necessary conditions for free and fair elections in Liberia, and calls upon the Economic Community of West African States to continue its efforts to assist in the peaceful implementation of that Agreement;

3. *Condemns* the violation by any party to the conflict of the ceasefire established on 28 November 1990;

4. *Also condemns* the continuing armed attacks against the peacekeeping forces of the Economic Community of West African States in Liberia by one of the parties to the conflict;

5. *Calls upon* all parties to the conflict and all others concerned to respect strictly the provisions of international humanitarian law;

6. *Also calls upon* all parties to the conflict to respect and implement the ceasefire and the various accords of the peace process, including the Yamoussoukro IV Agreement and the final communiqué of the informal consultative group meeting of the Economic Community of West African States Committee of Five on Liberia, issued at Geneva on 7 April 1992, to which they themselves have agreed;

7. *Requests* the Secretary-General to dispatch urgently a Special Representative to Liberia to evaluate the situation, and to report to the Council as soon as possible with any recommendations he may wish to make;

8. *Decides*, under Chapter VII of the Charter of the United Nations, that all States shall, for the purposes of establishing peace and stability in Liberia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Liberia until the Council decides otherwise;

9. *Also decides* within the same framework that the embargo imposed by paragraph 8 shall not apply to weapons and military equipment destined for the sole use of the peacekeeping forces of the Economic Community of West African States in Liberia, subject to any review that may be required in conformity with the report of the Secretary-General;

10. *Requests* all States to respect the measures established by the Economic Community of West African States to bring about a peaceful solution to the conflict in Liberia;

11. *Calls on* Member States to exercise self-restraint in their relations with all parties to the Liberian conflict and to refrain from taking any action that would be inimical to the peace process;

12. *Commends* the efforts of Member States, the United Nations system and humanitarian organizations in providing humanitarian assistance to the victims of the conflict in Liberia, and in this regard reaffirms its support for increased humanitarian assistance;

13. *Requests* the Secretary-General to submit a report to the Security Council on the implementation of the present resolution as soon as possible;

14. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of Benin stated that, in addition to sending a very clear message to the warring parties, the resolution that the Council had just adopted provided encouragement to the tireless efforts led by the Heads of State and Government of ECOWAS to restore peace and security to the region. On their behalf, he assured the Council that ECOWAS would cooperate with the Special Representative of the Secretary-General in implementing the peace plan for Liberia.²⁸

²⁸ S/PV.3138, pp. 97-98. Pursuant to resolution 788 (1992), the Secretary-General appointed Mr. Trevor Gordon-Somers as his Special Representative for Liberia. See S/24834 and S/24835 for the exchange of letters dated 20 and 23 November 1992 between the Secretary-General and the President of the Security Council.

3. Items relating to the Libyan Arab Jamahiriya

Initial proceedings

A. Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council

Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Bahrain to the United Nations addressed to the President of the Security Council

By a letter dated 4 January 1989 addressed to the President of the Security Council,¹ the representative of the Libyan Arab Jamahiriya informed the Council of the downing on 4 January 1989 of two Libyan reconnaissance aircraft by the United States Air Force over international waters and requested that the Security Council be convened immediately to halt the aggression against his country. The representative of Bahrain made a similar request, in his capacity as Chairman of the Group of Arab States, in a letter dated

¹ S/20364.

4 January 1989 addressed to the President of the Security Council.²

At its 2835th meeting, on 5 January 1989, the Council included the letters from the representatives of the Libyan Arab Jamahiriya and Bahrain in its agenda. It considered the item at its 2835th to 2837th and 2839th to 2841st meetings, from 5 to 11 January 1989.

The Council invited the following, at their request, to participate in the discussion without the right to vote: at the 2835th meeting, the representatives of Bahrain, Burkina Faso, Cuba, the Libyan Arab Jamahiriya, the Syrian Arab Republic and Tunisia; at the 2836th meeting, the representatives of Afghanistan, Democratic Yemen, the Islamic Republic of Iran, the Lao People's Democratic Republic, Madagascar, Mali, Nicaragua, the Sudan and Uganda; at the 2837th meeting, the representatives of Pakistan and Zimbabwe; at the 2839th meeting, the representatives of Bangladesh, India and Morocco; at the 2840th meeting, the representatives of Czechoslovakia, the German Democratic Republic, Malta, Poland, Romania, the United Arab Emirates and Yemen; and at the 2841st meeting, the representatives of Bulgaria, Mongolia and the Byelorussian Soviet Socialist Republic. The Council also extended an invitation

² S/20367.

under rule 39 of its provisional rules of procedure to the following: at its 2835th meeting, to Mr. Samir Mansouri, Acting Permanent Observer of the League of Arab States (LAS); at its 2840th meeting, to Messrs. A. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference (OIC), Leasona S. Makhanda, Secretary for Labour of the Pan Africanist Congress of Azania, and Solly Simelane, Deputy Representative of the African National Congress of South Africa; and at its 2841st meeting, to Mr. Clovis Maksoud, Permanent Observer of LAS. At its 2841st meeting, the Council decided by a vote to invite the Alternate Permanent Observer of Palestine,³ at his request, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.⁴

**Decision of 11 January 1989 (2841st meeting):
rejection of a draft resolution**

At the 2835th meeting, on 5 January 1989, the President of the Security Council (Malaysia) drew the attention of the Council members to two letters dated 4 January 1989 from, respectively, the representative of the United States addressed to the President of the Security Council and the representative of Ghana addressed to the Secretary-General.⁵ The representative of the United States, invoking Article 51 of the Charter, reported that his country's forces had exercised their right of self-defence by taking defensive action in response to "hostile actions constituting an armed attack" by the military forces of the Libyan Arab Jamahiriya against United States forces lawfully operating above international waters of the Mediterranean Sea. The representative of Ghana transmitted a statement issued on 26 December 1988 by his Government on the United States threat against the Libyan Arab Jamahiriya.

At the outset of the debate, the representative of the Libyan Arab Jamahiriya stated that the United States had committed an act of premeditated, deliberate aggression by shooting down, without any justification,

two unarmed Libyan reconnaissance aircraft on routine patrol near the Libyan coast. He claimed that this act of aggression was a prelude to a large-scale attack upon economic and military installations in his country. The action, he stated, formed part of the United States policy of aggression pursued against the Libyan Arab Jamahiriya since its revolution of 1969. That policy had reached a peak under the current United States Administration, subjecting the Libyan Arab Jamahiriya to threats, provocations and acts of aggression. He stressed that the United States had systematically conducted provocative naval and air manoeuvres in the territorial waters of the Libyan Arab Jamahiriya and in its airspace in an attempt to draw the country into a direct military confrontation. It had launched a disinformation campaign to destabilize the Libyan Arab Jamahiriya, undermine its security and violate its territorial integrity. The campaign included the baseless allegation that a Libyan pharmaceutical plant was capable of producing chemical weapons. The continuing campaign had paved the way for the United States latest aggression, which had been preceded by provocative manoeuvres off the Libyan coast. He called upon the Council to condemn the American military aggression and take all measures to put an end to it, and to use whatever means were necessary to prevent its repetition. He also urged the Council to call upon the United States, a permanent member of the Council bearing special responsibilities for international peace and security, to withdraw its naval fleet and to put an end to its provocative manoeuvres against his country.⁶

The representative of the United States stated that it was his country which was the aggrieved party and not the Libyan Arab Jamahiriya, whose Air Force had aggressively challenged routine operations conducted by his country well beyond the 12-mile limit of the territorial seas claimed by the Government of the Libyan Arab Jamahiriya. The action by the United States aircraft, in response to provocation and threat by two armed Libyan fighter aircraft, was fully consistent with internationally accepted principles of self-defence. His Government had so informed the Secretary-General and the President of the Security Council under Article 51 of the Charter. He recalled that Libyan aircraft had closed in rapidly on two American planes. The American pilots had repeatedly taken evasive action. However, the Libyan aircraft had

³ For details concerning the use of the designation "Palestine" in lieu of "Palestine Liberation Organization", see General Assembly resolution 43/177 of 15 December 1988.

⁴ For the discussion and vote on this issue, see S/PV.2841, pp. 4-10. See also chapter III of the present *Supplement*, case 6.

⁵ S/20366 and S/20368.

⁶ S/PV.2835, pp. 6-13.

continued to close, in a hostile manner. They were carrying air-to-air missiles, of which the American delegation had photographic evidence. Faced with a growing and imminent threat of being shot down, the United States aircraft had fired on the Libyan planes, shooting down two, in a clear and unambiguous act of self-defence. The United States Government had made it clear that this was a distinct incident, unrelated to other issues; it had nothing to do with its concerns about the Libyan chemical-warfare plant issue or with the routine rotation of the United States Sixth Fleet into and out of the Mediterranean Sea.⁷

The representative of Bahrain, speaking in his capacity as Chairman of the Group of Arab States, expressed indignation at the “unwarranted act of aggression” by the United States, which would only lead to an escalation of tension in the region, thus threatening regional and international peace and security. The Arab States believed such acts of aggression would continue unless deterrent measures were taken to end military operations of that kind. They called on the Security Council to condemn such irresponsible acts of aggression, to adopt appropriate measures to prevent their repetition against the Libyan Arab Jamahiriya and to shoulder its responsibility under the Charter for the maintenance of international peace and security in the Mediterranean region.⁸

Many of the speakers who participated in the debate⁹ characterized the action taken by the United States as an act of aggression, in violation of international law and the Charter of the United Nations, which posed a threat to peace and security in the Mediterranean region. They rejected the claim of self-defence invoked by the United States and urged the Security Council to condemn the act of aggression and to take measures to prevent the recurrence of such acts. Some of those speakers and others called for a suspension of United States military manoeuvres off

the Libyan coast, or for the withdrawal of American or all foreign naval fleets from the region.¹⁰ Several speakers appealed for the exercise of restraint and the prevention of further escalation of tension,¹¹ some recalling the importance of the Charter principles relating to the non-use or threat of force against the territorial integrity or economic independence of any State and the settlement of disputes by peaceful means. A few noted, with approval, Colonel Qaddafi’s offer of a dialogue with the United States to resolve disputes between the two countries.¹² A number of speakers referred to the special responsibilities of the United States, as a permanent member of the Council, for the maintenance of international peace and security, and ensuring respect for the principles of the Charter.¹³

At the 2836th meeting, on 6 January 1989, the representative of Brazil considered it appropriate that the serious incident had been brought to the attention of the Security Council, thus providing the international community with an opportunity to exercise a good-offices role by encouraging the parties to enter into dialogue.¹⁴ His delegation would be prepared to join the Council in an appeal to the parties for a serene and objective assessment of each other’s intentions, in addition to strict compliance with the principles of the Charter regarding the peaceful settlement of disputes, and would consider favourably the possibility of requesting the Secretary-General to

⁷ *Ibid.*, pp. 13-17.

⁸ *Ibid.*, pp. 17-21.

⁹ *Ibid.*, pp. 24-28 (Observer of LAS); pp. 32-38 (Syrian Arab Republic); pp. 39-42 (Cuba); S/PV.2836, pp. 6-10 (Uganda); pp. 23-28 (Madagascar); pp. 28-33 (Nicaragua); pp. 39-42 (Afghanistan); pp. 43-46 (Democratic Yemen); S/PV.2837, pp. 7-11 (Algeria); pp. 16-22 (Islamic Republic of Iran); pp. 22-28 (Zimbabwe); S/PV.2839, pp. 21-25 (Sudan); pp. 22-27 (United Arab Emirates); pp. 27-31 (German Democratic Republic); pp. 41-46 (Yemen); and S/PV.2841, pp. 2831 (Mongolia).

¹⁰ S/PV. 2836, pp. 6-10 (Uganda); pp. 28-33 (Nicaragua); pp. 33-36 (Lao People’s Democratic Republic); S/PV.2837, pp. 3-6 (Yugoslavia); pp. 22-28 (Zimbabwe); S/PV.2840, pp. 12-16 (Observer of OIC); pp. 27-30 (German Democratic Republic); pp. 31-33 (Romania); pp. 38-41 (Poland); and S/PV.2841, pp. 22-25 (Bulgaria); pp. 26-28 (Byelorussian Soviet Socialist Republic).

¹¹ S/PV. 2835, pp. 21-23 (Burkina Faso); pp. 28-32 (Tunisia); S/PV.2836, pp. 18-23 (Nepal); pp. 37-40 (Mali); S/PV.2837, pp. 12-13 (Colombia); pp. 28-32 (Pakistan); S/PV.2839, pp. 16-18 (Senegal); pp. 24-26 (India); pp. 27-31 (Morocco); pp. 31-33 (Bangladesh); S/PV.2840, pp. 8-12 (Malta); pp. 38-41 (Poland); and S/PV.2841, pp. 32-37 (Palestine); pp. 41-45 (Malaysia).

¹² S/PV.2840, p. 15 (Observer of OIC); pp. 29-30 (German Democratic Republic); p. 41 (Poland).

¹³ S/PV.2835, p. 12 (Libyan Arab Jamahiriya); p. 18 (Bahrain); p. 27 (Observer of LAS); S/PV.2836, p. 6 (Uganda); pp. 22-23 (Nepal); p. 32 (Nicaragua); p. 38 (Mali); p. 41 (Afghanistan); S/PV.2837, p. 8 (Algeria); S/PV.2839, p. 22 (Sudan).

¹⁴ See also S/PV.2840, p. 12 (Malta).

explore with the parties ways and means for achieving a peaceful solution of their differences.¹⁵

The representative of the Soviet Union said that his country considered the request made by the Libyan Arab Jamahiriya for an urgent meeting of the Security Council fully justified. He stated that there was absolutely no reason for the United States to use armed force as no one had attacked its aircraft or ships in the region. His country could not accept the argument that the military aircraft of one State were entitled to open fire on the aircraft of another State simply because those aircraft had come close to them in international air space. The invocation by the United States of Article 51 of the Charter, relating to self-defence, was absolutely unfounded. He emphasized that the incident highlighted the question of the adoption of practical measures to strengthen security in the Mediterranean. Noting the link between security in the Mediterranean region and security in Europe, the Soviet Union had proposed that agreement be reached on joint measures in the Mediterranean so that the armed forces in the region might be reduced with a view, in particular, to the withdrawal of nuclear-armed ships from the area. If the United States were to withdraw its navy from the Mediterranean, the Soviet Union would immediately do the same. In concluding, he called upon the Council to evaluate properly what had occurred, to take measures for the normalization of the situation and to avert any repetition of such illegal actions.¹⁶

At the 2837th meeting, also on 6 January 1989, the representative of China called upon the United States to stop all military action against the Libyan Arab Jamahiriya and appealed to the parties to the dispute to exercise restraint in order to prevent further aggravation of the situation and to ensure peace and stability in the region.¹⁷

At the 2839th meeting, on 9 January 1989, the representative of Finland expressed his Government's concern over what appeared to be a continuing pattern of incidents involving the navies and air forces of different nations, particularly in international waters and in the superjacent airspace. He was particularly concerned when such incidents led to the use of force. He urged all sides in situations involving the possibility of incidents to refrain from behaviour that

might lead to misunderstanding as to the intentions of the other side and hence to pre-emptive action in the belief that self-defence, which was a clearly recognized right under international law, was required. In an age of military high technology, the resort to so-called pre-emptive self-defence without warning could have very dangerous consequences. He suggested that there was a need for an international code of conduct concerning both naval forces and aircraft in order to build confidence, to avoid misunderstandings, and to reduce the risk of serious incidents. As to what the Security Council could realistically do in the current situation, he said it could decide to deplore the incident that had occurred and call upon all parties to act with restraint, encouraging them to settle any disputes and disagreements by peaceful means.¹⁸

The representative of Ethiopia expressed the view that, when there was convincing evidence indicating a potential threat to international peace and security, the concerned State should bring the matter before the appropriate bodies of the United Nations. In reading out the text of Article 33, he reminded the permanent members of the Council that parties to a dispute should first seek a solution in accordance with the spirit and letter of Chapter VI of the Charter.¹⁹

The representative of France said that his country had taken note of the statements by the United States on the incident and its assurance that it was not linked to concerns expressed elsewhere in respect of a chemical plant. His Government reaffirmed its commitment to freedom of movement in international waters and airspace, and expressed its particular concern with the maintenance of stability and peace in the sensitive region of the Mediterranean. He hoped that, in this case, reason and calm would prevail and that everyone would exercise restraint and refrain from any act that might heighten tensions.²⁰

At the 2840th meeting, on 10 January 1989, the representative of Czechoslovakia stated that the downing of the Libyan aircraft constituted a violation of international law and a threat to the situation in the Mediterranean and in the Middle East. In the circumstances of the case, in which the cited "hostile intent" of the Libyan planes was based exclusively on a subjective assessment by American pilots acting in an

¹⁵ S/PV. 2836, pp. 8-11.

¹⁶ S/PV.2836, pp. 12-20.

¹⁷ S/PV.2837, pp. 13-16.

¹⁸ S/PV.2839, pp. 6-8.

¹⁹ Ibid., pp. 8-15.

²⁰ Ibid., pp. 18-20.

“obvious psychosis of hostility”, the use of armed force could not be justified by references to the right of self-defence under Article 51 of the Charter. An indispensable condition of the exercise of such a right was the objective existence of circumstances provided by the Charter. Their existence could not be confused with subjective perceptions of military commanders. Otherwise, the provisions of Article 51 would cease to be a mere exception to the general ban on the use of armed force and become an instrument of destruction of that ban.²¹

At the 2841st meeting, on 11 January 1989, the President (Malaysia) drew the attention of the Council members to two letters dated 6 January 1989 and 10 January 1989, from the representative of Ghana and from the representative of Mali, respectively, addressed to the Secretary-General.²² He also drew their attention to a draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.²³

By the draft resolution, in its preambular part, the Council would have, *inter alia*, recalled the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, the Declaration on the Strengthening of International Security and the Definition of Aggression. In its operative part, the Council would have *inter alia* (a) deplored the downing of the Libyan reconnaissance aircraft by the armed forces of the United States; (b) called upon the United States to suspend its military manoeuvres off the Libyan coast in order to contribute to the reduction of tension in the area; (c) called upon all parties to refrain from resorting to force, to exercise restraint in this critical situation and to resolve their differences by peaceful means in keeping with the Charter; and (d) called upon the United States and the Libyan Arab Jamahiriya to cooperate with the Secretary-General in an effort to bring about a peaceful settlement of the differences between the two countries.

The representative of Canada said that, while his country favoured the call on all parties to exercise restraint and to resolve their problems by peaceful means, it had accepted the explanation by the United States for its actions during the incident. It could not therefore, associate itself with a draft resolution that

contained a one-sided treatment of the incident, and would vote against it.²⁴

The representative of the United Kingdom regretted both the incident of 4 January and that conclusions had been drawn from it that were not justified by the facts. He emphasized the importance his Government attached to upholding the freedom of ships and aircraft to operate in international waters and airspace and their inherent right to self-defence as recognized by Article 51 of the Charter. In his delegation’s view, the draft resolution was couched in the wrong terms and proceeded from wrong assumptions. It could not help the underlying problems referred to in the debate. His delegation would therefore vote against it.²⁵

The Council then started the voting procedure on the draft resolution. Prior to the vote, statements were made by the representatives of France, Finland and the United States. The representative of France said that his delegation would vote against the draft resolution because it was insufficiently balanced. He noted in this respect that the reference made to the definition of aggression in the preamble could imply a deliberate will on the part of the United States to create the incident. Similarly, the difference in the terminology employed in operative paragraph 1 between Libyan “reconnaissance aircraft” and the “armed forces of the United States” presented a problem. Furthermore, the principle of freedom of navigation, in international space, on the sea and in the air, to which France was committed, seemed to be questioned, at least implicitly, in operative paragraph 2, which mentioned the question of manoeuvres.²⁶ The representative of Finland considered that the text was out of proportion with the incident itself, particularly because of operative paragraph 2; his country would not, therefore, vote in favour of the draft resolution.²⁷ The representative of the United States said that his country would vote against the draft resolution because its clear purpose was to criticize the United States for actions taken in self-defence that were entirely lawful and consistent with the Charter. Moreover, the draft resolution contained language inconsistent with the principle of

²¹ S/PV.2840, pp. 33-36.

²² S/20385 and S/20386.

²³ S/20378.

²⁴ S/PV.2841, pp. 37-40.

²⁵ *Ibid.*, p. 41.

²⁶ *Ibid.*, pp. 44-46.

²⁷ *Ibid.*, p. 46.

freedom of navigation in international waters, a matter which should concern all nations.²⁸

The draft resolution was then put to vote. It received 9 votes in favour, 4 against (Canada, France, United Kingdom and United States) and 2 abstentions (Brazil and Finland), and was not adopted owing to the negative votes of three permanent members of the Council.²⁹

Speaking after the vote, the representative of the Libyan Arab Jamahiriya expressed his delegation's disappointment that, in view of the use of the veto power by some Member States, the Council had not been able to take the action that it should have taken. He added that recourse to the so-called inherent right to self-defence and the invocation of Article 51 of the Charter had become all too familiar. They were misinterpretations of the provisions of that Article, which were used to justify aggression.³⁰

B. Letters dated 20 and 23 December 1991

By a letter dated 20 December 1991 addressed to the Secretary-General,³¹ the representative of France transmitted a communiqué from the Presidency of the French Republic and the Ministry of Foreign Affairs concerning a judicial inquiry that had been conducted into the attack on UTA flight 772, on 19 September 1989, which had resulted in 171 deaths. The communiqué stated that the judicial inquiry implicated several Libyan nationals in the crime and that the Government of France accordingly reiterated its demand that the Libyan authorities cooperate immediately, effectively and by all possible means with the French justice system in order to help to establish responsibility for the terrorist act. To that end, France called upon the Libyan Arab Jamahiriya (a) to produce all the material evidence in its possession and to facilitate access to all documents that might be useful for establishing the truth; (b) to facilitate the necessary contacts and meetings, inter alia, for the assembly of witnesses; and (c) to authorize the responsible Libyan officials to respond to any request made by the examining magistrate for judicial information.

²⁸ Ibid., pp. 46-47.

²⁹ Ibid., p. 48.

³⁰ Ibid., pp. 48-52.

³¹ S/23306.

By a letter dated 20 December 1991 addressed to the Secretary-General,³² the representative of the United Kingdom transmitted three statements made, respectively, by the Lord Advocate of Scotland on 14 November 1991, by the Foreign Secretary in the House of Commons on the same day, and by the British Government on 27 November 1991. In his statement, the Lord Advocate announced his conclusion, following an investigation of almost three years, that there was sufficient evidence to justify the issuance of warrants for the arrest of two named Libyan intelligence officers on charges alleging their involvement in the destruction of Pan Am flight 103 on 21 December 1988. He stated that a demand was being made to the Libyan Arab Jamahiriya for the surrender of the accused for trial. He added that a simultaneous announcement was being made in Washington by the Attorney General of the United States following the handing down of an indictment by a grand jury in Washington.

The Foreign Secretary recalled, in his statement, that 270 people had been killed in the crash of the flight at Lockerbie, 66 of them British. He repeated the demand, on behalf of the whole Government, that the Libyan authorities surrender the accused to stand trial, stressing that the accusations were of the gravest possible kind: this was a mass murder, which was alleged to involve the organs of government of a State.

In the statement issued by the British Government, it was indicated that, following the issue of warrants against the two Libyan officials for their involvement in the Lockerbie incident, the Government had demanded of the Libyan Arab Jamahiriya the surrender of the two accused for trial but that it had thus far received no satisfactory response from the Libyan authorities. It also referred to a joint declaration made that day by the British and American Governments in which they had declared that the Government of the Libyan Arab Jamahiriya must take the following steps: surrender for trial all those charged with the crime, and accept complete responsibility for the actions of Libyan officials; disclose all it knew of the crime, including the names of all those responsible, and allow full access to all witnesses, documents and other material evidence; and pay appropriate compensation.

³² S/23307.

By a letter dated 20 December 1991 addressed to the Secretary-General,³³ the representative of the United States transmitted a statement that had been issued by his Government on 27 November 1991 regarding the bombing of Pan Am flight 103. The Government stated that the indictments of 14 November had been conveyed to the Libyan regime.

By a further letter dated 20 December 1991 addressed to the Secretary-General,³⁴ the representatives of France, the United Kingdom and the United States transmitted the text of a tripartite declaration on terrorism issued by their Governments on 27 November, following the investigation into the bombings of flights Pan Am 103 and UTA 772. The declaration noted that, following an investigation, the three States had presented specific demands to the Libyan authorities related to the judicial proceedings that were under way. They required that the Libyan Arab Jamahiriya comply with all those demands, and, in addition, commit itself concretely and definitively to cease all forms of terrorist action and all assistance to terrorist groups. The Libyan Arab Jamahiriya must promptly, by concrete actions, prove its renunciation of terrorism.

By a letter dated 23 December 1991 addressed to the Secretary-General,³⁵ the representative of the United States transmitted a copy of the indictment handed down by the United States District Court for the District of Columbia on 14 November 1991 in connection with the bombing of Pan Am flight 103.

**Decision of 21 January 1992 (3033rd meeting):
resolution 731 (1992)**

At its 3033rd meeting, held on 21 January 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled "Letters dated 20 and 23 December 1991 (S/23306, S/23307, S/23308, S/23309, S/23317)". The Council considered the item at the same meeting. The Council invited the representatives of Canada, the Congo, Iraq, the Islamic Republic of Iran, Italy, the Libyan Arab Jamahiriya, Mauritania, the Sudan and Yemen, at their request, to participate in the discussion without the right to vote. The Council also decided, at the request of the representative of Morocco, to extend

an invitation under rule 39 of its provisional rules of procedure to Adnan Omran, Under-Secretary-General of LAS, and Engin Ansay, Permanent Observer of OIC.

The President (United Kingdom) drew the attention of the Council members to a draft resolution submitted by France, the United Kingdom and the United States.³⁶ He also drew their attention to four letters from the representative of the Libyan Arab Jamahiriya addressed to the Secretary-General and the President of the Security Council, respectively: letters dated 20 and 29 November 1991³⁷ and letters dated 17 and 18 January 1992.³⁸ The latter two letters transmitted an Arab League resolution of 16 January 1992, reiterating its call for a joint commission of the United Nations and the League and mediation by the Secretary-General of the United Nations; and a letter from the Government of the Libyan Arab Jamahiriya to the Secretary of State of the United States and the Minister for Foreign Affairs of the United Kingdom, calling for arbitration under article 14 of the 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

At the outset of the debate, the representative of the Libyan Arab Jamahiriya stated that, although the announcement by the Lord Advocate of Scotland and the indictment by the United States grand jury were ostensibly based on an arduous four-year investigation, no supporting evidence or proof had been made available. That meant either that the United States and United Kingdom indictments were intended as final, unequivocal judgements on which there was to be no further discussion or that the evidence and proof behind them were not serious, and that the accusations were based on guesswork. Despite the weakness of the indictments, the Libyan Arab Jamahiriya had treated the matter seriously and had taken a number of steps to conduct its own judicial investigation. However, that investigation had not made significant progress, owing to the lack of cooperation by the United Kingdom, the United States and France and their refusal to hand over the files of their investigations. Despite the considerations supporting Libyan national jurisdiction, the competent Libyan authorities had indicated that they would welcome a neutral international investigating committee or a reference of the question to the International Court of Justice. The other parties,

³³ S/23308.

³⁴ S/23309.

³⁵ S/23317.

³⁶ S/23422.

³⁷ S/23416 and S/23417.

³⁸ S/23436 and S/23441.

however, had not only rejected that position, but had requested the extradition of the two Libyan nationals to stand trial in their own courts. He affirmed that the Libyan Arab Jamahiriya had cooperated and was still ready to cooperate to the fullest extent, within the context of absolute respect for international arguments, established norms, prevailing legal systems, and human rights. He stressed that in his country's view the issue before the Security Council was a legal one — concerning a conflict of jurisdiction and a dispute in connection with a request for extradition — over which the Council had no competence. In making recommendations in this respect, the Council should bear in mind that, pursuant to Article 36, paragraph 3, of the Charter, “legal disputes should as a general rule be referred to the International Court of Justice in accordance with the Statute of the Court”. What the Council was competent to consider was a dispute of a political nature in which the parties had not followed any of the means for peaceful settlement set out in Article 33 of the Charter. In such a case, the Council could call upon the parties to settle their dispute by such peaceful means. The Libyan Arab Jamahiriya had frequently declared its readiness to negotiate and accept mediation and other peaceful means to settle the dispute. The Council should at least call upon the other parties to respond favourably to that expression of readiness. It should also recommend settlement of the dispute through the diverse legal channels that were available, not only within the framework of the Charter but under the more relevant international conventions, such as the 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (the Montreal Convention). The speaker stated that on the basis of that Convention, particularly its article 14, his country had officially requested of the United States and the United Kingdom that the dispute be referred to arbitration. Before the Council, it requested that those countries be invited to enter promptly into negotiations with the Libyan Arab Jamahiriya on proceedings leading to arbitration and an arbitration panel. A short and fixed deadline could be set for those proceedings, after which, if no agreement was reached on arbitration, the matter would be brought before the International Court of Justice. Turning to the draft resolution, the speaker questioned how the Council could adopt a resolution urging the Libyan Arab Jamahiriya to respond fully and effectively to illegal requests and asking other countries to urge it to do so. He added that the participation of the parties to the

dispute in the voting on the draft resolution would constitute a violation of the explicit provisions of Article 27, paragraph 3, of the Charter.³⁹

The Under-Secretary-General of the League of Arab States, Mr. Adnan Omran, stated that during the past month the League had made every possible effort, through the contacts made by its Secretary-General with all the parties concerned, to reach a peaceful solution to the situation. The Council of the League had also held two emergency meetings, on 5 December 1991 and 16 January 1992, and adopted two resolutions.⁴⁰ The two resolutions could, he said, be summed up by the following two points: first, condemnation of terrorism in all its forms and of the incident of the downing of the American aircraft; and, second, support for the position of the Libyan Arab Jamahiriya, which denied any responsibility for the incident, condemned terrorism in all its forms, and expressed its willingness to find a solution of the question in accordance with Article 33 of the Charter and to place the question before a neutral international commission of inquiry. Based on that willingness, the League had proposed the establishment of a joint commission of the United Nations and LAS to study all documentation relating to the matter. In the light of those investigations, suitable measures could be taken. The League also hoped that the Council would entrust the Secretary-General with the task of exercising his good offices with all the parties concerned.⁴¹

The representative of Mauritania, speaking on behalf of the five States members of the Arab Maghreb Union,⁴² said it was desirable for the spirit of dialogue and compromise to replace the logic of confrontation of the cold war era. He drew attention to Article 33 of the Charter, which called upon the parties to a dispute to seek a solution by peaceful means. In the present case, which appeared to be a question essentially juridical in nature — a question for the settlement of which the Libyan side had made concrete proposals for cooperation — the Council should explore all ways and means leading to a peaceful solution based on international legality. It should take into account the appeals for moderation made, in particular, by the Arab Maghreb Union, OIC and LAS. He also expressed

³⁹ S/PV.3033, pp. 6-25.

⁴⁰ See S/23274 and S/23436, respectively.

⁴¹ S/PV.3033, pp. 26-31.

⁴² Algeria, Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia.

concern at seeing the Council having recourse to controversial procedures that might negatively affect the authority of its decisions and risk setting a dangerous precedent.⁴³

A number of other non-members of the Council,⁴⁴ while condemning all forms and types of terrorism, expressed support for the position of the Libyan Arab Jamahiriya and emphasized the need to resolve the dispute by negotiations, mediation and judicial machinery, in accordance with Article 33 of the Charter; some stressed that the question should be dealt with in a legal framework. One regretted that the draft resolution went beyond the explicit rule of international law set out in the 1971 Montreal Convention, which gave contracting States the choice to prosecute or extradite alleged offenders.⁴⁵ Others welcomed the involvement of the Security Council, recalling that its concern in respect of matters of international terrorism was not new.⁴⁶ They hoped that it would build upon its prior condemnation of all acts of unlawful interference against the security of civil aviation and make a constructive contribution to bringing such criminal acts to an end. They strongly endorsed the draft resolution and hoped that the Libyan authorities would promptly and effectively comply with its provisions.

The Council then started the voting procedure on the draft resolution. Speaking before the vote, the representative of Zimbabwe said that the Security Council was doing the right thing in addressing the issue before it, as international terrorism constituted a grave threat to international peace and security. The draft resolution sought to achieve two main objectives, namely, to send a clear message that the Council was determined to deal firmly with terrorism; and to ensure that the accused were brought to trial. In Zimbabwe's view, that had to be achieved on the basis of the established legal norms and the existing international legal instruments applicable to acts of terrorism, in particular the 1971 Montreal Convention, which sought to implement the traditional precept of *aut dedere, aut punire* (extradite or punish). Zimbabwe welcomed the clear role given to the Secretary-General in resolving

the dispute, believing that it was appropriate that the Council took full advantage of his good offices.⁴⁷

The representative of Morocco considered that the cooperation requested in the draft resolution was fully justified with regard to the establishment of the facts, particularly the identity of the suspects in the case. However, with regard to the implications to be drawn from the responsibility of such persons, his country felt that the Council was touching upon the well-established principle of international law of "extradite or prosecute". Morocco did not share the view that adoption of the draft resolution enshrined any exception to that principle. The speaker added that the participation of the Secretary-General was the best guarantee of moving towards cooperation by all parties in establishing the truth and in implementing the legal proceedings already in train.⁴⁸

The representatives of Ecuador and Cape Verde echoed those views, stressing that their votes in favour of the draft resolution could not be regarded as favouring the setting of any precedent that could change the well-established rules and international practice on extradition; they looked to the Secretary-General to play a pivotal role in helping to bring about a negotiated solution.⁴⁹

The draft resolution⁵⁰ was then put to the vote and adopted unanimously as resolution 731 (1992), which reads:

The Security Council,

Deeply disturbed by the world-wide persistence of acts of international terrorism in all its forms, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and jeopardize the security of States,

Deeply concerned by all illegal activities directed against international civil aviation, and affirming the right of all States, in accordance with the Charter of the United Nations and relevant principles of international law, to protect their nationals from acts of international terrorism that constitute threats to international peace and security,

Reaffirming its resolution 286 (1970) of 9 September 1970, in which it called on States to take all possible legal steps to prevent any interference with international civil air travel,

⁴³ S/PV.3033, pp. 48-52.

⁴⁴ *Ibid.*, pp. 62-65 (Islamic Republic of Iran); pp. 37-40 (Iraq); pp. 31-37 (Sudan); pp. 53-57 (Yemen); and pp. 66-69 (Permanent Observer of OIC).

⁴⁵ *Ibid.*, pp. 62-65 (Islamic Republic of Iran).

⁴⁶ *Ibid.*, pp. 46-48 (Canada); and pp. 43-46 (Italy).

⁴⁷ *Ibid.*, pp. 70-71.

⁴⁸ *Ibid.*, pp. 57-61.

⁴⁹ *Ibid.*, pp. 72-73 and 74-77, respectively.

⁵⁰ S/23422.

Reaffirming also its resolution 635 (1989) of 14 June 1989, in which it condemned all acts of unlawful interference against the security of civil aviation and called upon all States to cooperate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives,

Recalling the statement made on 30 December 1988 by the President of the Security Council on behalf of the members of the Council strongly condemning the destruction of Pan Am flight 103 and calling on all States to assist in the apprehension and prosecution of those responsible for this criminal act,

Deeply concerned over the results of investigations, which implicate officials of the Libyan Government and which are contained in Security Council documents that include the requests addressed to the Libyan authorities by France, the United Kingdom of Great Britain and Northern Ireland and the United States of America in connection with the legal procedures related to the attacks carried out against Pan Am flight 103 and Union de transports aériens flight 772,

Determined to eliminate international terrorism,

1. *Condemns* the destruction of Pan Am flight 103 and Union de transports aériens flight 772 and the resultant loss of hundreds of lives;

2. *Strongly deplores* the fact that the Libyan Government has not yet responded effectively to the above requests to cooperate fully in establishing responsibility for the terrorist acts referred to above against Pan Am flight 103 and Union de transports aériens flight 772;

3. *Urges* the Libyan Government immediately to provide a full and effective response to those requests so as to contribute to the elimination of international terrorism;

4. *Requests* the Secretary-General to seek the cooperation of the Libyan Government to provide a full and effective response to those requests;

5. *Urges* all States individually and collectively to encourage the Libyan Government to respond fully and effectively to those requests;

6. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of the United States observed that the Council had been confronted with the extraordinary situation of a State and its officials being implicated in two ghastly bombings of civilian airliners. This was a situation to which standard procedures clearly did not apply. The issue at hand was not some difference of opinion or approach that could be mediated or negotiated. It was, as the Council had just recognized, conduct threatening to everyone, and a direct threat to international peace and security. The mandate of the Council required that it squarely face its responsibilities in this case; it must not be distracted by Libyan attempts to convert this

issue of international peace and security into one of bilateral differences. In adopting resolution 731 (1992), the Council had responded in a careful and prudent manner to a unique situation involving State-sponsored terrorist attacks on civil aviation. It had clearly reaffirmed the right of all States, in accordance with the Charter, to protect their citizens. The resolution made it clear that neither the Libyan Arab Jamahiriya nor any other State could seek to hide support for international terrorism behind traditional principles of international law and State practice. The Council would now be watching carefully how the Libyan Arab Jamahiriya responded. If further action should be necessary, which it hoped would not be the case, the United States was convinced that the Council was ready on a continuing basis to face up to its responsibilities.⁵¹

The President, speaking in his capacity as the representative of the United Kingdom, noted that the Council was meeting that day to consider two of the most horrific acts of terrorism that the world had seen. He stressed that it was the clear indication of Libyan Government involvement which had led his Government, together with those of France and the United States, to bring before the Council the failure of the Libyan Arab Jamahiriya to comply with their requests that the accused be made available for trial in Scotland or the United States and to cooperate with the French judicial authorities. It was this exceptional circumstance of government involvement that had made it appropriate for the Council to adopt a resolution urging the Libyan Arab Jamahiriya to comply with those requests. Over two months had passed since the requests had been made. No effective response had been received. Instead, the Libyan authorities had prevaricated and resorted to diversionary tactics. The request of the Libyan Arab Jamahiriya for arbitration under article 14 of the Montreal Convention was not relevant to the issue before the Council. The Council was not, in the words of that provision, dealing with a dispute between two or more contracting parties concerning the interpretation or application of the Montreal Convention. It was concerned, rather, with the proper reaction of the international community to the situation arising from failure of the Libyan Arab Jamahiriya, thus far, to respond effectively to the most serious accusations of State involvement in acts of terrorism.

⁵¹ S/PV.3033, pp. 78-81.

The two accused of bombing Pan Am flight 103 must face and receive a proper trial, either in Scotland where the crime had occurred or in the United States, as the aircraft was American. It had been suggested that the men might be tried in the Libyan Arab Jamahiriya. However, in the particular circumstances, there could be no confidence in the impartiality of the Libyan courts. As for the suggestion of a trial before some international tribunal, it was simply not practical: the International Court of Justice had no criminal jurisdiction; nor was there any other international tribunal with such jurisdiction. The speaker stated that, in addition to the need to bring to justice the perpetrators of those crimes, it was vital that the Council send an unequivocal message to other would-be terrorists. The Council's action should have an important deterrent effect. In future, terrorists operating with the connivance or support of a Government would know that they could be brought to trial in the country where their crime had been committed. The speaker stated that the Council was not, by the resolution just adopted, seeking to challenge in any way the domestic rules in those countries which prohibited the extradition of nationals, or to establish a broad precedent. It was dealing only with terrorism in which there was State involvement. In the circumstances of the present case, it must be clear to all that the State which was itself implicated in the acts of terrorism could not try its own officials.⁵²

The representative of France stated that the deliberate and wilful destruction of the French and American aircraft, causing the death of hundreds of victims, was a clear-cut case of international terrorism. The exceptional gravity of the attacks and the considerations connected with the restoration of law and security justified the Council's action. Like the previous speakers, he affirmed that the action could not constitute a precedent. He hoped that the unanimous reaction of the international community, as expressed in the resolution just adopted, would induce the Government of the Libyan Arab Jamahiriya to respond quickly to the requests of the juridical authorities conducting the investigation.⁵³

The representative of the Russian Federation stated that it was important, in accordance with universally acknowledged legal norms, that the judicial

organs of those countries to which the downed aircraft belonged and over whose territory the crime was committed should be allowed to deal with the case under consideration. The trial should be open and impartial. He added that the efforts of the international community to respond to the threat to international security and stability posed by acts of terrorism against civil aviation must be strengthened. The Russian Federation had supported the resolution just adopted in the belief that it was a step in that direction.⁵⁴

The representative of China said that his delegation had voted in favour of the resolution just adopted as it condemned terrorism and incorporated constructive proposals made by the non-aligned members which his delegation supported. However, he wished to reiterate his country's belief that the problem could be solved through consultations and diplomacy. Such an approach would avoid increasing the tension and would contribute to the maintenance of regional peace and security, as well as to upholding the Charter and the principles of international law. He stressed that the adoption of the resolution should not lead to any drastic action or exacerbate tensions.⁵⁵

The representative of India stated that by adopting resolution 731 (1992) the Council had taken cognizance of a dispute involving two or more States in an issue of manifest concern to the international community — international terrorism; the Council's need to act in the maintenance of international peace and security was therefore legitimate. However, the Council's decision could not be considered precedent setting. He stressed, moreover, the importance of recognizing and respecting national sovereignty, particularly in cases such as the one under consideration where delicate and complex international issues with implications for national sovereignty were concerned. He welcomed the Council's invocation of the services of the Secretary-General in the matter, adding that it was his delegation's understanding that the Secretary-General would report to the Council on the outcome of his efforts.⁵⁶

The representative of Venezuela said that the inability of the General Assembly to take a stand on the establishment of an international criminal tribunal had made it necessary for the Council to act. Although the

⁵² *Ibid.*, pp. 102-106.

⁵³ *Ibid.*, pp. 81-82.

⁵⁴ *Ibid.*, pp. 87-89.

⁵⁵ *Ibid.*, pp. 84-87.

⁵⁶ *Ibid.*, pp. 93-97.

measure just adopted was exceptional and had involved problems for many countries in the area of jurisdiction and extradition of nationals, the Council did have the necessary competence and had to be prepared to assume the enormous responsibility involved in filling the institutional gap, the result of the lack of alternative machinery to deal with crimes against mankind. There was no doubt that the action taken unanimously by the Council conferred legitimacy and representativeness on the resolution, the premise of which was limited strictly to acts of terrorism involving State participation. The speaker added in that regard that the countries that had sponsored resolution 731 (1992) — France, the United Kingdom and the United States — had worked with the group of non-aligned countries represented in the Council and had declared that the resolution was exceptional by its nature and could not be regarded in any way as a precedent, but was intended solely for those cases in which States were involved in acts of terrorism. Like other speakers, he expressed the hope that a peaceful settlement of the dispute could be achieved and, accordingly, deemed the urgent and active participation of the Secretary-General to be of special political and institutional importance.⁵⁷

Letters dated 20 and 23 December 1991

Report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992)

Further report of the Secretary-General pursuant to paragraph 4 of Security Council resolution 731 (1992)

Decision of 31 March 1992 (3063rd meeting): resolution 748 (1992)

On 11 February 1992, the Secretary-General, pursuant to resolution 731 (1992), submitted to the Security Council a report on his efforts to seek the cooperation of the Government of the Libyan Arab Jamahiriya to provide a full and effective response to the requests referred to in resolution 731 (1992).⁵⁸ He informed the Council that the position of the Libyan authorities was as follows: (a) the Libyan Arab Jamahiriya had decided to accept “the French demands

since they were in conformity with international law and did not infringe upon the sovereignty of the Libyan Arab Jamahiriya”, and had asked the Secretary-General to so inform the Government of France. The Libyan authorities had also requested that the Secretary-General either set up a mechanism for the implementation of that aspect of the resolution or ask France and the Libyan Arab Jamahiriya to negotiate such a mechanism themselves; (b) as far as resolution 731 (1992) as a whole was concerned, the Libyan Arab Jamahiriya was ready to cooperate fully with the Security Council and with the Secretary-General “in the light of the statements made in the Security Council and in a way that would not infringe upon State sovereignty or violate the Charter of the United Nations and principles of international law”. Believing that a mechanism should be created for the implementation of resolution 731 (1992), the Libyan Arab Jamahiriya had invited the Secretary-General to create such a mechanism or to call upon the parties concerned to set one up. The Secretary-General had explained that his own role under resolution 731 (1992) was determined by the provisions of paragraph 4 of that resolution.

On 3 March 1992, the Secretary-General submitted to the Council a further report pursuant to paragraph 4 of resolution 731 (1992).⁵⁹ He stated that, after the issuance of his previous report, he had met on 17 February with the representatives of France, the United Kingdom and the United States. They had asked him to convey to the Libyan leader the following points on behalf of their Governments: (a) the expressed readiness of the Libyan Arab Jamahiriya to abide by resolution 731 (1992) represented a step forward only if it was supported by action; (b) in that connection, the three Governments supported the request of the Government of France and wished to be informed of the mechanism by which the Libyan authorities would hand over the records and documentation requested, and of where and when they intended to do so; (c) they also would like to know the time, place and modality of the hand-over by the Libyan authorities of the two persons charged and the information and evidence requested, and the precise measures the Libyan Government intended to take in order to end its support for terrorism in all its forms; (d) the three Governments had no objection to the hand-over taking place through the Secretary-General

⁵⁷ *Ibid.*, pp. 98-102.

⁵⁸ S/23574.

⁵⁹ S/23672.

of the United Nations, in accordance with paragraph 4 of resolution 731 (1992); (e) they believed that their requests were clear and precise and that they did not require further clarification; and (f) with regard to the question of compensation, they sought to obtain assurances from the Libyan Arab Jamahiriya on its responsibility.

The Secretary-General reported that, in the course of two meetings with the Secretary-General's envoy, Colonel Qaddafi, the head of the Libyan State, had made the following points: (a) there were constitutional obstructions preventing the Libyan Arab Jamahiriya from handing over its citizens for trial abroad in the absence of an extradition treaty; (b) he might address an appeal to the Libyan people through the People's Committee, which might result in the removal of those obstructions; he did not indicate how long it might take to overcome the existing constitutional hurdles; (c) once the constitutional problems had been solved, the Libyan Arab Jamahiriya could be inclined to consider France as a possible venue for a trial of the Libyan citizens; however, France had not requested that any suspects be handed over to it for trial; (d) the suspects were free to hand themselves over voluntarily and the Government of the Libyan Arab Jamahiriya would not prevent them from doing so; (e) the possibility of handing over the suspects to the authorities of a third country, such as Malta or any Arab country, for trial might be considered; (f) improvement of bilateral relations between the Libyan Arab Jamahiriya and the United States would make it possible to hand over the two suspects to the United States authorities; (g) the Libyan Arab Jamahiriya was prepared to cooperate in every way possible to put an end to terrorist activities and sever its relations with all groups and organizations that targeted innocent civilians; it would not allow its territory, citizens or organizations to be used in any way for carrying out terrorist acts directly or indirectly, and would punish most severely anyone proved to be involved in such acts; (h) the Libyan Arab Jamahiriya considered that it was premature to discuss the question of compensation, which could only follow from a civil judgement; however, it guaranteed the payment of any compensation should Libyan nationals be found responsible and be unable to pay; and (i) the Libyan Arab Jamahiriya agreed to the French requests, and set out the means for giving effect to them.

The Secretary-General concluded from the foregoing that, while resolution 731 (1992) had not yet been complied with, there had been a certain evolution in the position of the Libyan authorities since his last report. He added that the Council might wish to consider that in deciding on its future course of action.

At its 3063rd meeting, held on 31 March 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's two reports in its agenda. The Council invited the representatives of Iraq, Jordan, the Libyan Arab Jamahiriya, Mauritania and Uganda, at their request, to participate in the discussion without the right to vote. The Council also extended, at the request of the representative of Morocco, an invitation under rule 39 of its provisional rules of procedure to Mr. Engin Ansay, Observer of OIC.

The President (Venezuela) then drew the attention of the Council members to a draft resolution submitted by France, the United Kingdom and the United States.⁶⁰ He also drew their attention to the following letters: letters dated 25 February and 18 March 1992 from the representative of the Libyan Arab Jamahiriya addressed to the Secretary-General;⁶¹ a letter dated 26 February 1992 from the representative of Portugal addressed to the Secretary-General;⁶² and a letter dated 23 March 1992 from the representative of Jordan addressed to the President of the Security Council.⁶³

At the same meeting, the representative of the Libyan Arab Jamahiriya stated that the primary objective of the United Nations and the Security Council, as laid down in Article 1 of the Charter, was to act by peaceful means in conformity with the principles of justice and international law in order to settle international disputes which might lead to a breach of the peace. Proceeding from that principle, the Libyan Arab Jamahiriya had expressed its willingness to find a peaceful and just solution to the dispute under consideration, reaffirmed its readiness to cooperate with the Secretary-General, and put forward many proposals. It was incorrect, therefore, to claim that his Government had not fully and effectively responded to the demands contained in resolution 731 (1992). He noted that, in accordance with Chapter VI of the

⁶⁰ S/23762.

⁶¹ S/23641 and S/23731.

⁶² S/23656.

⁶³ S/23745.

Charter, particularly paragraphs 2 and 3 of Article 36, the Council should take into consideration any procedures for the settlement of the dispute which had already been adopted by the parties, and the fact that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice. He recalled, in that regard, that the Libyan Arab Jamahiriya had submitted the dispute to the International Court of Justice. Instead of taking those factors into account, however, the Council had bent to the requests of three States and moved directly to the implementation of Chapter VII of the Charter. He stated that the sponsors of the draft resolution had ignored Articles 39 and 40 and jumped directly to Article 41, threatening the Libyan Arab Jamahiriya with sanctions. He recalled that Article 39 related to action with respect to a threat to the peace, breach of the peace or act of aggression. That was not the case in the matter before the Council; the matter was a legal dispute concerning who should investigate the accused and who should put them on trial. Article 40 called upon the Council, before making the recommendations or deciding upon the measures provided for in Article 39, to call upon the parties to a dispute to comply with such provisional measures as it deemed necessary or desirable; the Council must take account of whether the parties to the dispute did or did not take such provisional measures. None of that had taken place. He concluded by expressing the hope that the Council would not take any measures that would adversely affect the credibility of the United Nations.⁶⁴

The representative of Jordan, speaking in his capacity as Chairman of the Group of Arab States at the United Nations, recalled that the League of Arab States had called for the establishment of a joint committee of the United Nations and LAS to achieve a peaceful settlement of the crisis; emphasized the need to resolve the conflict through negotiations, in accordance with Article 33 of the Charter; and urged the Security Council to avoid adopting any resolution calling for military, economic or diplomatic actions that might have a negative impact on the region, pending a decision by the International Court of Justice on the case submitted to it, and before giving a chance to the Committee established by LAS to produce results. He stressed that the Arab efforts within the League had not yet been exhausted and that they would be adversely affected by the adoption of the draft

⁶⁴ S/PV.3063, pp. 4-22.

resolution before the Council. He noted that the Libyan Arab Jamahiriya had confirmed its desire to contain the crisis and resolve it in accordance with international law and the provisions of Chapter VI of the Charter. Instead of rushing to put the draft resolution to the vote, the Council should give adequate time to all parties concerned and the Secretary-General, to seek a peaceful settlement within the framework of the Charter, especially its Article 33.⁶⁵

The representative of Mauritania, speaking on behalf of the five States members of the Arab Maghreb Union,⁶⁶ expressed concern that the draft resolution, in providing for sanctions, would condemn the Libyan people for an act for which responsibility had not yet been established. He believed that sanctions could be avoided, especially since the issue was basically juridical in nature and was currently before the International Court of Justice. Moreover, the Libyan Government had stated its willingness to comply with resolution 731 (1992), as well as with any judgement of the Court.⁶⁷

Mr. Engin Ansay, Observer of OIC, urged that economic or military action against the Libyan Arab Jamahiriya be averted, especially since the latter had indicated its willingness to cooperate with the Council.⁶⁸

The representative of Iraq asked, in relation to the draft resolution, whether the Council had exhausted all the means available to it under Chapter VI to secure compliance by the Libyan Arab Jamahiriya with resolution 731 (1992) and whether the Libyan Arab Jamahiriya had rejected that resolution, enabling the Council to move on to enforcement measures under Chapter VII; whether the Council had taken into account the adverse economic effects of the resolution on neighbouring States; and whether it had taken into account the humanitarian needs of the Libyan civilian population when it had considered and opted for enforcement measures.⁶⁹

The Council then started the voting procedure on the draft resolution. Speaking before the vote, the representative of Cape Verde stated that he intended to

⁶⁵ *Ibid.*, pp. 23-30.

⁶⁶ Algeria, Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia.

⁶⁷ S/PV.3063, pp. 31-33.

⁶⁸ *Ibid.*, pp. 42-44.

⁶⁹ *Ibid.*, pp. 34-38.

abstain for several reasons. First, the International Court of Justice should have a role to play whenever a legal issue was at stake, as mentioned in Article 36 (3) of the Charter. It would therefore be more appropriate for the Council to act after the Court — which was now seized with the matter — had decided the issue of jurisdiction. It was difficult, moreover, for Cape Verde to endorse measures that could run counter to its constitution which did not allow the extradition of its own nationals. Finally, his delegation believed that sanctions should be adopted only as a last resort and that the Council should first exhaust all possibilities for a negotiated peaceful solution. In the present case, had there been more time, a negotiated solution might have been worked out for the surrender of the two individuals.⁷⁰

The representative of Zimbabwe also expressed disquiet at invoking Chapter VII of the Charter in the circumstances. He thought that such action would be hasty, disregarded the Secretary-General's views, and overlooked some pertinent provisions of the Charter. In his view, recourse to sanctions should be considered only as a last resort, following the exhaustion of peaceful diplomatic means provided for under Chapter VI. That stage had not yet been reached. He observed, moreover, that the dispute before the Council was also the subject of consideration by the International Court of Justice. While there were no specific provisions in the Charter that precluded parallel considerations of the matter by the Council and the Court, he believed that the authors of the Charter intended the two bodies to complement each other's efforts rather than proceed in a manner that could produce contradictory results. He warned that by taking the Chapter VII route while the case was still pending before the world Court, the Council was risking a major institutional crisis. In his view, it would have been preferable for the Council to await the outcome of the judicial proceedings.⁷¹

The representative of India expressed support for the primary objective of the sponsors of the draft resolution — namely, to serve an unambiguous notice on all those engaged in acts of terrorism of the determination of the international community to combat terrorism and eradicate it. He had some differences, however, with the sponsors about the methods and means suggested at that stage, and would

accordingly abstain in the voting. He considered that the Council should take into account the considered judgement of the Secretary-General and the prevailing sentiment among the wider membership of the United Nations in taking such significant decisions. There had been some recent developments which suggested that more time and patience in the quest for a peaceful solution could have yielded better results. A related matter concerned the definition of the circumstances under which the sanctions either would not come into force at all or would be lifted. The non-aligned members of the Council and others had explored with the sponsors the injection of more precision into the relevant paragraphs. Regrettably, however, it had not been possible to remove the vagueness from the draft resolution on that point. He noted, further, that the judicial proceedings before the International Court of Justice had not yet run their course. A little delay in the Council's moving on to the next stage of its action would, therefore, have merited positive consideration. Finally, he highlighted the importance of Article 50 of the Charter. It was intended as the acknowledgement of the Council's responsibility to alleviate special problems of third countries arising from their carrying out enforcement measures under Chapter VII. In the light of past experience, his delegation considered that the draft resolution should have reflected that responsibility more clearly, as well as the Council's commitment to take concrete and effective measures to address urgently all such problems brought to its notice.⁷²

The representative of China explained that his country would abstain in the voting as it did not support the imposition of sanctions against the Libyan Arab Jamahiriya; they would not help settle the question but would further complicate the issue, aggravate regional tension and have serious economic consequences for the countries in the region. He appealed to the parties to continue their efforts to resolve their differences and hoped that the Secretary-General would continue to play an active role in that regard.⁷³

The representative of Morocco stated that his country, too, would abstain. Calling the attention of the sponsors of the draft resolution to Chapter VI of the Charter and Article 33, he said there remained every

⁷⁰ *Ibid.*, pp. 45-47.

⁷¹ *Ibid.*, pp. 50-55.

⁷² *Ibid.*, pp. 56-59.

⁷³ *Ibid.*, pp. 59-61.

reason to hope that a peaceful diplomatic solution was achievable. His country would pursue its efforts, both through direct contacts and within the framework of the Arab Maghreb Union and LAS, to achieve such a solution.⁷⁴

The draft resolution was then put to the vote and adopted by 10 votes in favour to none against, with 5 abstentions (Cape Verde, China, India, Morocco, Zimbabwe), as resolution 748 (1992), which reads:

The Security Council,

Reaffirming its resolution 731 (1992) of 21 January 1992,

Noting the reports of the Secretary-General of 11 February and 3 March 1992 submitted pursuant to paragraph 4 of Security Council resolution 731 (1992),

Deeply concerned that the Libyan Government has still not provided a full and effective response to the requests in its resolution 731 (1992),

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security,

Recalling that, in the statement issued on 31 January 1992 on the occasion of the meeting of the Security Council at the level of heads of State and Government, the members of the Council expressed their deep concern over acts of international terrorism, and emphasized the need for the international community to deal effectively with all such acts,

Reaffirming that, in accordance with the principle in Article 2, paragraph 4, of the Charter of the United Nations, every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involve a threat or use of force,

Determining, in this context, that the failure by the Libyan Government to demonstrate by concrete actions its renunciation of terrorism and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992) constitute a threat to international peace and security,

Determined to eliminate international terrorism,

Recalling the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Acting under Chapter VII of the Charter,

1. *Decides* that the Libyan Government must now comply without any further delay with paragraph 3 of resolution

731 (1992) regarding the requests addressed to the Libyan authorities by France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America,

2. *Decides also* that the Libyan Government must commit itself definitively to cease all forms of terrorist action and all assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism;

3. *Decides* that, on 15 April 1992, all States shall adopt the measures set out below, which shall apply until the Security Council decides that the Libyan Government has complied with paragraphs 1 and 2 above;

4. *Decides also* that all States shall:

(a) Deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the territory of Libya, unless the particular flight has been approved on grounds of significant humanitarian need by the Security Council Committee established by paragraph 9 below;

(b) Prohibit, by their nationals or from their territory, the supply of any aircraft or aircraft components to Libya, the provision of engineering and maintenance servicing of Libyan aircraft or aircraft components, the certification of airworthiness for Libyan aircraft, the payment of new claims against existing insurance contracts and the provision of new direct insurance for Libyan aircraft;

5. *Decides further* that all States shall:

(a) Prohibit any provision to Libya by their nationals or from their territory of arms and related material of all types, including the sale or transfer of weapons and ammunition, military vehicles and equipment, paramilitary police equipment and spare parts for the aforementioned, as well as the provision of any types of equipment, supplies and grants of licensing arrangements, for the manufacture or maintenance of the aforementioned;

(b) Prohibit any provision to Libya by their nationals or from their territory of technical advice, assistance or training related to the provision, manufacture, maintenance, or use of the items in subparagraph (a) above;

(c) Withdraw any of their officials or agents present in Libya to advise the Libyan authorities on military matters;

6. *Decides* that all States shall:

(a) Significantly reduce the number and the level of the staff at Libyan diplomatic missions and consular posts and restrict or control the movement within their territory of all such staff who remain; in the case of Libyan missions to international organizations, the host State may, as it deems necessary, consult the organization concerned on the measures required to implement this subparagraph;

(b) Prevent the operation of all Libyan Arab Airlines offices;

⁷⁴ Ibid., pp. 61-64.

(c) Take all appropriate steps to deny entry to or expel Libyan nationals who have been denied entry to or expelled from other States because of their involvement in terrorist activities;

7. *Calls upon* all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to 15 April 1992;

8. *Requests* all States to report to the Secretary-General by 15 May 1992 on the measures they have instituted for meeting the obligations set out in paragraphs 3 to 7 above;

9. *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(a) To examine the reports submitted pursuant to paragraph 8 above;

(b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the measures imposed by paragraphs 3 to 7 above;

(c) To consider any information brought to its attention by States concerning violations of the measures imposed by paragraphs 3 to 7 above and, in that context, to make recommendations to the Council on ways to increase their effectiveness;

(d) To recommend appropriate measures in response to violations of the measures imposed by paragraphs 3 to 7 above and provide information on a regular basis to the Secretary-General for general distribution to Member States;

(e) To consider and to decide upon expeditiously any application by States for the approval of flights on grounds of significant humanitarian need in accordance with paragraph 4 above;

(f) To give special attention to any communications in accordance with Article 50 of the Charter of the United Nations from any neighbouring or other State with special economic problems that might arise from the carrying out of the measures imposed by paragraphs 3 to 7 above;

10. *Calls upon* all States to cooperate fully with the Committee in the fulfilment of its task, including supplying such information as may be sought by the Committee in pursuance of the present resolution;

11. *Requests* the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for this purpose;

12. *Invites* the Secretary-General to continue his role as set out in paragraph 4 of resolution 731 (1992);

13. *Decides* that the Security Council shall, every one hundred and twenty days or sooner, should the situation so require, review the measures imposed by paragraphs 3 to 7 above in the light of the compliance by the Libyan Government with paragraphs 1 and 2 above taking into account, as appropriate, any reports provided by the Secretary-General on his role as set out in paragraph 4 of resolution 731 (1992);

14. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of the United States stated that the evidence of Libyan involvement in the terrorist acts against the two civilian airliners indicated a serious breach of international peace and security. It fully justified the adoption of sanctions under Chapter VII of the Charter as the appropriate next step in response to the refusal of the Libyan Arab Jamahiriya to comply with the specific requests made in resolution 731 (1992). The sanctions were measured, precise and limited. They were a multilateral, non-violent and peaceful response to violent and brutal acts. They were tailored to fit the offence and designed to penalize the Government of the Libyan Arab Jamahiriya, not its neighbours or any other State. By imposing sanctions, the international community was sending two clear signals: that it would not tolerate such threats to international peace and security; and that it was prepared to take concerted political action against the continuing defiance of international obligations and norms of behaviour represented by Libyan State-supported terrorism. That message was the surest guarantee that the Security Council, using its specific, unique powers under the Charter, would preserve the rule of law and ensure the peaceful resolution of threats to international peace and security, now and in the future. The pause in the implementation of the sanctions gave the Libyan Arab Jamahiriya the opportunity to bring this chapter to an end quickly; the choice was up to it.⁷⁵

The representative of the United Kingdom noted that 10 weeks had passed since the adoption of resolution 731 (1992); yet the Libyan Government had taken no serious step towards compliance with the requests of the three Governments as it had been urged to do. It was some four months since those requests had first been made, and the Libyan Arab Jamahiriya continued to prevaricate and to impede action by the Council. One of the Libyan suggestions had been that

⁷⁵ S/PV.3063, pp. 66-68.

compliance with the requests in resolution 731 (1992) should await the outcome of the proceedings instituted by it in the International Court of Justice. The United Kingdom believed that the application of the Libyan Arab Jamahiriya was in fact directed at interfering with the exercise by the Council of its functions and prerogatives under the Charter of the United Nations. The Council was fully entitled to deal with issues of terrorism and the measures needed to address acts of terrorism in any particular case or to prevent it in the future. Any other view would undermine the primary responsibility for the maintenance of peace and security conferred on the Council by Article 24 of the Charter. Regrettably, the efforts made by the Secretary-General, by many Governments, and the Arab Ministers who had gone to Tripoli the week before had been unsuccessful in persuading the Libyan Arab Jamahiriya to comply with resolution 731 (1992). That was why the Council now needed to take a further step. The resolution just adopted was a proportionate and carefully measured response to the threat posed by the Libyan Government's actions in support of terrorism and its failure to respond positively to resolution 731 (1992). The sole objective of the sanctions imposed by the resolution was to secure compliance with paragraphs 1 and 2 thereof. The sanctions themselves were tailored precisely to that objective, being limited to three specific areas: aviation, arms and Libyan Government overseas offices and officials. The speaker added that the resolution took account of a number of concerns raised by members of the Council. Thus, for example, the exception for humanitarian flights had been designed so as to cover flights connected with the hajj. It also included, at the request of certain neighbouring countries, references to the right of States, under Article 50, to consult the Council if they were confronted with special economic problems as a result of the sanctions. Noting that the sanctions, themselves, would not be brought into force until 15 April, he expressed the hope that the Libyan Arab Jamahiriya would use the pause to take the steps required to avoid the imposition of sanctions. Finally, he noted that the review clause in paragraph 13 of the resolution made it clear that the Council would be ready to respond positively in the event of Libyan compliance.⁷⁶

The representative of France, too, underlined that the sanctions imposed were balanced, appropriate and

⁷⁶ *Ibid.*, pp. 68-72.

selective. They applied to three areas — arms, aviation and diplomatic and consular personnel — that could be used to support international terrorism; and were not aimed at the Libyan people. He concluded by stressing that the resolution provided the Libyan leaders with a final deadline of 15 April and hoped that they would make proper use of the delay.⁷⁷

The representatives of Belgium, Hungary and the Russian Federation observed that for two months the Secretary-General, LAS and other countries had sought to convince the Libyan authorities to heed the will of the international community. As those efforts had not produced the desired results, the Council had no alternative but to adopt another resolution providing for enforcement action, to preserve the Council's credibility and ensure compliance with its previous resolution. The speakers hoped that the Libyan Government would take advantage of the two-week delay before the imposition of sanctions to reconsider its position.⁷⁸

The representative of Austria echoed the view that the envisaged sanctions were not punishment; they were intended to make a member of the international community comply with its obligations under the Charter of the United Nations. He added that they would have to be lifted once full implementation by the country concerned had been achieved. That was why Austria had always stressed the necessity of establishing objective criteria for the provisions on the termination of sanctions. In that context, the speaker drew attention in particular to paragraphs 12 and 13 of resolution 748 (1992).⁷⁹

The President, speaking in his capacity as the representative of Venezuela, said that it was his delegation's understanding that the Council and the International Court of Justice were independent of each other, and that each of those organs in the United Nations system should exercise its jurisdiction autonomously. Although it would have been desirable for there to be a simultaneous decision by the two forums, the absence of such a decision could not inhibit the actions which one or other of them might take.⁸⁰

⁷⁷ *Ibid.*, pp. 73-74.

⁷⁸ *Ibid.*, pp. 81-82 (Belgium); pp. 76-77 (Hungary); pp. 79-81 (Russian Federation).

⁷⁹ *Ibid.*, pp. 77-78.

⁸⁰ *Ibid.*, pp. 82-84.

**Decision of 12 August 1992: statement by the
President**

On 12 August 1992, following consultations among the members of the Council, the President of the Council made the following statement on behalf of the Council:⁸¹

The members of the Council held informal consultations on 12 August 1992 pursuant to paragraph 13 of resolution 748 (1992) of 31 March 1992, by which the Council decided to review every 120 days or sooner, should the situation so require, the measures imposed by paragraphs 3 to 7 against the Libyan Arab Jamahiriya.

After hearing all the opinions expressed in the course of the consultations, the President concluded that there was no agreement among members of the Council that the necessary conditions existed for modification of the measures of sanctions established in paragraphs 3 to 7 of resolution 748 (1992).

**Decision of 9 December 1992: statement by the
President**

On 9 December 1992, following consultations among the members of the Council, the President of the Council made the following statement on behalf of the Council:⁸²

The members of the Council held informal consultations on 9 December 1992 pursuant to paragraph 13 of resolution 748 (1992) of 31 March 1992, by which the Council decided to review every 120 days or sooner, should the situation so require, the measures imposed by paragraphs 3 to 7 against the Libyan Arab Jamahiriya.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for modification of the measures of sanctions established in paragraphs 3 to 7 of resolution 748 (1992).

**C. Letter dated 2 April 1992 from the
Permanent Representative of
Venezuela to the United Nations
addressed to the President of the
Security Council**

By a letter dated 2 April 1992 addressed to the President of the Security Council,⁸³ the representative of Venezuela, invoking rule 3 of the provisional rules

⁸¹ S/24424.

⁸² S/24925.

⁸³ S/23771.

of procedure of the Security Council, requested an urgent meeting of the Council to bring to its attention the violation of the diplomatic mission of Venezuela in Tripoli on 2 April 1992. He stated that the incident not only constituted a direct violation of international law, as it involved the non-observance by the Libyan Arab Jamahiriya of the basic duties of all host States to provide appropriate security and protection to diplomatic missions in their territories; it was also a hostile act directly related to action taken against the Libyan Arab Jamahiriya by the Security Council in resolution 748 (1992), adopted on 31 March 1992.⁸⁴

**Decision of 2 April 1992 (3064th meeting):
statement by the President**

At its 3064th meeting, on 2 April 1992, the Security Council included the letter from Venezuela in its agenda and began consideration of the item. At the same meeting, following consultations held earlier among the members of the Council, the President (Zimbabwe) made the following statement on behalf of the Council:⁸⁵

The Council strongly condemns the violent attacks on and destruction of the premises of the Embassy of Venezuela in Tripoli that took place today. The fact that these intolerable and extremely grave events have been directed not only against the Government of Venezuela but also against and in reaction to Council resolution 748 (1992) of 31 March 1992 underlines the seriousness of the situation.

The Council demands that the Government of the Libyan Arab Jamahiriya take all necessary measures to honour its international legal obligations to ensure the security of the personnel and to protect the property of the Embassy of Venezuela and of all other diplomatic and consular premises or personnel present in the Libyan Arab Jamahiriya, including

⁸⁴ See also a letter of 2 April 1992 from the representative of Venezuela to the President of the Council, transmitting a public statement issued by the Government of Venezuela concerning the attack (S/23776). The statement reported that a mob of students had broken into the Embassy, shouting slogans against Venezuela because of the latter's vote in the Security Council in favour of the "anti-terrorist" resolution on 31 March 1992, and had ransacked and destroyed the premises. Neither the Libyan guards assigned to protect the Embassy nor anyone from the Tripoli police force had intervened to stop the looting and arson, which had been carried out with complete impunity. On the adoption of resolution 748 (1992), see section 3.B of the present chapter.

⁸⁵ S/23772.

those of the United Nations and related organizations, from acts of violence and terrorism.

The Council further demands that the Libyan Arab Jamahiriya pay to the Government of Venezuela immediate and full compensation for the damage caused.

Any suggestion that those acts of violence were not directed against the Government of Venezuela but against and in reaction to resolution 748 (1992) is extremely serious and totally unacceptable.

By a letter dated 8 April 1992 addressed to the President of the Security Council,⁸⁶ the representative of Venezuela reported on the official reply received from the Libyan Arab Jamahiriya to the Venezuelan protest note. The Libyan Arab Jamahiriya had conveyed its “deepest regret and apologies” for the damage sustained by the Venezuelan Embassy in Tripoli. It had also stated in its note that it took responsibility for the consequences of the incident and would provide compensation “in the fairest manner so as to satisfy the Government of Venezuela”.

⁸⁶ S/23796.

4. The situation in Mozambique

Initial proceedings

By a letter dated 10 August 1992 addressed to the Secretary-General,¹ the representative of Mozambique transmitted the text of a Joint Declaration signed at Rome on 7 August 1992 by the President of Mozambique and the President of the Resistência Nacional Moçambicana (RENAMO), in connection with the ongoing peace process in Mozambique. The parties agreed therein, inter alia, to accept the role of the international community, and especially that of the United Nations, in monitoring and guaranteeing the implementation of a contemplated General Peace Agreement, particularly the ceasefire and the electoral process.

By a letter dated 6 October 1992 addressed to the Secretary-General,² the representative of Mozambique transmitted a letter dated 4 October 1992 from the President of Mozambique to the Secretary-General, enclosing the text of a General Peace Agreement for Mozambique signed that day in Rome by the Government of Mozambique and RENAMO. In his letter, the President of Mozambique requested the participation of the United Nations in monitoring and ensuring implementation of the Agreement, in providing technical assistance for the general elections, and in monitoring those elections. He also asked the Secretary-General to inform the Security Council of his request that a United Nations team be sent to Mozambique to monitor the Agreement until the

holding of general elections which would take place one year after the signing of the Agreement. According to protocol IV, the United Nations was expected to start its functions of verifying and monitoring the ceasefire upon the entry into force of the Agreement, which should take place no later than 15 October 1992. However, the Government wished to see the monitoring mechanisms established in the field as soon as possible.

On 9 October 1992, the Secretary-General submitted to the Security Council a report,³ in which he described the status of the peace process, summarized the principal features of the General Peace Agreement, including the role proposed by the United Nations in monitoring it, and outlined an immediate plan of action. He noted that the Agreement provided for the following: a ceasefire which was to come into effect on the day on which the Agreement itself entered into force, not later than 15 October 1992; the separation of the two sides' forces and their concentration in certain designated assembly areas; demobilization and reintegration of those troops who were not to serve in the new Mozambican Defence Force, within six months of the entry into force of the Agreement; and, in parallel with these military arrangements, the creation of new political parties; preparations for presidential and legislative elections to take place simultaneously, one year after the entry into force of the Agreement; and the provision of

¹ S/24406.

² S/24635 and Corr.1.

³ S/24642.

humanitarian assistance. The United Nations was asked to undertake certain specific functions in relation to the ceasefire, the elections and humanitarian assistance, including chairing three key commissions: a commission to supervise and monitor the implementation of the General Peace Agreement, a ceasefire commission, and a Reintegration Commission. The Secretary-General stated his intention, subject to the approval of the Security Council, to appoint immediately an interim Special Representative to be in overall charge of the United Nations activities in support of the Agreement and to coordinate the humanitarian and other related efforts of the United Nations system in Mozambique during the implementation of the Agreement. As soon as appointed, the Special Representative would assist the parties in setting up the joint machinery to be chaired by the United Nations and in finalizing the modalities and conditions for the military arrangements. He would also, as a matter of priority, take all necessary steps to ensure access for relief workers to all those in need of humanitarian assistance throughout the country. The Secretary-General further recommended that up to 25 military observers be dispatched to Mozambique in the next few days to support the Special Representative in his initial tasks.⁴ The latter would be asked to submit an early report, upon which the Secretary-General would base recommendations to the Council for the deployment of a United Nations operation in Mozambique to carry out the functions envisaged for the United Nations in monitoring and assisting the implementation of the General Peace Agreement.

**Decision of 13 October 1992 (3123rd meeting):
resolution 782 (1992)**

At its 3123rd meeting, held on 13 October 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report of 9 October in its agenda. Following the adoption of the agenda, the Council invited the representative of Mozambique, at his request, to participate in the discussion without the right to vote. The President (France) then drew the attention of the members of the Council to the above-mentioned letters dated 10 August and 6 October 1992 from the representative of Mozambique addressed to the Secretary-General, and to a draft resolution that had

been prepared in the course of prior consultations.⁵ He also drew their attention to two amendments to the draft resolution as issued in its provisional form.

The representative of Mozambique welcomed the Council's initiative in taking action on the draft resolution by which the Council would, inter alia, approve the appointment by the Secretary-General of an interim Special Representative to Mozambique and the dispatch to the country of a first group of military observers. This would mark the beginning of the United Nations Operation in Mozambique to assist in the implementation of the Peace Agreement. It was just a first step, but a very important one: the whole philosophy and viability of the Agreement hinged on the crucial role to be played by the United Nations. He informed the Council that his country's Assembly had, on 12 October 1992, unanimously approved a law adopting that Agreement which would enter into force on 15 October 1992. The holding of the ceasefire, which would come into effect on the same day, depended largely on the work of the three commissions to be chaired by the United Nations and on the adequate and active presence of United Nations observers in the field. He therefore expected that the Council would continue to act expeditiously so as to ensure the urgent dispatch of the core elements of the Operation.⁶

The draft resolution, as orally revised in its provisional form, was then put to the vote and adopted unanimously as resolution 782 (1992), which reads:

The Security Council,

Welcoming the signature at Rome, on 4 October 1992, of a General Peace Agreement for Mozambique between the Government of Mozambique and the Resistência Nacional Moçambicana,

Considering that the signature of the Agreement constitutes an important contribution to the restoration of peace and security in the region,

Taking note of the Joint Declaration signed at Rome on 7 August 1992 by the President of the Republic of Mozambique and the President of the Resistência Nacional Moçambicana, in which the parties accept the role of the United Nations in monitoring and guaranteeing the implementation of the Agreement,

⁵ S/24650.

⁶ S/PV.3123, pp. 7-8.

⁴ Ibid., para. 16.

Also taking note of the report of the Secretary-General of 9 October 1992 on the United Nations Operation in Mozambique and of the request of the President of Mozambique,

1. *Approves* the appointment by the Secretary-General of an interim Special Representative for Mozambique, and the dispatch to Mozambique of a team of up to twenty-five military observers as recommended in paragraph 16 of the report of the Secretary-General of 9 October 1992 on the United Nations Operation in Mozambique;

2. *Looks forward* to the report of the Secretary-General on the establishment of a United Nations Operation in Mozambique, including in particular a detailed estimate of the cost of this operation;

3. *Decides* to remain actively seized of the matter.

**Decision of 27 October 1992 (3125th meeting):
statement by the President**

By a letter dated 23 October 1992 addressed to the President of the Council,⁷ the Secretary-General informed the Council that, in pursuance of resolution 782 (1992), he had appointed an interim Special Representative for Mozambique who had proceeded to Maputo with a team of military observers to assist the parties in setting up the joint machinery which was to be chaired by the United Nations, in finalizing the modalities and conditions for the military arrangements, and in carrying out other initial tasks. He noted that while the United Nations had established a token presence in Mozambique, the delays in establishing the agreed machinery and finalizing the modalities of the ceasefire severely limited the ability of the United Nations Operation in Mozambique (ONUMOZ) to carry out the tasks envisaged for the United Nations in the General Peace Agreement. Drawing attention to reported ceasefire violations by both sides, some very serious, the Secretary-General characterized the current situation in Mozambique as “critical”, and suggested that the Council might wish to consider making an appeal to all concerned to work effectively together to begin the implementation of the Peace Agreement.

At its 3125th meeting, held on 27 October 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the Secretary-General’s letter of 23 October.

⁷ The letter was circulated in the Council, but not issued as a document of the Council (see S/PV.3125, p. 2).

The President (France) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁸

The Council has taken note of the letter of 23 October 1992 from the Secretary-General to the President of the Security Council concerning the situation in Mozambique. It expresses its gratitude to the Secretary-General and to his interim Special Representative for Mozambique for their efforts to ensure that the United Nations contributes to the implementation of the General Peace Agreement for Mozambique in accordance with the provisions of this Agreement.

The Council remains deeply concerned by the reports of major violations of the ceasefire in several regions of Mozambique. It calls upon the parties to halt such violations immediately and scrupulously to respect the ceasefire and all the commitments entered into under the Agreement. It also urges the parties to cooperate fully with the interim Special Representative of the Secretary-General, and in particular to take all measures necessary to ensure the safety of United Nations staff in Mozambique.

The Council wishes to reiterate its firm commitment to work towards a lasting peace in Mozambique. In this regard, it urges the parties to respect fully the ceasefire, which is a necessary condition for the speedy establishment of the United Nations Operation in Mozambique and its successful deployment.

**Decision of 16 December 1992 (3149th meeting):
resolution 797 (1992)**

On 3 December 1992, pursuant to resolution 782 (1992), the Secretary-General submitted to the Council a report setting out his recommendations on the establishment and deployment of a United Nations Operation in Mozambique.⁹ He proposed that the mission’s mandate encompass a political, a military, an electoral and a humanitarian component, which would be fully integrated in the operational plan. He also recommended the presence of a United Nations police component to monitor the neutrality of the Mozambican police although no such role had been provided for in the Peace Agreement. He stated his intention to ask the interim Special Representative to reopen this matter with the parties and seek their concurrence. With regard to the presidential and legislative elections, scheduled to be held one year after the date of signature of the Agreement, the

⁸ S/24719.

⁹ S/24892 and Corr.1. See also S/24892/Add.1 of 9 December 1992.

Secretary-General believed it critically important that they should not take place until the military aspects of the Agreement had been fully implemented. He stressed, however, that the peace process should not be drawn out indefinitely. He had therefore asked the interim Special Representative to give the highest priority to timely implementation of the ceasefire, the assembly, disarmament and demobilization of troops, and the formation of new armed forces.¹⁰ Finally, he stressed the magnitude and difficulty of the task which the United Nations had been asked to assume. To achieve in one year (of which a month and a half had already passed) the assembly, disarmament and demobilization of the two sides' troops, the formation of new armed forces, the resettlement of 5 to 6 million refugees and displaced persons, the provision of humanitarian relief to all parts of the country and the organization and conduct of elections would require a huge and cooperative effort by the Government of Mozambique and RENAMO, as well as by the international community, with the United Nations in the lead.¹¹ The Secretary-General accordingly recommended that "very substantial resources" be made available to ONUMOZ, especially on the military side: unless the military situation in the country was brought fully under control, it would not be possible to create the conditions for the holding of successful elections. He stressed, however, that the General Peace Agreement would not be implemented unless the Mozambican parties themselves made a determined effort to honour their commitments; the efforts of the United Nations could only be in support of theirs. On the basis of the foregoing, the Secretary-General recommended to the Council that it approve the establishment and deployment of ONUMOZ as set out in his report.

At its 3149th meeting, held on 16 December 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the Secretary-General's report of 3 December. Following the adoption of the agenda, the Council invited the representative of Mozambique, at his request, to participate in the discussion without the right to vote. The President (India) drew the attention of the Council members to a note verbale dated 2 November 1992 from the representative of Senegal

addressed to the Secretary-General,¹² transmitting the statement made by the President of Senegal, in his capacity as current Chairman of the Organization of African Unity, welcoming the signing of the General Peace Agreement in Mozambique and supporting the efforts for national reconciliation in that country. The President of the Council also drew attention to a draft resolution that had been prepared in the course of prior consultations.¹³

The representative of Mozambique stated that the Secretary-General's report constituted an important landmark in the efforts to achieve a lasting peace in his country. He reiterated his Government's readiness to fulfil all its obligations under the Peace Agreement and recorded its preparedness to cooperate fully in the implementation of the decisions the Council might take at the present meeting regarding ONUMOZ. He emphasized that the presence of the United Nations in Mozambique would be decisive not only to avoid delicate situations in the field but also to assist in meeting the growing challenges faced by Mozambicans: the consolidation of the ceasefire, the provision of humanitarian assistance to the victims of war and natural calamities, the resettlement of refugees and displaced persons, the reintegration of demobilized personnel, and the electoral process. The speaker recalled the recent establishment of the commissions envisaged in the Agreement, which had created the minimum conditions for its proper functioning. He stressed the importance of peacebuilding activities, particularly the provision of humanitarian relief, for the success of the operation. With regard to the monitoring of police activities, he trusted that ONUMOZ would fulfil its mandate in line with the Agreement, which provided for the establishment of a National Police Affairs Commission reporting to a Supervisory and Monitoring Commission.¹⁴

Speaking before the vote, the representative of Zimbabwe said that, in spite of the increasing burden of peacekeeping operations, the United Nations and the international community should lend timely and adequate support to Mozambique to assist in consolidating the peace and reconstructing the country. His Government was confident that the Government of Mozambique and RENAMO shared the political will and determination to ensure that the Agreement was

¹⁰ Ibid., para. 30.

¹¹ Ibid., para. 51.

¹² S/24760.

¹³ S/24941.

¹⁴ S/PV.3149, pp. 3-8.

fully implemented, thus ensuring peace and prosperity not only for Mozambique but for the region as a whole.¹⁵

The representative of Cape Verde considered the United Nations presence in Mozambique to be of immense value and its effectiveness as vital to the success of the operation. He therefore encouraged the parties to extend their full cooperation to ONUMOZ, and appealed to countries in a position to do so to contribute voluntarily to the United Nations efforts.¹⁶

The representative of the United States said that his Government strongly supported the draft resolution. He put on record his Government's understanding of how matters would evolve pursuant to the draft resolution. First, the United States foresaw a phased introduction of peacekeeping forces into Mozambique, which would result in an effective and economic operation. Secondly, it hoped that the regular reporting by the Secretary-General, referred to in operative paragraph 2 of the text, would occur at least every three months. The United States was proud to have played a part in the negotiations which had led to the signing of the Peace Agreement, and would continue to be involved in the peace process through its active participation in the various United Nations-chaired commissions established under the Agreement. It would also join other donors in providing resources for the transition to peace in Mozambique.¹⁷

The representative of France stated that his Government welcomed the fact that Mozambique had finally embarked on the road to peace and national reconciliation, thus contributing to stability in southern Africa. It believed that the United Nations, particularly the Security Council, should respond positively to the parties' request for assistance, as it had done in other situations. By adopting the draft resolution, the Council would, once again, be committing major resources — both human and material — to help to implement the peace process. That effort would only be meaningful and fruitful if the United Nations could count on full compliance by the parties with all the commitments undertaken in the Peace Agreement, in particular the ceasefire. In that respect, the French Government endorsed the appeal and statement in paragraph 4 of the resolution that full respect by the

parties of their commitments was a necessary condition for the fulfilment by ONUMOZ of its mandate.¹⁸

The representative of the Russian Federation, too, underlined the importance of the parties' cooperating fully with the interim Special Representative and with ONUMOZ, and respecting scrupulously the ceasefire and all their commitments under the Peace Agreement. He also emphasized the need for agreements to be reached speedily between the Secretary-General and the parties on the date for the holding of elections, and a timetable for carrying out the measures provided for under the Agreement. He added that there was a need to reduce the cost of the operation, but without prejudice to its effectiveness.¹⁹

The draft resolution was then put to the vote and adopted unanimously as resolution 797 (1992), which reads:

The Security Council,

Recalling its resolution 782 (1992) of 13 October 1992,

Recalling also the statement of the President of the Security Council of 27 October 1992 (S/24719),

Having considered the report of the Secretary-General of 3 December 1992 on the United Nations Operation in Mozambique,

Stressing the importance it attaches to the General Peace Agreement for Mozambique and to the fulfilment by the parties in good faith of the obligations contained therein,

Noting the efforts made so far by the Government of Mozambique and the Resistência Nacional Moçambicana to maintain the ceasefire, and expressing concern over the delays in initiating some of the major tasks arising from the Agreement,

Welcoming the appointment by the Secretary-General of an interim Special Representative for Mozambique who will be in overall charge of United Nations activities in support of the Agreement, as well as the dispatch to Mozambique of a team of twenty-five military observers, as approved by resolution 782 (1992),

Noting the intention of the Secretary-General, in this as in other peacekeeping operations, to monitor expenditures carefully during this period of increasing demands on peacekeeping resources,

1. *Approves* the report of the Secretary-General of 3 December 1992 on the United Nations Operation in Mozambique and the recommendations contained therein;

¹⁵ *Ibid.*, pp. 10-12.

¹⁶ *Ibid.*, pp. 12-13.

¹⁷ *Ibid.*, pp. 13-16.

¹⁸ *Ibid.*, pp. 16-18.

¹⁹ *Ibid.*, pp. 18-19.

2. *Decides* to establish the United Nations Operation in Mozambique as proposed by the Secretary-General and in line with the General Peace Agreement for Mozambique, and requests the Secretary-General in planning and executing the deployment of the Operation to seek economies through, inter alia, phased deployment and to report regularly to the Council on what is achieved in this regard;

3. *Also decides* that the Operation is established for a period until 31 October 1993 in order to accomplish the objectives described in the report of the Secretary-General;

4. *Calls upon* the Government of Mozambique and the Resistência Nacional Moçambicana to cooperate fully with the interim Special Representative of the Secretary-General for Mozambique and with the Operation and to respect scrupulously the ceasefire and all the commitments entered into under the Agreement, and stresses that the full respect of these commitments constitutes a necessary condition for the fulfilment by the Operation of its mandate;

5. *Demands* that all parties and others concerned in Mozambique take all measures necessary to ensure the safety of United Nations and all other personnel deployed pursuant to the present and prior resolutions;

6. *Endorses* the approach in paragraphs 30 and 51 of the report of the Secretary-General as regards the timetable for the electoral process, and invites the Secretary-General to

consult closely with all the parties on the precise timing of and preparations for the presidential and legislative elections, as well as on a precise timetable for the implementation of the other major aspects of the Agreement, and to report back to the Council on this as soon as possible, and in any event not later than 31 March 1993;

7. *Calls upon* the Government of Mozambique and the Resistência Nacional Moçambicana to finalize as soon as possible, in close coordination with the interim Special Representative of the Secretary-General, organizational and logistical preparations for the demobilization process;

8. *Encourages* Member States to respond positively to requests made to them by the Secretary-General to contribute personnel and equipment to the Operation;

9. *Also encourages* Member States to contribute voluntarily to United Nations activities in support of the Agreement, and requests United Nations programmes and specialized agencies to provide appropriate assistance and support for the implementation of the major tasks arising from the Agreement;

10. *Requests* the Secretary-General to keep the Security Council informed of developments and to submit a further report to the Council by 31 March 1993;

11. *Decides* to remain actively seized of the matter.

5. The situation in Namibia

Decision of 16 January 1989 (2842nd meeting): resolutions 628 (1989) and 629 (1989)

At its 2842nd meeting, held on 16 January 1989 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled "The situation in Namibia".

The President (Malaysia) drew the attention of the Council members to three documents: (a) a note verbale dated 14 December 1988 from the representative of the United States addressed to the Secretary-General,¹ transmitting the text of the Protocol of Brazzaville, signed by the representatives of Angola, Cuba and South Africa on 13 December 1988; the parties to the Protocol had agreed, inter alia, that 1 April 1989 be established as the date for implementation of Security Council resolution 435 (1978); (b) a note verbale dated 22 December 1988 from the representative of Cuba addressed to the President of the Security Council,² transmitting the text

of the bilateral agreement between Angola and Cuba signed that day; the parties had agreed to the redeployment and the phased and total withdrawal of Cuban troops from Angola, in accordance with an annexed timetable, with total withdrawal to be concluded on 1 July 1991; through the Secretary-General, they requested the Security Council to carry out verification of the redeployment and withdrawal; and (c) a note verbale dated 22 December 1988 from the representative of the United States addressed to the Secretary-General,³ transmitting the text of the Tripartite Agreement signed by Angola, Cuba and South Africa on the same day, in which the parties had agreed, inter alia, to request the Secretary-General to seek authority from the Security Council to commence implementation of Council resolution 435 (1978) on 1 April 1989.

The President also drew the Council members' attention to two draft resolutions that had been prepared in the course of the Council's prior

¹ S/20325.

² S/20345.

³ S/20346.

consultations,⁴ pointing out a change in the order of the paragraphs in the second draft resolution.

The first draft resolution was then put to the vote and adopted unanimously as resolution 628 (1989), which reads:

The Security Council,

Recalling its resolution 626 (1988) of 20 December 1988,

Taking note of the agreement between the People's Republic of Angola, the Republic of Cuba and the Republic of South Africa, signed on 22 December 1988,

Taking note also of the agreement between the People's Republic of Angola and the Republic of Cuba, signed on 22 December 1988,

Emphasizing the importance of these two agreements in strengthening international peace and security,

1. *Welcomes* the signature of the agreement between the People's Republic of Angola, the Republic of Cuba and the Republic of South Africa on the one hand, and of the agreement between the People's Republic of Angola and the Republic of Cuba on the other hand;

2. *Expresses* its full support for these agreements, and to that effect decides to follow closely the developments in their implementation;

3. *Calls upon* all parties concerned, as well as all Member States, to cooperate in the implementation of these agreements;

4. *Requests* the Secretary-General to keep the Security Council fully informed on the implementation of this resolution.

The second draft resolution,⁵ as orally modified, was thereupon put to the vote and adopted unanimously as resolution 629 (1989), which reads:

The Security Council,

Reaffirming its relevant resolutions, in particular, resolutions 431 (1978) of 27 July 1978 and 435 (1978) of 29 September 1978,

Taking note of its resolution 628 (1989) of 16 January 1989,

Noting that the parties to the Protocol of Brazzaville agreed to recommend to the Secretary-General that 1 April 1989 be established as the date for the implementation of resolution 435 (1978),

Recognizing the progress in the south-western Africa peace process,

Expressing its concern at the increase in the police and paramilitary forces and the establishment of the South West African Territorial Force since 1978, and stressing the need to ensure conditions under which the Namibian people will be able to participate in free and fair elections under the supervision and control of the United Nations,

Noting also that these developments make appropriate a re-examination of the requirements for the United Nations Transition Assistance Group effectively to fulfil its mandate which includes, inter alia, keeping borders under surveillance, preventing infiltration, preventing intimidation and ensuring the safe return of refugees and their free participation in the electoral process,

Recalling the approval by the Security Council of the Secretary-General's statement⁶ on 28 September 1978 to the Council,

Emphasizing its determination to ensure the early independence of Namibia through free and fair elections under the supervision and control of the United Nations, in accordance with its resolution 435 (1978) of 29 September 1978,

Reaffirming the legal responsibility of the United Nations over Namibia,

1. *Decides* that 1 April 1989 shall be the date on which implementation of resolution 435 (1978) will begin;

2. *Requests* the Secretary-General to proceed to arrange a formal ceasefire between the South West Africa People's Organization and South Africa;

3. *Calls upon* South Africa to reduce immediately and substantially the existing police forces in Namibia with a view to achieving reasonable balance between these forces and the United Nations Transition Assistance Group so as to ensure effective monitoring by the latter;

4. *Reaffirms* the responsibility of all concerned to cooperate to ensure the impartial implementation of the settlement plan in accordance with resolution 435 (1978);

5. *Requests* the Secretary-General to prepare at the earliest possible date a report to the Council on the implementation of resolution 435 (1978), taking into account all relevant developments since the adoption of that resolution;

6. *Also requests* the Secretary-General, in preparing his report, to re-examine requirements necessary for the Group in order to identify wherever possible tangible cost-saving measures without prejudice to his ability fully to carry out its mandate as established in 1978, namely, to ensure the early independence of Namibia through free and fair elections under the supervision and control of the United Nations;

7. *Calls upon* Members of the United Nations to consider, in coordination with the Secretary-General, how they might provide economic and financial assistance to the

⁴ S/20399 and S/20400.

⁵ S/20400.

⁶ S/12869.

Namibian people, both during the transitional period and after independence.

**Decision of 16 February 1989 (2848th meeting):
resolution 632 (1989)**

On 23 January 1989, the Secretary-General submitted to the Council a report pursuant to resolution 629 (1989) on the question of Namibia,⁷ containing his recommendations for the implementation of the United Nations plan for Namibia with effect from 1 April 1989 and the requirements for the United Nations Transition Assistance Group (UNTAG). He recalled that in resolution 435 (1978) the Council had approved his predecessor's proposed arrangements⁸ for implementing the proposal for a settlement of the Namibian situation put forward on 10 April 1978 by the five Western members of the Security Council (the "Western Contact Group").⁹ The settlement proposal and the Secretary-General's report on its implementation had been exhaustively negotiated with all the parties concerned. The Secretary-General noted that the United Nations plan for Namibia included agreements and understandings reached by the parties since the adoption of resolution 435 (1978) which remained binding on the parties. In that connection, he drew attention to the following: (a) the 1982 agreement on the monitoring of bases of the South West Africa People's Organization (SWAPO) in Angola and Zambia by UNTAG; (b) informal understandings reached in 1982 on the question of impartiality by the Western Contact Group, the front-line States, Nigeria and SWAPO; and corresponding obligations on the part of the Government of South Africa to ensure free and fair elections in Namibia; (c) the text of the Principles concerning the Constituent Assembly and the Constitution of an independent Namibia which was transmitted to the Secretary-General on 12 July 1982; and (d) the November 1985 agreement on the system of proportional representation for the elections.

As for UNTAG, under the existing plan, the civilian component would consist of two elements: an electoral element and police monitors. The military component would account for more than 75 per cent of the cost of the mission. The Secretary-General

considered that many of the tasks originally envisaged for it in 1978 would still be required, but that a number of them could be performed by military observers rather than armed troops. Referring to paragraph 25 of his predecessor's report of 29 August 1978,¹⁰ the Secretary-General clarified that, in accordance with standard United Nations peacekeeping practice, military observers deployed with UNTAG would not carry weapons.

With regard to the size of the military component to be deployed, the Secretary-General noted that in December 1988 the representatives of the five permanent members of the Security Council had urged that this be reviewed, in the light of the positive developments in the south-western Africa peace process. They were convinced that UNTAG could carry out its primary function — to ensure free and fair elections — in a substantially more economical manner. Representatives of a number of non-aligned countries, front-line States, Nigeria and SWAPO, on the other hand, had insisted that, if anything, there was a need for an increase in the military component of UNTAG, to enable it to perform its functions. Following the adoption of resolution 629 (1989), the Secretary-General had sought to reconcile those opposing viewpoints. In putting together a concept of operations, he had taken into account such factors as the paramount need for UNTAG to be capable, and to be seen to be capable, of ensuring the full implementation of resolution 435 (1978), including, above all, the creation of conditions which would permit free and fair elections; the assurances he had received from the neighbouring countries, including South Africa, of their full cooperation; the views expressed by some Council members that recent progress in the Namibia peace process had reduced the need for border surveillance and the prevention of infiltration; and the feasibility of assigning to military observers some tasks which had previously been reserved for the infantry. According to the proposed concept of operations, the Force Commander would concentrate on the following tasks: monitoring the dismantling of the citizen forces, commando units and ethnic forces, including the South West African Territorial Force, monitoring South African Defence Force troops in Namibia, as well as SWAPO forces in neighbouring countries, and supervising and securing installations in the northern border area. The

⁷ S/20412.

⁸ See the Secretary-General's report of 29 August 1978 (S/12827) together with his explanatory statement of 28 September 1978 (S/12869).

⁹ S/12636.

¹⁰ S/12827.

authorized upper limit for the military component of UNTAG would remain at 7,500. However, the Secretary-General recommended an initial deployment of 4,650, consisting of three enlarged infantry battalions, 300 military observers, and the appropriate logistic elements and headquarters staff. The estimated cost of the civilian and military components of UNTAG would be approximately \$416 million, excluding the cost of operations of the Office of the United Nations High Commissioner for Refugees for the return of Namibians then in exile, for which a separate appeal would be launched. The Secretary-General affirmed that if the Security Council decided to proceed on the basis thus recommended, he would do everything possible to have UNTAG in place and operational by 1 April 1989.

As regards the ceasefire envisaged in resolution 435 (1978), the Secretary-General noted that both South Africa and SWAPO had agreed to a de facto cessation of hostilities, with effect from 10 August 1988, as provided for in the Geneva Protocol of 5 August 1988. He intended to send identical letters to both parties proposing a specific date and hour for the formal ceasefire to begin. In conclusion, he stressed that resolution 435 (1978) entrusted to him a wide range of responsibilities in connection with the supervision of free and fair elections in Namibia. The successful implementation of that resolution depended upon the cooperation of all parties concerned, as well as that of the international community as a whole.

On 9 February 1989, the Secretary-General submitted to the Security Council an explanatory statement,¹¹ in which he addressed concerns raised by various parties about some of the recommendations contained in his report of 23 January. With regard to the deployment of the military component of UNTAG, he affirmed that this would be kept under constant review and that he would inform the Security Council if the situation required the deployment of additional military personnel to Namibia. He added that he had been assured by all the members of the Council that they would fully cooperate with him and respond promptly to any need for additional military personnel that he might deem warranted, up to the authorized upper limit of 7,500.¹² As for the military observers, the Secretary-General stated that, following

representations made to him by a number of delegations, he had decided to make an exception to standard peacekeeping practice; he had given the Force Commander of UNTAG discretion to authorize the military observers to carry weapons of a defensive character, as and when necessary. He hoped that with these clarifications the Council could now proceed to approve his report and make its determination for the emplacement of UNTAG in Namibia on 1 April 1989.¹³

At its 2848th meeting, held on 16 February 1989 in accordance with the understanding reached during its prior consultations, the Council included in its agenda the Secretary-General's report of 23 January and his explanatory statement of 9 February 1989. The President (Nepal) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of its prior consultations.¹⁴

The draft resolution was then put to the vote and adopted unanimously as resolution 632 (1989), which reads:

The Security Council,

Reaffirming its relevant resolutions, in particular, resolutions 431 (1978) of 27 July 1978, 435 (1978) of 29 September 1978 and also 629 (1989) of 16 January 1989,

Reaffirming also that the United Nations plan contained in its resolution 435 (1978) remains the only internationally accepted basis for the peaceful settlement of the Namibian question,

Confirming its decision contained in paragraph 1 of resolution 629 (1989) of 16 January 1989 that 1 April 1989 shall be the date on which implementation of resolution 435 (1978) will begin,

Having considered the report of 23 January 1989 submitted by the Secretary-General and his explanatory statement of 9 February 1989,

Taking into account the assurances given to the Secretary-General by all the members of the Council as contained in paragraph 5 of his explanatory statement,

¹³ See also S/20412/Add.1, of 16 March 1989, in which the Secretary-General transmitted to the Council the text of the agreement signed in New York on 10 March 1989 between the United Nations and the Republic of South Africa, on the status of UNTAG; and S/20412/Add.2, of 30 March 1989, in which he reported that, in identical letters to South Africa and SWAPO on 14 March 1989, he had proposed that a formal ceasefire should commence on 1 April 1989, a proposal to which both sides had agreed.

¹⁴ S/20466.

¹¹ S/20457.

¹² *Ibid.*, para. 5.

Reaffirming the legal responsibility of the United Nations over Namibia until independence,

1. *Approves* the report of the Secretary-General and his explanatory statement concerning the implementation of the United Nations plan for Namibia;

2. *Decides* to implement its resolution 435 (1978) in its original and definitive form to ensure conditions in Namibia which will allow the Namibian people to participate freely and without intimidation in the electoral process under the supervision and control of the United Nations leading to early independence of the Territory;

3. *Expresses its full support* for and pledges its cooperation with the Secretary-General in carrying out the mandate entrusted to him by the Security Council under resolution 435 (1978);

4. *Calls upon* all parties concerned to honour their commitments to the United Nations plan and to cooperate fully with the Secretary-General in the implementation of the present resolution;

5. *Requests* the Secretary-General to keep the Security Council fully informed on the implementation of the present resolution.

Speaking after the vote, the President underlined the historic importance of the meeting and the significance of the resolution just adopted. He recalled that since 1966 the United Nations had assumed legal responsibility for Namibia. The Council's historic decision set in motion the process of Namibia's transition towards independence through free and fair elections under the supervision and control of the United Nations. The agreement to adopt the decision unanimously and without debate underlined the Council's commitment to the early independence of Namibia and its readiness to cooperate with the Secretary-General in carrying out his mandate in accordance with resolution 435 (1978). The decision also marked the last major step towards decolonization. The President concluded by stressing a point that the Secretary-General had repeatedly made: namely, that it was necessary for all to cooperate fully with him and his Special Representative in the fulfilment of his mandate to enable Namibia to take its rightful place in the community of independent nations.¹⁵

¹⁵ S/PV.2848, p. 3. For details concerning the establishment and composition of UNTAG, see chapter V.

Decision of 29 August 1989 (2882nd meeting): resolution 640 (1989)

By separate letters dated 10 August 1989 addressed to the President of the Security Council,¹⁶ the representative of Ghana, in his capacity as Chairman of the Group of African States, and the representative of Zimbabwe, in his capacity as Chairman of the Coordinating Bureau of Non-Aligned Countries, requested an urgent meeting of the Council to consider the deteriorating situation in Namibia and South Africa's non-compliance with resolution 435 (1978).

At its 2876th meeting, on 16 August 1989, the Council included both letters in its agenda and considered the item at its 2876th to 2882nd meetings, from 10 to 29 August 1989.

In the course of its deliberations, the Council invited the following, at their request, to participate, without vote, in the discussion of the item: at the 2876th meeting, the representatives of Angola, Cameroon, Cuba, Egypt, Ghana, Mali, Nigeria, South Africa, the United Republic of Tanzania and Zambia; at the 2877th meeting, the representatives of Burundi, Guatemala, India and Indonesia; at the 2878th meeting, the representatives of Bangladesh, Nicaragua, Pakistan and Uganda; at the 2879th meeting, the representatives of the Congo, the Federal Republic of Germany, the Libyan Arab Jamahiriya and Mauritania; and at the 2880th meeting, the representatives of Afghanistan and Zimbabwe.

At the 2876th meeting, the President (Algeria) drew the attention of the Council members to the following documents: a letter dated 10 August 1989 from the representative of Zimbabwe addressed to the Secretary-General,¹⁷ transmitting the final communiqué of the same date issued by the Coordinating Bureau of the Movement of Non-Aligned Countries on the situation in Namibia; and a letter dated 15 August 1989 from the representative of South Africa addressed to the Secretary-General,¹⁸ transmitting a statement of the same date issued by the Administrator-General of Namibia.

The representative of Ghana, speaking in his capacity as Chairman of the Group of African States,

¹⁶ S/20779 and S/20782.

¹⁷ S/20784.

¹⁸ S/20788.

expressed the Group's serious concern at the prevailing situation in Namibia, which militated against the achievement of the objectives of resolution 435 (1978). He noted that, four months after its commencement, the electoral process was still neither free nor fair. Moreover, the actions of South Africa, through its Administrator-General, had diminished the authority of the Secretary-General's Special Representative rather than assisted him to be an effective controller. The Group's first major concern was the continued presence and violent activities of South Africa's counter-insurgency unit, the Koevoet, and the integration of elements of that unit into the South West Africa Police, contrary to resolution 435 (1978); if the harassment of Namibians continued unchecked, it could have an adverse impact on the November elections. A second matter of concern to the African Group centred on the loop-hole in the Voter Registration Proclamation which allowed South African nationals to register and to vote in the November elections, while other draft proclamations would disqualify a substantial number of SWAPO members from registering, qualifying to be elected or voting in the elections. A last point of concern was the excessive power that various proclamations vested in the Administrator-General. Those were some of the reasons that had led the African Group to conclude that the plan for the independence of Namibia was not being faithfully implemented. In the face of that unacceptable situation, the Group requested the Security Council to act urgently to ensure compliance with resolution 435 (1978). It recommended, *inter alia*, that the Council take the following actions: adopt a resolution empowering the Secretary-General, his Special Representative and UNTAG as a whole to supervise and control events, especially the electoral process in Namibia; request South Africa to disband the command structure of the remaining Koevoet elements in the South West Africa Police and to end all forms of harassment of Namibians by members of that group; review all existing laws and draft proclamations bearing on the plan for Namibia's independence, with a view to requesting South Africa and the Administrator-General to remove all clauses that discriminated against or in favour of any of the parties involved; and ensure that sufficient and equal time was given to all political parties on radio and television for the electoral campaign. In conclusion, the speaker stated that the African Group placed those difficult and delicate tasks before the Security Council in the knowledge that it

was the ultimate authority on the transition of the Territory of Namibia to independence. States members of the Group stood ready to collaborate with the Council for the achievement of free and fair elections in Namibia.¹⁹

The representative of Egypt, speaking also in his capacity as Chairman of the Organization of African Unity (OAU), recalled that by its resolution 2145 (XXI) of 1966, the General Assembly had terminated South Africa's mandate over the Territory and conferred upon the United Nations direct responsibility for the administration of the Territory until independence. The unanimous adoption by the Security Council of resolution 435 (1978) had crowned the Organization's efforts to move towards a peaceful settlement of the question of Namibia. Like the rest of the international community, OAU had welcomed the United Nations plan to enable the Namibian people to exercise their right of self-determination and achieve Namibia's independence. Practical implementation of the plan was, however, encountering obstacles. If perpetuated, they might jeopardize the holding of free and fair elections or result in a precarious form of independence, leading to an endless cycle of struggle in and around Namibia that would have disastrous consequences for the region and for world peace and security. He stated that OAU shared with the Secretary-General and his representative in Namibia deep concern about the deteriorating security situation in the territory, especially in the northern area, where Koevoet elements were engaging in acts of provocation and aggression, including murder. He stressed the OAU position that those elements be demobilized and their activities ended, and called on South Africa fully to respect the peace plan and to cooperate with the Secretary-General's Special Representative in its implementation. He concluded by stating that OAU was ready to receive an independent Namibia into its membership, thus marking the fall of the last bastion of colonialism on the African continent.²⁰

The representative of South Africa regretted the Council's decision to convene a formal meeting on the Namibian issue at such a critical and delicate stage of the independence process. The proceedings would remove that process from the ambit of the quiet and effective diplomacy within which it had thus far been

¹⁹ S/PV.2876, pp. 3-21.

²⁰ *Ibid.*, pp. 22-28.

conducted. Moreover, the meeting represented a lack of faith in the judgement of the Secretary-General and of his Special Representative, expressed as recently as 3 August, that the implementation of resolution 435 (1978) was well on track despite some remaining obstacles. The latter had subsequently referred to the excellent cooperation he was receiving from South African and Namibian officials. The speaker observed that the time to have convened a Council meeting on the “deteriorating situation in Namibia” would have been on 1 April, when the leaders of SWAPO had ordered their troops into Namibia from Angola, causing the most serious threat to the implementation process and placing the Tripartite Agreement of 22 December 1988 in jeopardy. Throughout the subsequent waves of SWAPO infiltration, South Africa, in concert with the other parties to the Tripartite Agreement, had taken practical steps to reduce that threat and had continued with the practical steps for implementation of the settlement plan. He appealed to the Security Council to include in any resolution it might consider a guarantee that SWAPO would not again conduct a military incursion into Namibia. He stressed that, despite those grave and legitimate concerns, the withdrawal of the South African Defence Force units had been completed ahead of schedule, the ethnic forces had been disbanded and their command structures dismantled as required by the settlement plan. In addition, the Administrator-General and the Special Representative had continued negotiations on the other steps required of the former, including the abrogation of discriminatory legislation, the promulgation of voter-registration legislation, and the release of “political” prisoners held in Namibia. The Administrator-General had, moreover, taken steps to reduce the alleged threat posed by the presence of South Africa’s former counter-insurgency unit, Koevoet. However, he approached with equal seriousness his obligation to maintain law and order, particularly in the light of the concerns expressed by the inhabitants of Namibia over the infiltration of certain armed elements of the People’s Liberation Army of Namibia into northern Namibia. He alleged in that regard that UNTAG had not fully discharged its responsibilities with regard to the monitoring of intimidation. The settlement plan required the Special Representative to “take steps to guarantee against the possibility of intimidation or interference with the electoral process from whatever quarter”. The Government of South Africa reiterated its request that this provision be fully complied with. In

conclusion, he observed that the Council, the Secretary-General and UNTAG were under an obligation not only to ensure that SWAPO abided by both the letter and the spirit of its obligations under resolution 435 (1978) but also to convince the population of Namibia that it was committed and able to implement that commitment.²¹

The representative of Zimbabwe, speaking in his capacity as Chairman of the Coordinating Bureau of the Movement of Non-Aligned Countries, observed that the decision to request the meeting of the Council had not been made lightly. For over four months, the African Group and the non-aligned countries had resisted the pressure to do so as they had not wanted to do anything that could adversely affect the implementation process. He believed that the time was right, however, for the Council to meet formally to review that process, and to pronounce itself on the present situation. The Secretary-General had pointed out that there were provisions of resolution 435 (1978) that were not being complied with by South Africa. Although he and his Special Representative had both exerted great efforts to rectify the situation, they had not achieved complete success. The muscle of the Council was now needed to complete the task. The speaker stated that the fact that things were not going well in Namibia was not by accident, but by design. Although South Africa might have been pushed by events to get out of Namibia, it was determined to keep Namibia as a client State under a puppet regime. He opined that South Africa had sought to deny SWAPO a two-thirds majority in the constituent assembly — largely through intimidation and electoral rigging — so that the latter would not be able to write a Namibian constitution that would make the country truly independent of South Africa. If it were unsuccessful in its efforts to engineer such an outcome in the elections, it had in place a whole panoply of destabilization schemes to keep Namibia weak, dependent and unstable. He stated that although in theory the South West African Territorial Force had been demobilized, in reality it was still intact; it could be remobilized within hours. Similarly, South Africa had offered to withdraw and confine the Koevoet, whereas resolution 435 (1978) called for it to be disbanded and its command structure dismantled. Both were mechanisms for the destabilization of a future Namibian Government and for intimidation during the electoral

²¹ *Ibid.*, pp. 36-47.

process. He noted that the Administrator-General had, moreover, refused to repeal all discriminatory and restrictive laws, or to grant amnesty to all SWAPO detainees, as required under resolution 435 (1978), and had also failed the impartiality test by not ensuring balanced coverage by the broadcast media. He insisted that South Africa must put those things right if there were to be free and fair elections in Namibia. He assured the Secretary-General of the full support of the non-aligned countries in his endeavours to remedy the prevailing critical situation. He stressed that the major responsibility, however, rested with the Security Council, and hoped that it would unanimously adopt the draft resolution submitted by the non-aligned caucus, restating the provisions calling on South Africa to comply with its commitments under resolution 435 (1978) and requesting that the Secretary-General be provided with adequate resources.²²

A number of speakers associated themselves with the statement made by the Chairman of the Group of African States.²³ They shared or echoed his concerns and endorsed his recommendations for Council action.

Others similarly expressed serious concern about South Africa's non-compliance with certain provisions of resolution 435 (1978), highlighting the security-related problems arising from the misconduct of South African police and paramilitary forces which jeopardized the prospects for free and fair elections in Namibia.²⁴ They called on the Council to take appropriate measures to ensure successful implementation of the United Nations plan for Namibian independence.

²² S/PV.2881, pp. 8-23.

²³ For the text of the relevant statements, see S/PV.2877, p. 26 (Nigeria); pp. 29-31 (Cameroon); p. 42 (United Republic of Tanzania); S/PV.2878, pp. 12-14 (Malaysia); p. 17 (Colombia); pp. 26-28 (Indonesia); pp. 36-37 (Guatemala); p. 48 (Burundi); S/PV.2879, p. 7 (Congo); p. 17 (Pakistan); p. 18 (Nepal); pp. 24-27 (Senegal); p. 34 (China); pp. 53-54 (Uganda); and S/PV.2881, pp. 6-7 (Afghanistan).

²⁴ S/PV.2876, pp. 31-36 (Zambia); S/PV.2877, pp. 6-10 (Angola); pp. 11-15 (Ethiopia); pp. 16-17 (Brazil); pp. 43-47 (Mali); S/PV.2878, pp. 6-10 (Cuba); pp. 21-24 (Yugoslavia); pp. 38-41 (India); pp. 42-45 (Bangladesh); S/PV.2879, pp. 28-32 (Soviet Union); pp. 44-47 (Nicaragua); and S/PV.2880, pp. 14-16 (Mauritania).

Yet other speakers,²⁵ while sharing those concerns, welcomed, as a positive step, the announcement by the Administrator-General that the former Koevoet elements would be removed from the Namibian police and confined to base, a process to be monitored by UNTAG. They underlined the importance of impartiality in every facet of the election process. To that end, they stressed the need to watch closely the development of the electoral law and the legislation on the constituent assembly being negotiated between the Special Representative and the Administrator-General. As for the Security Council's responsibility, they observed that it had a primary role in overseeing the process of implementation of the settlement plan and providing guidance, but that the Secretary-General and his Special Representative must make the day-to-day decisions required for its detailed implementation. The Council should strengthen their hand as they performed their difficult task, not complicate it.

The President of the Security Council, speaking in his capacity as the representative of Algeria, said that six months after the adoption of resolution 632 (1989), South Africa was still doing its utmost to perpetuate its domination of Namibia. The Council must respond decisively to Africa's appeal, by, *inter alia*, issuing a clear warning to the South African authorities that the United Nations plan must be implemented in its entirety.²⁶

At the Council's 2882nd meeting, on 29 August 1989, the President drew the attention of the members of the Council to a revised draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.²⁷ He also drew their attention to two letters: a letter dated 21 August 1989 from the representative of China addressed to the Secretary-General; and a letter dated 22 August 1989 from the Chairman of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples addressed to the President of the Security Council.²⁸

²⁵ S/PV.2878, pp. 29-33 (Canada); S/PV.2879, pp. 36-38 (France); pp. 38-41 (United States); pp. 42-43 (United Kingdom); and S/PV.2880, pp. 4-5 (Federal Republic of Germany).

²⁶ S/PV.2881, pp. 34-41.

²⁷ S/20808/Rev.1.

²⁸ S/20803 and S/20810.

Speaking before the vote, the representative of the United Kingdom said that his delegation retained considerable doubts about the even-handedness and impartiality of the draft resolution. Even though more than one party to the settlement plan had flouted its provisions, operative paragraph 1 referred specifically only to one party, South Africa. His delegation assumed that that was simply an acknowledgement of the special responsibilities that South Africa should uphold under the settlement plan. On that basis, and to sustain the unanimity which gave the Council's resolutions particular force, his delegation would vote for the revised draft resolution.²⁹

The revised draft resolution was then put to the vote and adopted unanimously as resolution 640 (1989), which reads:

The Security Council,

Having critically reviewed the implementation process of resolution 435 (1978) of 29 September 1978 since its commencement and noting with concern that all its provisions are not being fully complied with,

Concerned at reports of widespread intimidation and harassment of the civilian population, in particular by Koevoet elements in the South West Africa Police,

Recognizing the efforts being exerted by the United Nations Transition Assistance Group to carry out its responsibilities in spite of obstacles thus placed in its way,

Recalling and reaffirming all its resolutions on the question of Namibia, particularly 435 (1978), 629 (1989) of 16 January 1989 and 632 (1989) of 16 February 1989,

Reiterating that resolution 435 (1978) must be implemented in its original and definitive form to ensure conditions in Namibia which will allow the Namibian people to participate freely and without intimidation in the electoral process, under the supervision and control of the United Nations, leading to early independence of the Territory,

Recalling and reaffirming its firm commitment to the decolonization of Namibia through the holding of free and fair elections under the supervision and control of the United Nations and in which the Namibian people will participate without intimidation or interference,

1. *Demands* strict compliance by all parties concerned, especially South Africa, with the terms of resolution 435 (1978) and 632 (1989);

2. *Also demands* the disbandment of all paramilitary and ethnic forces and commando units, in particular Koevoet, as

well as the dismantling of their command structures as required by resolution 435 (1978);

3. *Calls upon* the Secretary-General to review the actual situation on the ground with a view to determining the adequacy of the military component of the United Nations Transition Assistance Group in relation to its ability to carry out its responsibilities as authorized under resolutions 435 (1978) and 632 (1989) and to inform the Security Council;

4. *Invites* the Secretary-General to review the adequacy of the number of police monitors in order to undertake the process for any appropriate increase that he may deem necessary for the effective fulfilment of the Group's responsibilities;

5. *Requests* the Secretary-General, in his supervision and control of the electoral process, to ensure that all legislation concerning the electoral process is in conformity with the provisions of the settlement plan;

6. *Also requests* the Secretary-General to ensure that all proclamations conform with internationally accepted norms for the conduct of free and fair elections and, in particular, that the proclamation on the Constituent Assembly also respects the sovereign will of the people of Namibia;

7. *Further requests* the Secretary-General to ensure the observance of strict impartiality in the provision of media facilities, especially on radio and television, to all parties for the dissemination of information concerning the election;

8. *Appeals* to all the parties concerned to cooperate fully with the Secretary-General in the implementation of the settlement plan;

9. *Expresses its full support* for the Secretary-General in his efforts to ensure that resolution 435 (1978) is implemented in its original and definitive form and requests him to report to the Council before the end of September on the implementation of the present resolution;

10. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of the United States said his delegation was pleased to be able to join in the unanimous adoption of the resolution, which represented a compromise between several strongly held positions about Namibia. It did so in the belief that unity in support of the Secretary-General and UNTAG was the key to the success of the Namibia settlement. The speaker added that it was his country's understanding, based on recent consultations, that, in accordance with past practice, any decision on the deployment of additional civilian personnel for UNTAG would be taken by the Secretary-General in consultation with the Council.³⁰

²⁹ S/PV.2882, p. 4.

³⁰ Ibid., p. 6.

**Decision of 31 October 1989 (2886th meeting):
resolution 643 (1989)**

On 6 October 1989, the Secretary-General submitted to the Council a report on the implementation of resolution 640 (1989) concerning the question of Namibia.³¹ The report addressed the various issues raised in the resolution, including the disbandment of all paramilitary and ethnic forces and commando units; the adequacy of the UNTAG military component and its police monitors; the conformity of the electoral legislation with the settlement plan; the acceptability of the draft legislation on the Constituent Assembly; and the impartiality of the media. It also dealt with some other important aspects of the implementation of the settlement plan: namely, the issue of amnesty; the repatriation of exiles; the release of political prisoners and detainees; the repeal of restrictive and discriminatory laws — in respect of which the Secretary-General recommended the repeal of Proclamation AG 8 which created a system of ethnic administration; the registration of voters; and the code of conduct for the political parties. In his concluding observations, the Secretary-General noted that compliance by the parties with the requirements of the settlement plan had been less than complete in certain areas. He had continuing concerns about the presence of ex-members of Koevoet in the South West Africa Police and referred to the problems concerning the cooperation of the South West Africa Police with UNTAG police monitors and the difficulties encountered by UNTAG in verifying the confinement to base of SWAPO combatants in Angola. While these were serious problems, some of them had been or were about to be resolved, and he was pleased to be able to report to the Council that all the parties involved had increasingly complied with the requirements of the settlement plan and had given him reason to believe that they would continue to do so. He stressed that their continuing cooperation was essential, not least because UNTAG had no powers to enforce the provisions of the settlement plan. The Secretary-General observed further that, as the election approached, there was one group of “parties” whose cooperation would be especially important, namely, the

³¹ S/20883 and Add.1 of 16 October 1989 (the addendum contains the report of the United Nations Mission on Detainees, sent by the Secretary-General’s Special Representative to Angola and Zambia from 2 to 21 September 1989).

political parties that would participate in the election and their supporters both inside and outside Namibia. The code of conduct which the party leaders had signed with his Special Representative was of central importance, giving reason to hope that the parties would conduct the election in a truly democratic manner.

By a letter dated 18 October 1989 addressed to the President of the Council,³² the representative of Kenya, on behalf of the Group of African States, requested the convening of an urgent meeting of the Council to consider the grave situation in Namibia.

At its 2886th meeting, on 31 October 1989, the Council included the letter from the representative of Kenya in its agenda. The President (Canada) drew the attention of the Council members to the Secretary-General’s report of 6 October. He also drew their attention to a number of letters addressed to the Secretary-General in October 1989: (a) letters from the representative of South Africa;³³ (b) a letter from the representative of Yugoslavia;³⁴ (c) a letter from the representative of Kenya;³⁵ and (d) a letter from the representative of Malaysia.³⁶

At the same meeting, the President drew the attention of the Council members to a revised draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.³⁷ The draft resolution was then put to the vote and adopted unanimously as resolution 643 (1989), which reads:

The Security Council,

Reaffirming all its relevant resolutions on the question of Namibia, in particular resolutions 435 (1978) of 29 September 1978, 629 (1989) of 16 January 1989, 632 (1989) of 16 February 1989 and 640 (1989) of 29 August 1989,

Reaffirming also that the United Nations plan for the independence of Namibia, contained in resolution 435 (1978), remains the only internationally accepted basis for the peaceful settlement of the Namibia question,

Having considered the report of the Secretary-General of 6 October 1989 and the addendum thereto of 16 October 1989,

³² S/20908.

³³ S/20894, S/20897, S/20899 and Corr.1, S/20910 and S/20927.

³⁴ S/20889.

³⁵ S/20909.

³⁶ S/20914.

³⁷ S/20923/Rev.1.

Noting with deep concern that, one week before the scheduled elections in Namibia, all the provisions of resolution 435 (1978) are not being fully complied with,

Noting the progress made so far in the implementation of the settlement plan and the remaining obstacles placed in its way as well as the efforts being exerted by the United Nations Transition Assistance Group to carry out its responsibilities,

Reaffirming the continuing legal responsibility of the United Nations over Namibia until the full attainment by the Namibian people of national independence,

1. *Welcomes* the report of the Secretary-General and the addendum thereto;

2. *Expresses its full support* for the Secretary-General in his efforts to ensure that resolution 435 (1978) is fully implemented in its original and definitive form;

3. *Expresses its firm determination* to implement resolution 435 (1978) in its original and definitive form in order to ensure holding of free and fair elections in Namibia under the supervision and control of the United Nations;

4. *Reaffirms* its commitment in carrying out the continuing legal responsibility over Namibia until its independence to ensure the unfettered and effective exercise by the people of Namibia of their inalienable rights to self-determination and genuine national independence in accordance with resolutions 435 (1978) and 640 (1989);

5. *Demands* immediate, full and strict compliance by all parties concerned, in particular South Africa, with the terms of resolutions 435 (1978), 632 (1989) and 640 (1989);

6. *Reiterates* its demand for the complete disbandment of all remaining paramilitary and ethnic forces and commando units, in particular the Koevoet and the South West African Territorial Force as well as the complete dismantling of their command structures, and other defence-related institutions as required by resolutions 435 (1978) and 640 (1989);

7. *Requests* the Secretary-General to pursue his efforts to ensure the immediate replacement of the remaining South African Defence Force personnel in accordance with resolution 435 (1978);

8. *Demands* the immediate repeal of such remaining restrictive and discriminatory laws and regulations as inhibit the holding of free and fair elections and that no such new laws be introduced and endorses the position of the Secretary-General as expressed in his report that Proclamation AG 8 should be repealed;

9. *Invites* the Secretary-General to keep under constant review the adequacy of the number of police monitors in order to undertake the process for any appropriate increase that he may deem necessary for the effective fulfilment of the United Nations Transition Assistance Group's responsibilities;

10. *Demands* that the South West Africa Police extend full cooperation to the Group civil police in carrying out the tasks entrusted to it under the settlement plan;

11. *Mandates* the Secretary-General to ensure that all necessary arrangements are made in accordance with the settlement plan to safeguard the territorial integrity and security of Namibia in order to ensure a peaceful transition to national independence, and to assist the Constituent Assembly in the discharge of responsibilities entrusted to it under the settlement plan;

12. *Requests* the Secretary-General to prepare appropriate plans for mobilizing all forms of assistance, including technical, material and financial resources for the people of Namibia during the period following the elections for the Constituent Assembly until the accession to independence;

13. *Urgently appeals* to Member States, United Nations agencies, intergovernmental and non-governmental organizations to extend, in coordination with the Secretary-General, generous financial, material and technical support to the Namibian people, both during the transitional period and after independence;

14. *Decides* that, if the pertinent provisions of the present resolution are not complied with, the Security Council shall convene as required before the elections to review the situation and consider appropriate action;

15. *Requests* the Secretary-General to report on the implementation of the present resolution as soon as possible;

16. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of the United Kingdom stated that his delegation had doubts about the tone of the resolution just adopted, and would have preferred something simpler and more direct. He assumed that the language in paragraph 5 was an acknowledgement of the special responsibilities that South Africa should uphold during Namibia's transition to independence. That did not, however, diminish the responsibility of the other parties to fulfil their commitments under the settlement plan. The Council's priority must be to unite behind the Secretary-General and his Special Representative in their efforts to ensure the success of that plan. It was for that reason that the United Kingdom had voted in favour of the resolution.³⁸

The representative of the United States stated that his delegation had joined in the unanimous adoption of the resolution because it felt strongly that the Secretary-General, his Special Representative and UNTAG deserved the Council's full and undivided

³⁸ S/PV.2886, pp. 6-8.

support as the process of elections began in Namibia. He wished to make clear, however, their understanding of certain issues addressed by the resolution. It was true that not all provisions of resolution 435 (1978) were being fully complied with. For example, SWAPO had still not provided a full accounting of Namibians it had detained while in exile. He called on it to do so and to resolve other questions regarding its adherence to the United Nations plan. On the other hand, he welcomed the dismantling of the command structures of the South West African Territorial Force and the steps taken to demobilize the remaining ex-Koevoet members of the South West Africa Police. He underscored the importance of the code of conduct signed by the Namibian parties, and the need to ensure that no laws were now enacted that could call into question the validity of the election. He also stressed his delegation's full support for the Secretary-General's statement, as approved by the Council in resolution 632 (1989), that the United Nations plan for Namibia included agreements and understandings reached by the parties since the adoption of resolution 435 (1978), which remained binding on the parties. Finally, he stressed that principal responsibility for the security of Namibia under the United Nations settlement plan rested with the Administrator-General until independence.³⁹

The representative of Brazil observed that, as the election date approached, it had become increasingly apparent that some essential aspects of the administrative and political life in Namibia during the post-election period were not sufficiently covered by existing arrangements. The question arose as to how the Council should deal with the situation to ensure not only the holding of free and fair elections but also a peaceful and smooth transition to independence. Brazil believed that the Council should seriously consider the latter aspect of the independence process, and should remain mobilized until the process had been fully completed.⁴⁰

The representative of Colombia stated that the non-aligned countries, including his own, which had introduced the draft resolution, were not as optimistic as some others about the situation in Namibia. It was not clear, for instance, whether the Government of South Africa would really fulfil its obligations

regarding the demobilization of paramilitary forces in Namibia. It was disconcerting, moreover, that the electoral provisions had only just been issued, given that the elections would take place the following week. The non-aligned countries also shared the concern expressed by the representative of Brazil concerning the manner in which Namibia would be administered from the time the elections were certified until the time when independence was declared; they stood ready to fill any such gaps which existed.⁴¹

Decision of 3 November 1989: statement by the President

On 3 November 1989, the Secretary-General submitted to the Council a report on the implementation of resolution 643 (1989).⁴² He stated that the overall situation throughout Namibia remained calm and that arrangements for the conduct of the elections from 7 to 11 November under the supervision and control of the United Nations were well under way. He observed that, after a careful evaluation of the situation, his Special Representative had concluded that, on balance, he was satisfied that conditions existed for the holding of free and fair elections in Namibia. Based on all the information available to him, the Secretary-General had endorsed that conclusion. He cautioned, however, that the situation, especially in some regions of the country, remained delicate. He appealed to all concerned, both in Namibia and beyond its borders, to comply fully with their respective responsibilities under the settlement plan and the code of conduct.

On the same day, following consultations among the members of the Council, the President (China) made the following statement on behalf of the Council:⁴³

The Security Council deplores the false alarm by South Africa on 1 November 1989 concerning the alleged movement of forces of the South West Africa People's Organization across the Angola-Namibia border.

The Council expresses its profound concern about this incident as well as the potential implications for the elections of the initial South African reaction to it. It, therefore, calls upon South Africa to desist from any such further actions.

³⁹ Ibid., pp. 8-12.

⁴⁰ Ibid., pp. 13-15.

⁴¹ Ibid., pp. 16-17.

⁴² S/20943.

⁴³ S/20946.

The Council strongly commends the prompt action taken by the United Nations Transition Assistance Group to clarify the situation and to establish that such allegations were unfounded.

The Council calls upon all parties to honour their commitments in accordance with the settlement plan.

The Council reiterates its full support for the Secretary-General and his Special Representative as well as its firm commitment to ensure the full implementation of resolution 435 (1978) in its original and definitive form.

Decision of 20 November 1989: statement by the President

On 14 November 1989, the Secretary-General submitted to the Council a further report on the implementation of resolution 435 (1978) on the question of Namibia.⁴⁴ The report set out the results of the elections held in Namibia from 7 to 11 November 1989 for a Constituent Assembly, which had been certified by his Special Representative as free and fair. The Secretary-General observed that a significant phase in the process of bringing Namibia to independence had thus been accomplished. The way was now open for the next stage in the process — the drawing-up and adoption of a constitution by the newly elected Constituent Assembly, the naming by it of a date for independence and the establishment of a Government for the independent State. The United Nations, for its part, would continue to discharge its obligations to the people of Namibia until the Territory achieved independence.

At its 2893rd meeting, held on 20 November 1989 in accordance with the understanding reached during its prior consultations, the Council included the Secretary-General's report in its agenda.

The President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on their behalf:⁴⁵

The members of the Security Council welcome with satisfaction the successful conclusion of the elections in Namibia, certified by the Special Representative of the Secretary-General as free and fair, thus paving the way for the convening of the Constituent Assembly and the early independence of Namibia at a date to be determined by the Constituent Assembly.

The members of the Council congratulate the people of Namibia for the successful exercise of their democratic rights and look forward to the early independence of Namibia. They are deeply appreciative of the efforts of the Secretary-General, his Special Representative and the United Nations Transition Assistance Group for the role they have played, which attests to the effectiveness and credibility of the United Nations.

The members of the Council reaffirm the continuing important role of the United Nations in the transition period in ensuring the implementation of the settlement plan on the basis of its legal responsibility over Namibia until independence, so that the Constituent Assembly, reflecting the collective will of the people, can draw and adopt, in accordance with the settlement plan and free from any interference, a Constitution that will accord sovereignty to Namibia. In this regard, they express support to the Secretary-General in his continuing efforts to ensure full implementation of the settlement plan and request him to make the necessary arrangements under the settlement plan to safeguard the territorial integrity and security of Namibia. They also stress the importance of full compliance with all the remaining provisions of resolution 435 (1978) in its original definitive form. The members of the Council express the hope that, in the transition period, the utmost political responsibility will be displayed to facilitate the earliest possible accession of Namibia to independence.

The members of the Council call upon the Constituent Assembly to carry out its responsibility expeditiously and request the Secretary-General to provide it with all necessary assistance.

On 16 March 1990, the Secretary-General submitted to the Council a further report on the question of Namibia.⁴⁶ He recalled having orally informed the members of the Council on 9 February 1990 that, on the same day, the Constituent Assembly of Namibia had approved, by consensus, the Constitution for an independent Namibia. The Constitution would enter into force on Independence Day, 21 March 1990. The text of it was annexed, together with a note comparing its provisions to the 1982 Constitutional Principles.⁴⁷

On 28 March 1990, the Secretary-General submitted to the Council his final report on the implementation of resolution 435 (1978) concerning the question of Namibia.⁴⁸ He reported that, shortly after midnight on 20/21 March 1990, at the National Stadium in Windhoek, the flag of the Republic of South Africa had been lowered and the flag of the Republic of Namibia had been raised, thus marking the

⁴⁴ S/20967. See also S/20967/Add.1 of 29 November 1989.

⁴⁵ S/20974.

⁴⁶ S/20967/Add.2.

⁴⁷ S/15287.

⁴⁸ S/21215.

accession of Namibia to independence in accordance with Security Council resolution 435 (1978). Immediately thereafter, he had administered the oath of office to the first elected President of the Republic of

Namibia. Thus had been achieved, in dignity and great rejoicing, the goal of independence for Namibia, for which the United Nations and its Member States had striven for so long.

6. Items relating to the situation in Somalia

Initial proceedings

A. Letter dated 20 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Somalia to the United Nations addressed to the President of the Security Council

By a letter dated 20 January 1992 addressed to the President of the Security Council,¹ the Chargé d'affaires a.i. of the Permanent Mission of Somalia transmitted a letter dated 11 January 1992 from the interim Prime Minister of Somalia, and requested an immediate meeting of the Council to consider the deteriorating situation in Somalia.

By a letter dated 21 January 1992 addressed to the President of the Security Council,² the representative of Morocco transmitted the text of a resolution adopted on 5 January 1992 by the Council of the League of Arab States (LAS) at its extraordinary session concerning the situation in Somalia. The Council expressed deep concern at the developments threatening the national unity and territorial integrity of Somalia, called on all Arab countries to provide emergency relief, and urged all regional and international organizations to support the efforts of the League and to coordinate their activities with those of the League, in order to establish a lasting ceasefire in Somalia.

By a letter dated 23 January 1992 addressed to the President of the Security Council,³ the representative of Guinea, as Chairman of the Group of African States, transmitted a statement made on 18 December 1991 by the Secretary-General of the Organization of African Unity (OAU) concerning the situation in Somalia. The OAU Secretary-General stated that both parties involved in the fighting in

Mogadishu had a particular responsibility to ensure that there was an immediate ceasefire and that normalcy was restored to the city. He appealed to the international community to use its influence and leverage to encourage the parties to seek a peaceful resolution of the conflict, and to respond to the very urgent humanitarian needs of the victims of the conflict. He reiterated that OAU was available to facilitate an end to the fighting and to bring about a lasting settlement.

Decision of 23 January 1992 (3039th meeting): resolution 733 (1992)

At its 3039th meeting, on 23 January 1992, the Council included the letter from the Chargé d'affaires of the Permanent Mission of Somalia in its agenda. Following the adoption of the agenda, the Council invited the representative of Somalia, at her request, to participate in the discussion without the right to vote. The President (United Kingdom) then drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.⁴ The draft resolution was put to the vote and adopted unanimously as resolution 733 (1992), which reads:

The Security Council,

Considering the request by Somalia for the Security Council to consider the situation in Somalia,

Having heard the report of the Secretary-General on the situation in Somalia and commending the initiative taken by him in the humanitarian field,

Gravely alarmed at the rapid deterioration of the situation in Somalia and the heavy loss of human life and widespread material damage resulting from the conflict in the country and aware of its consequences on stability and peace in the region,

¹ S/23445.

² S/23448.

³ S/23469.

⁴ S/23461.

Concerned that the continuation of this situation constitutes, as stated in the report of the Secretary-General, a threat to international peace and security,

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Chapter VIII of the Charter,

Expressing its appreciation to the international and regional organizations that have provided assistance to the populations affected by the conflict and deploring that personnel of these organizations have lost their lives in the exercise of their humanitarian tasks,

Taking note of the appeals addressed to the parties by the Chairman of the Organization of the Islamic Conference on 16 December 1991, the Secretary-General of the Organization of African Unity on 18 December 1991 and the League of Arab States on 5 January 1992,

1. *Takes note* of the report of the Secretary-General on the situation in Somalia and expresses its concern with the situation prevailing in that country;

2. *Requests* the Secretary-General immediately to undertake the necessary actions to increase humanitarian assistance by the United Nations and its specialized agencies to the affected population in all parts of Somalia in liaison with the other international humanitarian organizations and to this end to appoint a coordinator to oversee the effective delivery of this assistance;

3. *Also requests* the Secretary-General of the United Nations, in cooperation with the Secretary-General of the Organization of African Unity and the Secretary-General of the League of Arab States, immediately to contact all parties involved in the conflict, to seek their commitment to the cessation of hostilities in order to permit the humanitarian assistance to be distributed, to promote a ceasefire and compliance therewith, and to assist in the process of a political settlement of the conflict in Somalia;

4. *Strongly urges* all parties to the conflict immediately to cease hostilities and agree to a ceasefire and to promote the process of reconciliation and of political settlement in Somalia;

5. *Decides*, under Chapter VII of the Charter of the United Nations, that all States shall, for the purposes of establishing peace and stability in Somalia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Somalia until the Council decides otherwise;

6. *Calls on* all States to refrain from any action which might contribute to increasing tension and to impeding or delaying a peaceful and negotiated outcome to the conflict in Somalia, which would permit all Somalis to decide upon and to construct their future in peace;

7. *Calls upon* all parties to cooperate with the Secretary-General to this end and to facilitate the delivery by the United Nations, its specialized agencies and other humanitarian organizations of humanitarian assistance to all those in need of it, under the supervision of the coordinator;

8. *Urges* all parties to take all the necessary measures to ensure the safety of personnel sent to provide humanitarian assistance, to assist them in their tasks and to ensure full respect for the rules and principles of international law regarding the protection of civilian populations;

9. *Calls upon* all States and international organizations to contribute to the efforts of humanitarian assistance to the population in Somalia;

10. *Requests* the Secretary-General to report to the Security Council as soon as possible on this matter;

11. *Decides* to remain seized of the matter until a peaceful solution is achieved.

B. The situation in Somalia

Decision of 17 March 1992 (3060th meeting): resolution 746 (1992)

By a letter dated 30 January 1992 addressed to the President of the Council,⁵ the Chargé d'affaires of the Permanent Mission of Somalia expressed her gratitude for the Security Council's decision to consider the situation in her country and the unanimous adoption of resolution 733 (1992). In an annex to the letter, she stated that her country had not received any international political assistance to end its protracted crisis. She advocated a two-pronged approach to the conflict: the establishment of a holding ceasefire, maintained if necessary by coercive means; and the convening of a national reconciliation conference under the auspices of the Security Council. She assured the Council that any measure — even a coercive one — taken to resolve the crisis in Somalia could not, and would not, be interpreted as interference in the country's internal affairs, since it would save human lives and restore human dignity.

On 11 March 1992, pursuant to resolution 733 (1992), the Secretary-General submitted to the Council a report on the situation in Somalia,⁶ dealing in particular with the efforts to secure a cessation of hostilities to permit the humanitarian assistance to be distributed, to promote a ceasefire, and to assist in the

⁵ S/23507.

⁶ S/23693 and Corr.1.

process of a political settlement of the conflict in Somalia. He reported that heavy fighting had persisted in Mogadishu since November 1991. The fighting had resulted in widespread death and destruction, forced hundreds of thousands of civilians to flee the city, caused dire need for emergency humanitarian assistance, and brought about a grave threat of widespread famine. It had also seriously impeded United Nations efforts to deliver much-needed humanitarian assistance to the affected population in and around Mogadishu. Furthermore, the conflict had threatened instability in the Horn of Africa region and its continuation had occasioned threats to international peace and security in the area. He observed that because of the intolerable security situation, it had not been possible to provide food supplies to Mogadishu since December 1991. The prospect of famine deaths was high.

The Secretary-General reported that consultations, aimed at exploring ways of achieving a ceasefire agreement and a political settlement through the convening of a conference of national reconciliation and unity, had been held in New York, from 12 to 14 February 1992. Delegations representing the factions of the Interim President, Ali Mahdi Mohamed, and the Chairman of the United Somali Congress, General Mohamed Farah Aidid, had taken part in the consultations. Representatives of three regional and intergovernmental organizations — LAS, OAU, and the Organization of the Islamic Conference (OIC) — had also participated. On 14 February 1992, the two factions had committed themselves to an immediate cessation of hostilities and to the maintenance of a ceasefire in Mogadishu, and had signed pledges to that effect. They had also agreed to a visit to Mogadishu by a high-level delegation from the United Nations, LAS, OAU and OIC. The joint delegation had arrived in Mogadishu on 29 February. On 3 March, after four days of intensive negotiations, the Interim President and General Aidid had signed an Agreement on the Implementation of a Ceasefire,⁷ which provided for the implementation of measures aimed at stabilizing the ceasefire through a United Nations monitoring mechanism.

The Secretary-General observed that the situation in Somalia had so far eluded conventional solutions and that new avenues and innovative methods had to be

explored to facilitate a peaceful settlement. The collaborative effort of the United Nations and the regional and intergovernmental organizations undertaken in the context of Chapter VIII of the Charter had proved to be very effective and had set a useful precedent for future cooperation. A general framework for the implementation of the ceasefire had been worked out; the next step, as agreed by the two principal factions, was to dispatch a technical team to Mogadishu to prepare an operational plan for a United Nations monitoring mechanism. On the basis of the technical team's report, the Secretary-General would make further recommendations to the Council in that regard. Such an arrangement would have to be approved by the Security Council. The Secretary-General also proposed that the technical team look into possible mechanisms to ensure the unimpeded delivery of humanitarian assistance to the displaced persons in and around Mogadishu, as well as Berbera and Kismayo. This aspect of the technical team's task represented an innovation and might require careful consideration by the Council. The Secretary-General added that an understanding had already been reached with the two factions that United Nations civilian police would be required to assist in the delivery of humanitarian assistance in and around Mogadishu. He cautioned, however, that the presence of armed elements not under the control of either of the two protagonists could complicate the implementation and monitoring of the ceasefire.⁸

The Secretary-General concluded by calling on the Council to underline the individual and collective responsibilities of the leaders of the factions to save lives and assist in the distribution of humanitarian assistance. He stressed that the relief programme should not necessarily be dependent upon the implementation of a ceasefire but could not be undertaken without adequate measures to ensure the safety of relief officials. The Council also needed to make clear to those leaders the consequences of any obstruction to the work of international monitors or the operations of any United Nations observer mission that it might set up.

At its 3060th meeting, held on 17 March 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda, under the item entitled "The situation in Somalia", the report

⁷ S/23693, annex III.

⁸ S/23693, paras. 72-76.

of the Secretary-General. Following the adoption of the agenda, the Council invited the representatives of Italy, Kenya, Nigeria and Somalia, at their request, to participate in the discussion without the right to vote. It also extended an invitation to Mr. Ahmet Engin Ansay, Permanent Observer of OIC, and Mr. Aboul Nasr, Permanent Observer of LAS, under rule 39 of the Council's provisional rules of procedure. The President (Venezuela) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations,⁹ and read out revisions made to the provisional version of that draft. He also drew their attention to a letter dated 13 March 1992 from the representative of Egypt, addressed to the Secretary-General,¹⁰ concerning Egyptian efforts in connection with the Somali crisis.

Commencing the debate, the Minister of External Affairs of Nigeria, speaking on behalf of the current Chairman of OAU, stated that Africa placed a premium on the responsiveness of the Council to situations that were likely to constitute a threat to international peace and security. In line with its new orientation and thrust, the Council ought to conduct preventive diplomacy and be seen to do so effectively in Somalia. The situation in that country qualified for direct action by the Council in accordance with the provisions of the Charter of the United Nations. At a minimum, the Council ought to establish a United Nations presence in Somalia by deploying a military observer mission to monitor the ceasefire. He stated that OAU welcomed the cooperation between the United Nations and the regional organizations in addressing issues of concern to the international community, which it believed should result in the peaceful resolution of the Somali conflict. Noting with considerable interest the United Nations efforts in crisis management, peacemaking and peacekeeping, he suggested that Africa deserved as much, if not more, attention than other regions because of its weak economic base.¹¹

The Permanent Observer of LAS recalled the League's attempts to contain the crisis and its participation in the United Nations efforts. He believed that the joint mission to Mogadishu was a unique example of creative cooperation between the United Nations and regional organizations, in accordance with Chapter VIII of the Charter. He confirmed the League's

full support for the draft resolution before the Council, and its willingness to cooperate with the United Nations in its implementation.¹²

The Permanent Observer of OIC noted that Organization's efforts to restore peace and promote national reconciliation since the inception of the crisis, and its participation in the United Nations efforts. He underlined the OIC members' commitment to the restoration and preservation of the unity, sovereignty, territorial integrity and political independence of Somalia. The international community as a whole ought to reiterate its commitment to those principles. Stressing that a ceasefire agreement should cover all parts of Somalia, he called for a peacekeeping force to ensure its enforcement, monitoring and observance. OIC also believed that consideration should be given to the convening — under the joint sponsorship of the United Nations, OIC, OAU and LAS — of a conference on national reconciliation. With respect to humanitarian assistance, it suggested that zones of peace be established in various parts of Somalia. OIC was ready to explore further ideas and proposals, together with the United Nations and other international and regional organizations, so that a well-coordinated and comprehensive approach to the crisis in Somalia could be evolved.¹³

The representative of India stressed that the sheer magnitude of the Somali problem and its continuation constituted a threat to the peace and security of the region. The situation in Somalia, where there was no single political authority with which the world community could interact, was *sui generis* and had eluded conventional solutions. Nevertheless, the principles drawn from the Charter had to be applied in those circumstances also. Innovative methods commensurate with the humanitarian and political situation had to be explored to facilitate a peaceful settlement. The first task of the technical team proposed by the Secretary-General would be to impress upon the combatants the need to observe the agreed ceasefire. In the light of the humanitarian situation, which was of crisis proportions, the Secretary-General's recommendation that the technical team also be mandated to look into mechanisms to ensure the unimpeded delivery of humanitarian assistance had not come a moment too soon. Ultimately, only political

⁹ S/23722.

¹⁰ S/23718.

¹¹ S/PV.3060, pp. 8-15.

¹² *Ibid.*, pp. 24-25.

¹³ *Ibid.*, pp. 26-30.

dialogue within the conference of national reconciliation and unity, which would form the second phase of the United Nations involvement, could resolve the conflict in Somalia.¹⁴

The representative of Italy hailed the forthcoming dispatch of a United Nations technical team to Somalia, but also hoped that the United Nations, OAU, LAS and OIC would cooperate in efforts to convene a conference on national reconciliation and unity.¹⁵

The representative of Belgium stated that, in view of the distress of the Somali people, his delegation had no difficulty in endorsing proposals that the Secretary-General had described as “innovations”. He pointed out that, in the eventual implementation of a United Nations operation in Somalia, a clear distinction should be drawn between the political and military aspects and the humanitarian aspect, especially because of their specific budgetary implications. He urged continued cooperation between the Secretary-General and the regional and intergovernmental organizations in the convening of a conference on national reconciliation and unity, as provided for by the draft resolution, and in an eventual United Nations monitoring mechanism as was the Secretary-General’s intention.¹⁶

The representative of China believed that it was mainly for the Somali people to settle peacefully the Somali internal disputes through consultation and dialogue. Only at their request and with their support and cooperation could any external endeavours, including the United Nations monitoring mechanism and humanitarian relief, be genuinely effective. The Chinese delegation hoped that the United Nations activities in Somalia would be conducted in accordance with the purposes and principles of the Charter, and with full respect for Somalia’s independence and sovereignty. Any further peacekeeping operation to be carried out by the United Nations in Somalia would have to be reported in advance to the Council and approved by it.¹⁷

The representative of France supported the Secretary-General’s initiatives and hoped that they would receive the parties’ cooperation, which was indispensable if they were to succeed. He stressed that all States, in accordance with the Council’s appeal,

ought to refrain from any act likely to increase the tension.¹⁸

The representative of Zimbabwe recalled that the Council had recently been seized of fratricidal conflicts threatening regional peace and stability, and had taken measures to stabilize the ceasefires in Yugoslavia and Cambodia. He believed that the Somali tragedy, which had been unravelling for almost a year, should be addressed with utmost urgency.¹⁹

According to the representative of the United States, a ceasefire, the establishment of a process of national reconciliation, and the provision of humanitarian assistance were the primary goals of the international community in Somalia. A more concerted, well-articulated and tightly coordinated humanitarian assistance effort was urgently needed to alleviate human suffering and to ensure the effectiveness of a ceasefire. That ceasefire must be strictly and effectively adhered to before the Security Council could send in United Nations monitors. Prior experience in peacekeeping operations had shown that the United Nations could not perform effectively in situations where the parties to a conflict were unwilling to create the conditions necessary for it to carry out its mandate. No United Nations monitoring mechanism to supervise a ceasefire could be put into a situation where there was no effective ceasefire. Nor could the United Nations deliver humanitarian assistance where an active conflict was under way. Once an effective ceasefire was achieved, all parties had to agree to its international supervision. On the basis of the next report of the Secretary-General, the Council would have to consider seriously whether those conditions could be met.²⁰

The representative of the Russian Federation supported the draft resolution in view of the critical nature of the situation in Somalia and the loss of life and suffering caused by the conflict, which harboured a threat to international peace and security. He shared the view that a clear distinction should be drawn between expenditures on peacekeeping and the expenses incurred in providing technical, humanitarian, and other assistance. He stressed the importance of close cooperation between the United Nations and OAU, LAS and OIC, particularly when consulting all the

¹⁴ Ibid., pp. 31-33.

¹⁵ Ibid., p. 34.

¹⁶ Ibid., pp. 38, 39-40.

¹⁷ Ibid., pp. 43-44.

¹⁸ Ibid., pp. 44-46.

¹⁹ Ibid., pp. 46-47.

²⁰ Ibid., pp. 48-50.

Somali parties, movements and factions about convening a conference on national reconciliation and unity in Somalia.²¹

The representative of the United Kingdom emphasized that the will of the parties to honour the ceasefire was absolutely fundamental for a return to more peaceful conditions, and that there could be no peacekeeping if there was no peace to keep. He welcomed the intention of the Secretary-General to devote his humanitarian efforts to the whole of Somalia, and not just the area around Mogadishu. Finally, he hoped that the technical team would induce the parties to move towards a process of reconciliation; otherwise, there was a risk that the United Nations and Somalia would remain “stuck halfway between peace and war”.²²

The President made a statement in his capacity as the representative of Venezuela. He observed that the consultations held in New York between the parties to the conflict and the sending to Somalia of the special envoy had at last made it possible to establish a certain ceasefire. The cooperation and assistance of the regional organizations, such as OAS, LAS and OIC, had, moreover, contributed to alleviating tension and facilitating dialogue. He pointed to those developments as significant examples of the work the United Nations must do at this new stage in international relations and of the irreplaceable support that regional organizations could provide. The challenge for the international community was to reverse the fratricidal division of the Somali nation. He therefore urged the Secretary-General to turn to a personality of a very high level — widely recognized internationally — who could work with vision towards achieving the delicate political task of national reconciliation, while the technical team carried out its work in respect of the ceasefire and humanitarian assistance.²³

The other speakers expressed their support for the Secretary-General’s proposals, stressed the need for the parties to cooperate fully with the United Nations, and welcomed the cooperation of the regional and intergovernmental organizations.²⁴

The draft resolution, as orally revised in its provisional form, was then put to the vote and adopted unanimously as resolution 746 (1992), which reads:

The Security Council,

Considering the request by Somalia for the Security Council to consider the situation in Somalia,

Reaffirming its resolution 733 (1992) of 23 January 1992,

Having considered the report of the Secretary-General of 11 March 1992 on the situation in Somalia,

Taking note of the signing at Mogadishu on 3 March 1992 of the ceasefire agreements, including agreements for the implementation of measures aimed at stabilizing the ceasefire through a United Nations monitoring mission,

Deeply regretting that the factions have not yet abided by their commitment to implement the ceasefire and thus have still not permitted the unimpeded provision and distribution of humanitarian assistance to the people in need in Somalia,

Deeply disturbed by the magnitude of the human suffering caused by the conflict and concerned that the continuation of the situation in Somalia constitutes a threat to international peace and security,

Bearing in mind that the factors described in paragraph 76 of the Secretary-General’s report must be taken into account,

Cognizant of the importance of cooperation between the United Nations and regional organizations in the context of Chapter VIII of the Charter of the United Nations,

Underlining the importance which it attaches to the international, regional and non-governmental organizations, including the International Committee of the Red Cross, continuing to provide humanitarian and other relief assistance to the people of Somalia under difficult circumstances,

Expressing its appreciation to the regional organizations, including the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference, for their cooperation with the United Nations in the effort to resolve the Somali problem,

1. *Takes note with appreciation* of the report of the Secretary-General of 11 March 1992 on the situation in Somalia;

2. *Urges* the Somali factions to honour their commitment under the ceasefire agreements signed at Mogadishu on 3 March 1992;

3. *Urges* all the Somali factions to cooperate with the Secretary-General and to facilitate the delivery by the United Nations, its specialized agencies and other humanitarian organizations of humanitarian assistance to all those in need of it, under the supervision of the coordinator mentioned in resolution 733 (1992);

4. *Requests* the Secretary-General to pursue his humanitarian efforts in Somalia and to use all the resources at

²¹ *Ibid.*, pp. 53-54.

²² *Ibid.*, pp. 56-57.

²³ *Ibid.*, pp. 59-61.

²⁴ *Ibid.*, pp. 16-20 (Kenya, on behalf of the African Group); pp. 20-21 (Morocco); pp. 36-38 (Cape Verde); pp. 41-42 (Austria); pp. 51-52 (Ecuador); pp. 54-56 (Hungary); pp. 57-58 (Japan).

his disposal, including those of the relevant United Nations agencies, to address urgently the critical needs of the affected population in Somalia;

5. *Appeals* to all Member States and to all humanitarian organizations to contribute to and to cooperate with these humanitarian relief efforts;

6. *Strongly supports* the Secretary-General's decision urgently to dispatch a technical team to Somalia, accompanied by the Coordinator, in order to work within the framework and objectives outlined in paragraphs 73 and 74 of his report and to submit expeditiously a report to the Security Council on this matter;

7. *Requests* that the technical team also develop a high-priority plan to establish mechanisms to ensure the unimpeded delivery of humanitarian assistance;

8. *Calls on* all parties, movements and factions in Mogadishu in particular, and in Somalia in general, to respect fully the security and safety of the technical team and the personnel of the humanitarian organizations and to guarantee their complete freedom of movement in and around Mogadishu and other parts of Somalia;

9. *Calls upon* the Secretary-General to continue, in close cooperation with the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference, his consultations with all Somali parties, movements and factions towards the convening of a conference for national reconciliation and unity in Somalia;

10. *Calls upon* all Somali parties, movements and factions to cooperate fully with the Secretary-General in the implementation of the present resolution;

11. *Decides* to remain seized of the matter until a peaceful solution is achieved.

**Decision of 24 April 1992 (3069th meeting):
resolution 751 (1992)**

On 21 April 1992, pursuant to resolution 746 (1992), the Secretary-General submitted to the Security Council a report on the situation in Somalia and his recommendations.²⁵ He observed that the situation in the country continued to be of great concern to the international community. Governmental and physical infrastructure were largely non-existent. Although the ceasefire in Mogadishu agreed between the major factions was holding, sporadic fighting and incidents of banditry were putting a strain on it. The port of Mogadishu and the international airport were, moreover, in the control of groups not under the

command of either faction. There was increased fighting in the northern part of the country and the situation in the south remained tense. There was wide proliferation of weapons and various reports indicated that arms continued to flow into the country, despite the arms embargo. The threat of dramatic food shortages among particularly vulnerable groups was becoming increasingly acute: some 1.5 million people had been identified as being at immediate risk, with a further 3.5 million people in need of food, seeds and basic health and water services. The crisis in Somalia also had regional consequences, as evidenced by the flow of Somali refugees into neighbouring countries, and there were grave concerns about the destabilizing effects it could have on the Horn of Africa.

The Secretary-General reported that the technical team he had appointed, which included representatives from LAS, OAU and OIC, had visited Somalia from 23 to 31 March. It had secured, from the Interim President, Ali Mahdi Mohamed and General Mohamed Farah Aidid, letters of agreement on the mechanism for monitoring the ceasefire and arrangements for the equitable and effective distribution of humanitarian assistance in and around Mogadishu, signed on 28 and 27 March 1992, respectively.²⁶ The team had also obtained letters of agreement from other Somali leaders who had committed themselves to work for peace and ensure the efficient and equitable distribution of humanitarian assistance. The agreements reached with the leaders of the two major factions required the United Nations (a) to deploy United Nations observers to monitor the ceasefire; and (b) to deploy United Nations security personnel to protect its personnel and safeguard its activities in continuing to provide humanitarian and other relief assistance in and around Mogadishu. The Secretary-General recommended that the monitoring task be carried out by 50 unarmed and uniformed military observers whose security would be ensured by the parties; in accordance with the agreements, 25 of the observers would be deployed to northern Mogadishu and 25 to southern Mogadishu. The security force envisaged in the agreements would be required to provide security for United Nations personnel, equipment and supplies at the port of Mogadishu — and, as necessary, at the airports in Mogadishu — and to escort deliveries of humanitarian supplies from there to distribution centres in Mogadishu and its immediate

²⁵ S/23829. See also S/23829/Add.1 and 2 of 21 April and 24 April 1992, respectively.

²⁶ S/23829, annexes I.B and I.A.

environs. The security force would not have any law-and-order responsibilities; its task would be to provide the United Nations convoys of relief supplies with a sufficiently strong military escort to deter attack and to fire in self-defence should deterrence not prove effective. The Secretary-General recommended, accordingly, that the security force take the form of infantry, organized in the normal manner. He estimated that a strength of approximately 500 would be required, but recalled that the agreements provided that the two parties be consulted about the number before the plan was finalized. The Secretary-General recommended that the Security Council establish a mission along those lines, for an initial period of six months, to be known as the United Nations Operation in Somalia (UNOSOM),²⁷ and to be under the command of the United Nations, vested in the Secretary-General, under the authority of the Security Council.

The Secretary-General reported, further, that, as a result of the request in resolution 746 (1992) to develop a high-priority plan to facilitate the unimpeded delivery of humanitarian assistance, the technical team had established mechanisms to implement the Mogadishu portion of an initial 90-day plan of action,²⁸ drawn up by the United Nations agencies in collaboration with the International Committee of the Red Cross and non-governmental organizations. It had also made arrangements to facilitate delivery of humanitarian assistance to other parts of the country. He stressed that the effectiveness of the plan and subsequent emergency relief and recovery programmes would depend on the observance by all parties of basic principles of humanitarian assistance and respect for the inviolability of United Nations-flagged ships, aircraft and relief convoys and protection of relief workers passing to and through designated "corridors" and "zones of peace", and appealed to all parties to honour agreements made with the technical team in that regard. He added that implementation of the plan would also depend upon the provision of sufficient resources by the international community. The Secretary-General observed that, although the difficulties of providing relief assistance were fully recognized, the prevailing crisis posed a paradox that

had to be addressed: without security, relief assistance programmes would continue to be severely constrained; but without such programmes, the prospects for security were at best precarious. He emphasized, therefore, the necessity of providing humanitarian assistance even before the full complement of United Nations security personnel and ceasefire modalities were in place.

In view of the precarious security situation outside Mogadishu, the Secretary-General suggested that the Security Council might wish to consider calling for a general ceasefire throughout the country. He also suggested that, in the light of various reports indicating that arms continued to flow into the country, the Council might wish to consider putting into place the appropriate arrangements for monitoring the arms embargo. Finally, he stressed that he would continue to pursue efforts for national reconciliation in Somalia, together with LAS, OAU and OIC. He intended to appoint a Special Representative for Somalia to assist him in the consultations and arrangements for the convening of a conference of national reconciliation and unity in Somalia, in close cooperation with the regional organizations. The Special Representative would also provide overall direction to the United Nations activities recommended in the Secretary-General's report, including those directed at economic recovery and rehabilitation, as well as demobilization and disarmament programmes.

At its 3069th meeting, held on 24 April 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the Council invited the representative of Somalia, at her request, to participate in the discussion without the right to vote. The President (Zimbabwe) drew the attention of the Council members to a draft resolution that had been prepared during the Council's prior consultations,²⁹ and, after drawing attention to a change to operative paragraph 3, put the draft resolution, as orally revised, to the vote. The draft resolution, as orally revised in its provisional form, was adopted unanimously as resolution 751 (1992), which reads:

The Security Council,

Considering the request by Somalia for the Security Council to consider the situation in Somalia,

²⁷ For details on the composition and operations of UNOSOM, see chapter V.

²⁸ Issued as an addendum to the Secretary-General's report (S/23829/Add.1).

²⁹ S/23834.

Reaffirming its resolutions 733 (1992) of 23 January 1992 and 746 (1992) of 17 March 1992,

Having considered the report of the Secretary-General of 21 and 24 April 1992 on the situation in Somalia,

Taking note of the signing of the ceasefire agreements in Mogadishu on 3 March 1992, including agreements for the implementation of measures aimed at stabilizing the ceasefire through a United Nations monitoring mission,

Taking note also of the signing of letters of agreement in Mogadishu, Hargeisa and Kismayo on the mechanism for monitoring the ceasefire and arrangements for the equitable and effective distribution of humanitarian assistance in and around Mogadishu,

Deeply disturbed by the magnitude of the human suffering caused by the conflict and concerned that the continuation of the situation in Somalia constitutes a threat to international peace and security,

Cognizant of the importance of cooperation between the United Nations and regional organizations in the context of Chapter VIII of the Charter of the United Nations,

Underlining the importance which it attaches to the international, regional and non-governmental organizations, including the International Committee of the Red Cross, continuing to provide humanitarian and other relief assistance to the people of Somalia under difficult circumstances,

Expressing its appreciation to the regional organizations, including the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference, for their cooperation with the United Nations in the effort to resolve the Somali problem,

1. *Takes note with appreciation* of the report of the Secretary-General of 21 and 24 April 1992 on the situation in Somalia;

2. *Decides* to establish under its authority, and in support of the Secretary-General in accordance with paragraph 7 below, a United Nations Operation in Somalia;

3. *Requests* the Secretary-General immediately to deploy a unit of fifty United Nations observers to monitor the ceasefire in Mogadishu in accordance with paragraphs 24 to 26 of the Secretary-General's report;

4. *Agrees*, in principle, also to establish under the overall direction of the Special Representative of the Secretary-General a United Nations security force to be deployed as soon as possible to perform the functions described in paragraphs 27 to 29 of the report of the Secretary-General;

5. *Requests* the Secretary-General to continue his consultations with the parties in Mogadishu regarding the proposed United Nations security force and, in the light of those consultations, to submit his further recommendations to the Security Council for its decision as soon as possible;

6. *Welcomes* the intention expressed by the Secretary-General in paragraph 64 of his report to appoint a Special Representative for Somalia to provide overall direction of United Nations activities in Somalia and to assist him in his endeavours to reach a peaceful resolution of the conflict in Somalia;

7. *Also requests* the Secretary-General as part of his continuing mission in Somalia to facilitate an immediate and effective cessation of hostilities and the maintenance of a ceasefire throughout the country in order to promote the process of reconciliation and political settlement in Somalia and to provide urgent humanitarian assistance;

8. *Welcomes* the cooperation between the United Nations and the League of Arab States, the Organization of African Unity and the Organization of the Islamic Conference in resolving the problem in Somalia;

9. *Calls upon* all parties, movements and factions in Somalia immediately to cease hostilities and to maintain a ceasefire throughout the country in order to promote the process of reconciliation and political settlement in Somalia;

10. *Requests* the Secretary-General to continue as a matter of priority his consultations with all Somali parties, movements and factions towards the convening of a conference on national reconciliation and unity in Somalia in close cooperation with the League of Arab States, the Organization of African Unity and the Organization of the Islamic Conference;

11. *Decides* to establish, in accordance with rule 28 of the provisional rules of procedure of the Security Council, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(a) To seek from all States information regarding the action taken by them concerning the effective implementation of the general and complete embargo on all deliveries of weapons and military equipment to Somalia imposed by paragraph 5 of resolution 733 (1992);

(b) To consider any information brought to its attention by States concerning violations of the embargo, and in that context to make recommendations to the Council on ways of increasing the effectiveness of the embargo;

(c) To recommend appropriate measures in response to violations of the embargo and to provide information on a regular basis to the Secretary-General for general distribution to Member States;

12. *Notes with appreciation* the ongoing efforts of the United Nations, its specialized agencies and humanitarian organizations to ensure delivery of humanitarian assistance to Somalia, particularly to Mogadishu;

13. *Calls upon* the international community to support, with financial and other resources, the implementation of the

ninety-day Plan of Action for Emergency Humanitarian Assistance to Somalia;

14. *Urges* all parties concerned in Somalia to facilitate the efforts of the United Nations, its specialized agencies and humanitarian organizations to provide urgent humanitarian assistance to the affected population in Somalia and reiterates its call for the full respect for the security and safety of the personnel of the humanitarian organizations and the guarantee of their complete freedom of movement in and around Mogadishu and other parts of Somalia;

15. *Calls upon* all Somali parties, movements and factions to cooperate fully with the Secretary-General in the implementation of the present resolution;

16. *Decides* to remain seized of the matter until a peaceful solution is achieved.

**Decision of 27 July 1992 (3101st meeting):
resolution 767 (1992)**

On 22 July 1992, pursuant to resolution 751 (1992), the Secretary-General submitted to the Council a report on the situation in Somalia.³⁰ He reported on the activities of his Special Representative in relation to the three major elements of his mandate: the monitoring of the ceasefire in Mogadishu and the cessation of hostilities throughout the country; the effective delivery of humanitarian assistance, as well as the need for rehabilitation and institution-building; and the process of national reconciliation.

With regard to ceasefire monitoring and security, the Secretary-General reported that both principal factions in Mogadishu had formally agreed to the deployment of the 50 military observers, who were due to arrive in the city towards the end of July. In the meantime, the security situation in the city continued to be precarious. While the ceasefire in Mogadishu had held reasonably well, banditry and looting remained a major problem, with most incidents attributable to irregular armed groups; and attacks on United Nations and non-governmental organization personnel had increased. Although the impending deployment of the military observers would assist in efforts to bring about an improvement in the security situation in Mogadishu, the Secretary-General shared the view of his Special Representative that the problem could not be properly addressed unless the United Nations security force called for in paragraphs 4 and 5 of resolution 751 (1992) was deployed. That force would play an important deterrent role, with regard to both the safety

of personnel providing humanitarian assistance and a general stabilization of the situation in Mogadishu. The security situation in most of the other regions of Somalia also called for immediate action. There was an almost total absence of government at any level. A vast quantity of arms had fallen into the hands of individuals, factions and groups, thus fuelling the conflicts as well as the banditry and looting which were taking place all over the country. Such actions by independent armed groups were, possibly, the biggest and most serious threat to those working for United Nations agencies and non-governmental organizations. The Secretary-General informed the Council that he therefore intended to dispatch a technical team to Somalia as soon as possible to examine inter alia: (a) the possible monitoring of the ceasefire arrangements in parts of the country other than Mogadishu; (b) the possible deployment of military observers in the south-west region on Somalia's border with Kenya; (c) the feasibility of an "arms for food" exchange programme; (d) the need for security forces to provide escort and protection for humanitarian aid activities and personnel in other parts of the country; and (e) a possible role for the United Nations in assisting the re-establishment of local police forces. As all political leaders and elders in Somalia had requested United Nations assistance in disarming the population and demobilizing the irregular forces, the Secretary-General stated that his Special Representative, with the help of the technical team, would develop a plan in that regard for application throughout the country. He added that it was also important that the international community continue to enforce the arms embargo as provided for in resolution 733 (1992).

The Secretary-General reported further that the country faced a desperate situation in terms of its needs for humanitarian assistance, recovery programmes and institution-building. Somalia was a country without central, regional or local administration, and without services: it had no electricity, communications, transport, schools or health services. The food situation was critical, with over 1 million children at risk due to malnutrition, and some 4.5 million people in urgent need of food assistance. Observing that the absence of food was both the cause and the result of the lack of security, the Secretary-General suggested that breaking this vicious cycle might be the key to resolving the complex and inextricably linked social and political problems in Somalia. In the face of this situation, and

³⁰ S/24343.

in spite of precarious security conditions which continued to hamper relief activities, the United Nations system, working in close cooperation with the International Committee of the Red Cross, and non-governmental organizations, had made a determined effort to bring humanitarian relief assistance to the affected populations in Somalia. The Secretary-General noted that the inter-agency 90-day plan of action for emergency humanitarian assistance to Somalia had provided the initial framework for acceleration of the provision of humanitarian assistance by the United Nations system. In addition, Somalia had figured prominently in the two consolidated inter-agency appeals for the Horn of Africa which he had issued in February and July 1992.

The Secretary-General observed that the complexity of the situation and the inherent dangers of working in Somalia, combined with the almost total absence of government at any level, made it very difficult for the United Nations to establish a large-scale, effective presence. Nonetheless, the threat of mass starvation facing large segments of the population and the potential renewal of hostilities, which could affect peace and stability throughout the Horn of Africa region, required an immediate and comprehensive response from the United Nations and the international community. He had therefore come to the conclusion that the United Nations must adapt its involvement: its efforts had to be expanded so that it could help bring about an effective ceasefire throughout the country, while at the same time pressing forward with parallel efforts to promote national reconciliation. That would require the Organization to establish a presence in all regions, and to adopt an innovative and comprehensive approach dealing with all aspects of the Somalia situation — the humanitarian relief and recovery programme, the cessation of hostilities and security, the peace process and national reconciliation — in a consolidated framework. The Secretary-General proposed the establishment of four operational zones: the north-west (Berbera), the north-east (Bossaso), the central rangelands and Mogadishu (Mogadishu), and the south (Kismayo). In each zone a consolidated United Nations operation would carry out the primary activities envisaged in resolution 751 (1992): (a) humanitarian activities — emergency relief, rehabilitation, reconstruction and institution-building; (b) monitoring of the ceasefire and containment of potential hostilities; (c) security, demobilization and disarmament; and (d) the peace process and national

reconciliation efforts, through conciliation, mediation and good offices. Such a decentralized, zonal approach would, in his view, improve the efficiency and effectiveness of the humanitarian operations in Somalia. To reach areas in the interior of the country, not easily accessible from major ports, he suggested the mounting of an urgent airlift operation.

The Secretary-General pointed out that the conflict in Somalia could only be resolved by the people of Somalia themselves in a process of national reconciliation. As stated in resolution 751 (1992), the objective of the United Nations in this connection was to undertake consultations and make arrangements for the convening of a conference on national reconciliation and unity in the country. He stated that his Special Representative had made important progress on this matter in his consultations with Somali leaders and elders, all of whom had voiced their commitment to national reconciliation. The Secretary-General called upon all the Somali people, leaders of political movements, elders and spiritual leaders, to close ranks and work together in order to achieve the desperately needed national reconciliation of their country. Noting that his Special Representative through his personal intervention had been able to defuse potential local crises, he added that qualified UNOSOM personnel would be located in each of the four zones to assist in mediation and conciliation, and in arranging for consultative conferences as needed. He observed that the States of the Horn of Africa had an essential role in assisting and encouraging the process of national reconciliation and that it was important that the United Nations continue to consult them. He expressed his appreciation, moreover, for the support and cooperation which the regional organizations, including OAU, LAS, and OIC had extended to the United Nations in the joint efforts to restore peace and security to Somalia and to provide humanitarian assistance to those in need. In conclusion, the Secretary-General stated that the new comprehensive approach recommended in his report, for which he had sought the Council's approval, was intended to be a catalyst for achieving the vital objective of national reconciliation and the reconstruction of a peaceful, stable and democratic Somalia.

At its 3101st meeting held on 27 July 1992 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. Following the

adoption of the agenda, the Council invited the representative of Somalia, at her request, to participate in the discussion without the right to vote. The President (Cape Verde) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations,³¹ as well as to a change that should be made to the draft resolution in its provisional form. The draft resolution, as orally revised in its provisional form, was put to the vote and adopted unanimously as resolution 767 (1992), which reads:

The Security Council,

Considering the request by Somalia for the Security Council to consider the situation in Somalia,

Reaffirming its resolutions 733 (1992) of 23 January 1992, 746 (1992) of 17 March 1992 and 751 (1992) of 24 April 1992,

Having considered the report of the Secretary-General of 22 July 1992 on the situation in Somalia,

Considering the letter of 23 June 1992³² from the Secretary-General to the President of the Security Council informing him that all the parties in Mogadishu had agreed to the deployment of the fifty military observers, and that the advance party of observers had arrived in Mogadishu on 5 July 1992 and that the rest of the observers had arrived in the mission area on 23 July 1992,

Deeply concerned about the availability of arms and ammunition in the hands of civilians and the proliferation of armed banditry throughout Somalia,

Alarmed by the sporadic outbreak of hostilities in several parts of Somalia leading to continued loss of life and destruction of property, and putting at risk the personnel of the United Nations, non-governmental organizations and other international humanitarian organizations, as well as disrupting their operations,

Deeply disturbed by the magnitude of the human suffering caused by the conflict and concerned that the situation in Somalia constitutes a threat to international peace and security,

Gravely alarmed by the deterioration of the humanitarian situation in Somalia and underlining the urgent need for quick delivery of humanitarian assistance in the whole country,

Recognizing that the provision of humanitarian assistance in Somalia is an important element in the effort of the Council to restore international peace and security in the area,

Responding to the urgent calls by the parties in Somalia for the international community to take measures in Somalia to ensure the delivery of humanitarian assistance,

Noting the Secretary-General's proposals for a comprehensive decentralized zonal approach in the United Nations involvement in Somalia,

Cognizant that the success of such an approach requires the cooperation of all parties, movements and factions in Somalia,

1. *Takes note with appreciation* of the report of the Secretary-General of 22 July 1992 on the situation in Somalia;

2. *Requests* the Secretary-General to make full use of all available means and arrangements, including the mounting of an urgent airlift operation, with a view to facilitating the efforts of the United Nations, its specialized agencies and humanitarian organizations in accelerating the provision of humanitarian assistance to the affected population in Somalia, threatened by mass starvation;

3. *Urges* all parties, movements and factions in Somalia to facilitate the efforts of the United Nations, its specialized agencies and humanitarian organizations to provide urgent humanitarian assistance to the affected population in Somalia and reiterates its call for the full respect for the security and safety of the personnel of the humanitarian organizations and the guarantee of their complete freedom of movement in and around Mogadishu and other parts of Somalia;

4. *Calls upon* all parties, movements and factions in Somalia to cooperate with the United Nations with a view to the urgent deployment of the United Nations security personnel called for in paragraphs 4 and 5 of its resolution 751 (1992), and otherwise to assist in the general stabilization of the situation in Somalia, without which cooperation the Council does not exclude other measures to deliver humanitarian assistance to Somalia;

5. *Reiterates* its appeal to the international community to provide adequate financial and other resources for humanitarian efforts in Somalia;

6. *Encourages* the ongoing efforts of the United Nations, its specialized agencies and humanitarian organizations, including the International Committee of the Red Cross, to ensure delivery of humanitarian assistance to all regions of Somalia;

7. *Appeals* to all parties, movements and factions in Somalia to extend full cooperation to the United Nations military observers and to take measures to ensure their security;

8. *Requests* the Secretary-General, as part of his continuing efforts in Somalia, to promote an immediate and effective cessation of hostilities and the maintenance of a ceasefire throughout the country in order to facilitate the urgent delivery of humanitarian assistance and the process of reconciliation and political settlement in Somalia;

³¹ S/24347.

³² S/24179.

9. *Calls upon* all parties, movements and factions in Somalia immediately to cease hostilities and to maintain a ceasefire throughout the country;

10. *Stresses* the need for the observance and strict monitoring of the general and complete embargo of all deliveries of weapons and military equipment to Somalia, as decided in paragraph 5 of its resolution 733 (1992);

11. *Welcomes* the cooperation between the United Nations, the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference in resolving the situation in Somalia;

12. *Approves* the Secretary-General's proposal to establish four operational zones in Somalia as part of the consolidated United Nations Operation in Somalia;

13. *Requests* the Secretary-General to ensure that his Special Representative for Somalia is provided with all the necessary support services to enable him to carry out his mandate effectively;

14. *Strongly supports* the decision of the Secretary-General to dispatch urgently a technical team to Somalia, under the overall direction of his Special Representative, in order to work within the framework and objectives outlined in paragraph 64 of his report and to submit expeditiously a report to the Security Council on this matter;

15. *Affirms* that all officials of the United Nations and all experts on mission for the United Nations in Somalia enjoy the privileges and immunities provided for in the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and in any other relevant instruments and that all parties, movements and factions in Somalia are required to allow them full freedom of movement and all necessary facilities;

16. *Requests* the Secretary-General to continue urgently his consultations with all parties, movements and factions in Somalia towards the convening of a conference on national reconciliation and unity in Somalia in close cooperation with the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference;

17. *Calls upon* all parties, movements and factions in Somalia to cooperate fully with the Secretary-General in the implementation of the present resolution;

18. *Decides* to remain seized of the matter until a peaceful solution is achieved.

**Decision of 28 August 1992 (3110th meeting):
resolution 775 (1992)**

On 24 August 1992, pursuant to resolution 767 (1992), the Secretary-General submitted to the Council a report on the situation in Somalia,³³ concerning the

findings of the technical team that had visited Somalia from 6 to 15 August and his recommendations. He reported that United Nations agencies, the International Committee for the Red Cross and non-governmental organizations had continued to implement the 90-day plan of action for emergency humanitarian assistance to Somalia and to intensify and extend their humanitarian assistance to the country. He noted, however, that those efforts were in no way adequate to meet the overall needs of the Somali people, an estimated 4.5 million of whom were in desperate need of food and other assistance. Although the United Nations and its partners were ready and had the capacity to provide substantially increased assistance, they had been prevented from doing so by the lack of security that prevailed throughout the country. Security conditions did not permit the assured delivery of humanitarian assistance by overland transport and were thus the main cause of the food crisis in Somalia. Given the difficulties, the Secretary-General had come to the conclusion that the airlift operations needed to be substantially enhanced. The technical team had recommended that, for the immediate future, those operations should be directed to the areas of particular need. Noting that a number of States had expressed interest in contributing to an urgent airlift, he stressed the need for the relief effort to be carefully coordinated by the United Nations. The Secretary-General reiterated that the critical problem facing the United Nations in its humanitarian activities in Somalia was how to ensure the security of relief supplies at all stages: delivery, storage and distribution. He also stressed that the airlift could not be a substitute for an effective surface-delivered programme of assistance through Somalia's ports and overland routes, for which effective security and ground arrangements were essential.

On security and ceasefire monitoring, the Secretary-General noted that the technical team had confirmed his earlier recommendation that the protection of convoys, supplies and distribution centres should be provided by United Nations security personnel operating on the lines described in his report of 21 April 1992.³⁴ He reported that the two parties in Mogadishu had agreed, on 12 August, to the earliest possible deployment of a 500-strong security force. The technical team had, moreover, obtained the agreement of those concerned for the deployment of

³³ S/24480 and Add.1 of 28 August 1992.

³⁴ S/23829.

similar security units in two other parts of Somalia, the north-east and the south-west. The Secretary-General believed that United Nations security units should also be deployed in two other places — in the north-west and the south-east — but the agreement of those concerned had not yet been obtained. He accordingly requested the Security Council to authorize the deployment of four additional security units, each with strength of up to 750, the first two to be deployed immediately and the other two as soon as consultations with those concerned had reached a successful conclusion. The Secretary-General also reported that the 50 military observers authorized for Mogadishu had been deployed since the end of July and had been able to play a valuable role in helping the two sides to maintain the ceasefire; nevertheless, the security situation in the city remained precarious. The technical team had evaluated the possible extension of the ceasefire activities of UNOSOM at Mogadishu to other parts of the country. However, concern had been expressed by several regional leaders about the implications of such an operation for the balance of military forces within the country. Given that attitude, the lack of an effective ceasefire and the fluidity of the fighting, the Secretary-General concluded that it was not feasible to deploy military observers outside Mogadishu.

The Secretary-General recalled that, in his report of 22 July,³⁵ he had recommended that UNOSOM establish four operational zones, which would enable the Organization to establish a presence in all parts of the country and adopt an innovative and comprehensive approach to the various components of the Mission. The technical team had confirmed the validity of that concept and he therefore proposed to establish the four zone headquarters as soon as possible. Each headquarters would be headed by a civilian official who would assist the Special Representative in all aspects of his duties.

The Secretary-General stressed that the immediate need was to break the vicious cycle of insecurity and hunger: lack of security prevented the delivery of food, while food shortages contributed significantly to the level of violence and insecurity. There must then be a comprehensive programme of action covering humanitarian relief, the cessation of hostilities, the reduction of organized and random

violence, and national reconciliation. He emphasized, moreover, that a fundamental consideration that should guide all United Nations activities in Somalia was that the Somalis themselves should progressively assume responsibility for establishing conditions and arrangements for the distribution of humanitarian assistance. A stronger United Nations role in securing access, transport and distribution of relief supplies must be paralleled by an effort to involve Somali entities in all aspects of the process. The Secretary-General concluded by noting that much of the action described and recommended in the report was covered by existing mandates. However, it would be necessary for the Council to authorize the increases in UNOSOM strength that he had recommended, which related to the establishment of the four zone headquarters of UNOSOM and to the deployment of four additional security units.

At its 3110th meeting, held on 28 August 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the Council invited the representative of Somalia, at her request, to participate in the discussion without the right to vote. The President (China) drew the attention of the Council members to a draft resolution that had been prepared during the Council's prior consultations,³⁶ as well as to a correction that should be made to the draft resolution. The draft resolution, as orally revised in its provisional form, was put to the vote and adopted unanimously as resolution 775 (1992), which reads:

The Security Council,

Considering the request by Somalia for the Security Council to consider the situation in Somalia,

Reaffirming its resolutions 733 (1992) of 23 January 1992, 746 (1992) of 17 March 1992, 751 (1992) of 24 April 1992 and 767 (1992) of 27 July 1992,

Having considered the report of the Secretary-General of 24 and 28 August 1992 on the situation in Somalia,

Deeply concerned about the availability of arms and ammunition and the proliferation of armed banditry throughout Somalia,

Alarmed by the continued sporadic outbreak of hostilities in several parts of Somalia leading to continued loss of life and destruction of property, and putting at risk the personnel of the United Nations, non-governmental organizations and other

³⁵ S/24343.

³⁶ S/24497.

international humanitarian organizations, as well as disrupting their operations,

Deeply disturbed by the magnitude of the human suffering caused by the conflict and concerned that the situation in Somalia constitutes a threat to international peace and security,

Gravely alarmed by the deterioration of the humanitarian situation in Somalia and underlining the urgent need for quick delivery of humanitarian assistance in the whole country,

Reaffirming that the provision of humanitarian assistance in Somalia is an important element in the effort of the Council to restore international peace and security in the area,

Welcoming the ongoing efforts by the United Nations organizations as well as the International Committee of the Red Cross, non-governmental organizations and States to provide humanitarian assistance to the affected population in Somalia,

Welcoming in particular the initiatives to provide relief through airlift operations,

Convinced that no durable progress will be achieved in the absence of an overall political solution in Somalia,

Taking note in particular of paragraph 24 of the report of the Secretary-General,

1. *Takes note with appreciation* of the report of the Secretary-General of 24 and 28 August 1992 on the situation in Somalia on the findings of the technical team and the recommendations of the Secretary-General contained therein;

2. *Invites* the Secretary-General to establish four zone headquarters as proposed in paragraph 31 of the report;

3. *Authorizes* the increase in strength of the United Nations Operation in Somalia and the subsequent deployment as recommended in paragraph 37 of the Secretary-General's report;

4. *Welcomes* the decision of the Secretary-General to increase substantially the airlift operation to areas of priority attention;

5. *Calls upon* all parties, movements and factions in Somalia to cooperate with the United Nations with a view to the urgent deployment of the United Nations security personnel called for in paragraphs 4 and 5 of its resolution 751 (1992) and as recommended in paragraph 37 of the Secretary-General's report;

6. *Welcomes also* the material and logistical support from a number of States and urges that the airlift operation be effectively coordinated by the United Nations as described in paragraphs 17 to 21 of the report of the Secretary-General;

7. *Urges* all parties, movements and factions in Somalia to facilitate the efforts of the United Nations, its specialized agencies and humanitarian organizations to provide urgent humanitarian assistance to the affected population in Somalia and reiterates its call for full respect for the security and safety of the personnel of these organizations and the

guarantee of their complete freedom of movement in and around Mogadishu and other parts of Somalia;

8. *Reiterates* its appeal to the international community to provide adequate financial and other resources for humanitarian efforts in Somalia;

9. *Encourages* ongoing efforts of the United Nations, its specialized agencies and humanitarian organizations, including the International Committee of the Red Cross, and non-governmental organizations to ensure delivery of humanitarian assistance to all regions of Somalia, and underlines the importance of coordination between these efforts;

10. *Requests* the Secretary-General to continue, in close cooperation with the Organization of African Unity, the League of Arab States and the Organization of the Islamic Conference, his efforts to seek a comprehensive political solution to the crisis in Somalia;

11. *Calls upon* all parties, movements and factions in Somalia immediately to cease hostilities and to maintain a ceasefire throughout the country;

12. *Stresses* the need for the observance and strict monitoring of the general and complete embargo on all deliveries of weapons and military equipment to Somalia, as decided in paragraph 5 of its resolution 733 (1992);

13. *Calls upon* all parties, movements and factions in Somalia to cooperate fully with the Secretary-General in the implementation of the present resolution;

14. *Decides* to remain seized of the matter until a peaceful solution is achieved.

Decision of 8 September 1992: letter from the President of the Security Council to the Secretary-General

By a letter dated 1 September 1992 addressed to the President of the Council,³⁷ the Secretary-General requested the Council, through the President, to extend the applicability of the authorization contained in paragraph 3 of resolution 775 (1992) to cover also the logistic support unit of UNOSOM, mentioned in the addendum to his report of 24 August 1992. By a letter dated 8 September 1992,³⁸ the President of the Council informed the Secretary-General that the members of the Council were in agreement with the proposal contained in his letter.

³⁷ S/24531.

³⁸ S/24532.

**Decision of 16 October 1992: statement by the
President**

On 16 October 1992, following consultations among the members of the Council, the President made the following statement to the media on behalf of the Council:³⁹

The Council heard today a communication from Mr. Sahnoun, the Special Representative of the Secretary-General in Somalia. On this occasion, the members of the Security Council reiterated their full support for the action of the Secretary-General and his Special Representative. They also expressed the wish that the appeal recently made in Geneva for an increase in the humanitarian assistance to Somalia should be heeded.

The members of the Council expressed their deep concern over the information communicated to them by Mr. Sahnoun, particularly regarding the difficulties he is encountering in the delivery of humanitarian assistance. In this regard, the rapid deployment of United Nations Operation in Somalia is essential. The members of the Council consider that persons hampering the deployment of the Operation in Somalia would be responsible for aggravating an already unprecedented humanitarian disaster.

**Decision of 3 December 1992 (3145th meeting):
resolution 794 (1992)**

By a letter dated 24 November 1992 addressed to the President of the Council,⁴⁰ the Secretary-General described a number of disturbing developments and conditions in Somalia which made it exceedingly difficult for UNOSOM to implement its mandate. General Aidid had declared that the Pakistani battalion would no longer be tolerated in the streets of Mogadishu; ordered the expulsion of the UNOSOM Coordinator for Humanitarian Assistance, on the grounds that his activities went counter to the interests of the Somali people and his security could no longer be guaranteed; warned that any forcible UNOSOM deployment would be met with violence and that the deployment of United Nations troops in Kismayo and Berbera was no longer acceptable; and demanded the withdrawal of United Nations troops from Mogadishu airport. The Secretary-General also noted that a widespread perception had developed among Somalis, apparently at the instigation of local faction leaders, that the United Nations had decided to abandon its

policy of cooperation and was planning to “invade” the country.

The Secretary-General stated that a number of factors had inhibited the distribution of food and other humanitarian assistance, especially in areas outside Mogadishu. He referred, in particular, to the lack of a government or governing authority capable of maintaining law and order, to the failure of various factions to cooperate with UNOSOM, to the extortion, blackmail and robbery to which the international relief effort was subjected, and to repeated attacks on the personnel and equipment of the United Nations and other relief agencies. The net result was that, while massive amounts of relief supplies had been readied for the implementation of a 100-day action programme, the assistance reaching the intended beneficiaries was often barely a trickle. The Secretary-General insisted that, unless the problems relating to security and protection of relief were effectively addressed, United Nations agencies and non-governmental organizations would not be able to provide the relief assistance urgently in the amounts needed now in Somalia. To establish security conditions that would permit the distribution of relief supplies, it was of the utmost importance that the four additional UNOSOM battalions be deployed to Somalia as quickly as possible. However, the Secretary-General stated that, despite the intensive efforts of his Special Representative, it had been possible to secure Somali consent to the deployment of only one battalion in one part of the country. He concluded by stating that he was giving urgent consideration to the current state of affairs, and that he did not exclude the possibility that it might become necessary to review the basic premises and principles of the United Nations effort in Somalia.

By a letter dated 29 November 1992 addressed to the President of the Council,⁴¹ the Secretary-General recalled that the members of the Council had discussed his letter of 24 November during informal consultations on 25 November. They had expressed the view that the situation in Somalia that he had described was intolerable and had voiced doubts as to whether the methods employed by the United Nations to date would be capable of bringing the situation under control. Strong support had been expressed for his view that the time had come to move to Chapter VII of the Charter. The members of the Council had therefore

³⁹ S/24674; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, pp. 62-63.

⁴⁰ S/24859.

⁴¹ S/24868.

welcomed his reference to a re-examination of basic premises and principles, and had asked him to come forward with specific recommendations on how the United Nations could remedy the situation.

The Secretary-General set out five options for the Council's consideration, all addressed to the immediate humanitarian issue, namely how to create conditions for the uninterrupted delivery of relief supplies to the starving people of Somalia. He stressed, however, that that was only part, albeit the most urgent part, of the problem in Somalia and that efforts were also required to create the political conditions in which Somalia could begin to resolve its political problems and rehabilitate its economy. The latter was an integral part of the UNOSOM mandate and it was important that further measures to protect humanitarian relief supplies should be accompanied by continuing efforts to promote national reconciliation.

The following were the five options set out by the Secretary-General. The first option was to continue and intensify his efforts to deploy UNOSOM in the strength authorized by the Council. UNOSOM would continue to be guided by the existing principles and practices of United Nations peacekeeping operations: it would not deploy without the agreement of the de facto authorities at each location where it was to operate; and it would not use force except in self-defence. The Secretary-General concluded, however, that the situation in Somalia had deteriorated beyond the point where peacekeeping was a viable option. The reality was that there were very few authorities in the country with whom a peacekeeping force could safely negotiate an agreed basis for its operations. The second option was to abandon the idea of using international military personnel to protect humanitarian activities, withdraw the military elements of UNOSOM and leave the humanitarian agencies to negotiate their own arrangements with the various factions and clan leaders. Experience had shown, however, that without international military protection, the agencies had felt obliged to pay protection money to the various factions and clans. If the international community were to allow this to continue, it would be committing itself to a process in which less and less of the aid it provided would reach vulnerable groups and in which lawless trading in that aid would become, increasingly, the foundation of Somalia's economy. Such an outcome would encourage further fragmentation and destroy hopes of national reconciliation. The Secretary-General

was more than ever convinced of the need for international military personnel to be deployed in Somalia. The difficulties being encountered were due not to their presence but to the fact that there were not enough of them and that they did not have the right mandate. He therefore excluded the option of withdrawal.

The above considerations had led the Secretary-General to conclude that the Security Council had no alternative but to adopt more forceful measures to secure the humanitarian operations in Somalia. His last three options, therefore, all involved the possible use of force by the United Nations or by Member States so authorized by the Council. Noting that no government existed in Somalia that could request and allow such use of force, he observed that the Council had to make a determination under Article 39 of the Charter that a threat to the peace existed, as a result of the repercussions of the Somali conflict on the entire region, and to decide what measures should be taken to maintain international peace and security. The Council would also have to determine that non-military measures as referred to in Chapter VII were not capable of giving effect to the Council's decisions.

The purpose of each of the three following options involving the possible use of force would be to ensure, on a lasting basis, that the violence against the international relief effort was brought to an end:

The third option would be to mandate UNOSOM to undertake a show of force in Mogadishu, in order to create conditions for the safe delivery of humanitarian relief and to deter factions and other armed groups there and elsewhere in Somalia from withholding cooperation from UNOSOM. However, the arms at the disposal of the various factions and armed groups in the city were not negligible. Moreover, he was inclined to think that if action were to be effective, a countrywide operation might be required. That would entail a major military undertaking, giving rise to many difficult questions, especially with regard to organization, command and control. The fourth option would thus be a countrywide enforcement operation undertaken by a group of Member States authorized to do so by the Security Council. The Secretary-General informed the members of the Council that the United States had informed him that it would be prepared to take the lead in organizing and commanding such an operation, in which other Member States would also participate. He advised that, if the members of the

Council were to favour this option, the Council should seek to agree with the Member States participating in the operation on ways of recognizing that it had been authorized by the Security Council and that the Security Council therefore had a legitimate interest in the manner in which it was carried out. The fifth option, which would be consistent with the expansion of the Organization's role in the maintenance of international peace and security and which would strengthen its long-term evolution as an effective system of collective security, would entail a countrywide enforcement operation under United Nations command and control. The command and control could be exercised by the Secretary-General, mandated by the Security Council in an arrangement similar to that followed in the Organization's peacekeeping operations, or by some other arrangement which the Council might decide upon. However, the Secretary-General noted that, in that case, as the Secretariat did not have the capability to command and control such an enforcement operation, troop-contributing countries would have to provide staff officers not only for the headquarters in the field but also in New York.

In conclusion, the Secretary-General recommended that the Council take a very early decision to adjust its approach to the crisis in Somalia. The focus of the Council's immediate action should be to create conditions in which relief supplies could be delivered to those in need. Experience had shown that that could not be achieved by a United Nations peacekeeping operation; there was now no alternative but to resort to Chapter VII of the Charter. In parallel, there must also be action to promote national reconciliation and thus remove the main factors that had created the humanitarian emergency. If forceful action were to be taken, the Secretary-General expressed a preference that it be under United Nations command and control. If that were not feasible, an alternative would be an operation undertaken by Member States acting under the authorization of the Council. In either case, the objective of the operation should be precisely defined and limited in time, in order to prepare the way for a return to peacekeeping and post-conflict peacebuilding.

At its 3145th meeting, held on 3 December 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the letters dated 24 and 29 November 1992 from the

Secretary-General to the President of the Council. Following the adoption of the agenda, the Council invited the representative of Somalia, at her request, to participate in the discussion without the right to vote. The President of the Council (India) drew the attention of the Council members to several other letters that had been addressed to him: a letter dated 27 November 1992 from the representative of Canada,⁴² anticipating that his country, as a troop-contributing nation, would be consulted by the Security Council and the Secretariat on any measures which might be envisaged in days ahead affecting the mandate of UNOSOM; a letter dated 1 December 1992 from the representative of Egypt to similar effect;⁴³ and a letter dated 2 December 1992 from the representative of Qatar, as Chairman of the Group of Arab States.⁴⁴ The latter expressed the Arab Group's support for the Secretary-General's proposal of a new United Nations operation in Somalia, particularly under Charter VII of the Charter, and stated that that force ought to be managed and supervised by the United Nations. The Arab Group also affirmed the importance of undertaking, in parallel with the military operation, and in cooperation with regional organizations, initiatives aimed at achieving national reconciliation; and requested that the Security Council intensify international efforts to consider ways and means of rebuilding Somalia. The President also drew Council members' attention to a draft resolution that had been prepared in the course of the Council's prior consultations.⁴⁵ Before the draft resolution was put to the vote, the representatives of Zimbabwe, Ecuador, China, Cape Verde, Belgium and the Russian Federation made statements.

The representative of Zimbabwe stated that his delegation had followed with increasing horror the fratricidal tragedy that had continued to spiral in Somalia. Particularly unacceptable was the fact that humanitarian assistance was available but could not reach its intended recipients simply because it was being hijacked, stolen or otherwise obstructed by warlords, armed gangs and bandits. Efforts at negotiation had met with intransigence and uncooperativeness, revealing that the humanitarian imperatives of the Somali crisis could not be met through conventional methods. Those considerations

⁴² S/24867.

⁴³ S/24878.

⁴⁴ S/24883.

⁴⁵ S/24880.

had convinced the speaker's delegation that the question of Somalia was a unique situation that warranted a unique approach. However, the solution adopted by the Council would necessarily set a precedent against which similar situations would be measured in the future; it was therefore essential that the situation be handled correctly. The political and humanitarian problems of Somalia could not be addressed in the context of one Member State or a group of Member States; they had to be handled in the context of the international community. In the post-cold-war era it was not unreasonable, though, to expect individual States or groups of States to provide the resources to help resolve such a tragic crisis as part of an international effort. However, an effort could be construed as international only if the United Nations was at its centre. It was in that context that his delegation welcomed the draft resolution, which placed the Secretary-General at the centre of the operation. Zimbabwe attached considerable importance to the idea that in any international enforcement action the United Nations must define the mandate, monitor and supervise its implementation, and determine when it has been fulfilled. The draft resolution met those requirements and set an important precedent for future operations under equally unique circumstances.⁴⁶

The representative of Ecuador said his country would be voting in favour of the draft resolution for several reasons. Solidarity and interdependence — principles that underlay the international order — did not permit impassivity in the face of tragedy wherever it occurred. As a member of the Council, Ecuador felt obliged to contribute to a settlement of the Somali conflict. Unfortunately, the resolutions adopted by the Council to facilitate the distribution of humanitarian assistance to the Somali population had not been sufficient to resolve the crisis, despite the great efforts made by humanitarian organizations, the generous contributions made by many countries, and the activities of UNOSOM. The Somali crisis was an exceptional one, which required a fresh kind of analysis: political as well as legal. It had reached the point where it constituted a threat to international peace and security. There was no government in the country that could agree with the United Nations on a humanitarian assistance operation. However, the Somali people — sovereign in respect of its destiny — was the interlocutor of the United Nations, and the

⁴⁶ S/PV.3145, pp. 6-10.

Organization was heeding its call. The operation the Council was about to authorize would have a defined and limited objective — the promotion of a secure environment that would make it possible for humanitarian assistance operations to be carried out. Moreover, the Secretary-General would report to the Council on the progress of the operation. The draft resolution thus properly recognized the fundamental role of the United Nations in political analysis and scrutiny, in that the Security Council was the body that would authorize the start-up, execution and termination of the operation. Furthermore, the unified command and control of the military forces would be subject to arrangements between the Secretary-General and the troop-contributing countries. The speaker observed that the decision the Council was about to take was an important one. It was a response under Chapter VII of the Charter, commensurate with the complex and *sui generis* situation that beset Somalia.⁴⁷

The representative of China stated that his delegation agreed with the Secretary-General's analysis of the Somali situation. He supported the efforts to find ways by which the Somali crisis could be settled within the framework of the United Nations. Taking into account the long-term chaotic situation resulting from the lack of a government, he endorsed the requests of most African countries, and the recommendation of the Secretary-General, that the United Nations should take prompt, strong and exceptional measures to settle the crisis. He noted that the draft resolution reflected, to a certain extent, the Secretary-General's recommendations and incorporated some of the views expressed by many delegations, including his own, regarding such issues as strengthening United Nations control over the proposed operation; his delegation would therefore vote in favour of the draft resolution. He observed, however, that although the draft resolution empowered the Secretary-General to some extent, it took the form of authorizing certain countries to take military action, which might adversely affect the collective role of the United Nations; his delegation wished to express its reservations in that regard. He added that, in the long term, only through dialogue and consultation between the parties concerned could national reconciliation and enduring peace and stability be achieved in Somalia. As his delegation understood it, the proposed military operation was an exceptional action in view of the unique situation in Somalia, whose purpose was to create

⁴⁷ *Ibid.*, pp. 11-14.

promptly a secure environment for the humanitarian relief effort. Once such an environment was achieved, the military operation should cease. Meanwhile, he maintained that the Security Council and the Secretary-General should be empowered to take decisions regarding the control and duration of the operation.⁴⁸

The representative of Cape Verde maintained that the national conflict in Somalia had reached a level of destruction comparable to that of the most ferocious international conflicts, necessitating resolute and effective action by the international community. The conflict had, moreover, an international dimension: because of its repercussions on neighbouring States, it was imperilling the stability and security of the whole region. As existing circumstances did not permit effective execution of the peacekeeping operation, forceful action was necessary on the part of the international community to restore order, disarm the warmongers and ensure the delivery of humanitarian assistance to the population. He stressed that the renewed confidence of all peoples in the United Nations, and in the Council in particular, as a guarantor of peace, international legality and the territorial integrity of States, must be nurtured if the credibility of the Council and of the United Nations were to be preserved. The Council must therefore show imagination and determination to ensure that all its decisions were respected and implemented. The case of Somalia offered the Council an opportunity to prove its determination. Its action would not only help solve the situation but also contribute to giving fresh impetus to United Nations activities in maintaining international peace and security. His delegation would therefore vote in favour of the draft resolution.⁴⁹

The representative of Belgium stated that his delegation shared the conclusion reached by the Secretary-General: the approach adopted so far by the international community and by the Council in particular had proved ineffective. The Council had to make a fresh start in meeting the humanitarian challenge in Somalia, by taking into account the atypical situation there: it was a country without a government, without an administration, with no source of authority, where factions and gangs held sway. While agreeing with the innovative proposals contained in the draft resolution, he stated that his

delegation would have preferred the fifth option proposed by the Secretary-General, namely a purely United Nations operation. Nevertheless, in view of the arguments adduced by the Secretary-General, the option of an enforcement operation undertaken by a group of Member States, duly authorized by the Council, was acceptable. He welcomed a number of elements in the draft resolution that it considered particularly important and which significantly narrowed the distance between the two options. First, the purpose of the operation was clearly a humanitarian one. Secondly, the operation would be under the political control of the United Nations. The coordinating machinery to be set up between the States participating in the operation and the Secretary-General, and the decision-making powers granted to the Council concerning the duration of the operation, were, in the opinion of the Belgian delegation, key elements in the draft resolution.⁵⁰

The representative of the Russian Federation noted that the situation in Somalia was one of total chaos, fraught with the real threat that the country could disintegrate. Millions of Somalis were on the brink of dying from starvation and the considerable efforts made by the international community had failed to yield the needed results. Under such circumstances, it was essential that additional and urgent steps should be taken by the United Nations and the international community as a whole. As the Secretary-General had rightly stressed in his letter of 29 November 1992, the Council had no alternative but to decide to adopt more forceful measures to secure the humanitarian operations in Somalia. He stated that his delegation was convinced that resolution of the crisis required the use of international armed forces under the auspices of the Security Council to ensure the delivery and safe-keeping of the humanitarian assistance and its distribution to the country's starving population. He added that united action by the international community was necessary to put an end to the human tragedy in Somalia. That was why the Council had requested all States, particularly those in the region, to provide appropriate support for the actions taken to implement relevant Council decisions with respect to Somalia, including the draft resolution before the Council.⁵¹

⁴⁸ Ibid., pp. 16-18.

⁴⁹ Ibid., pp. 18-22.

⁵⁰ Ibid., pp. 23-25.

⁵¹ Ibid., pp. 25-27.

The draft resolution was then put to the vote and adopted unanimously as resolution 794 (1992), which reads:

The Security Council,

Reaffirming its resolutions 733 (1992) of 23 January 1992, 746 (1992) of 17 March 1992, 751 (1992) of 24 April 1992, 767 (1992) of 27 July 1992 and 775 (1992) of 28 August 1992,

Recognizing the unique character of the present situation in Somalia and mindful of its deteriorating, complex and extraordinary nature, requiring an immediate and exceptional response,

Determining that the magnitude of the human tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constitutes a threat to international peace and security,

Gravely alarmed by the deterioration of the humanitarian situation in Somalia and underlining the urgent need for the quick delivery of humanitarian assistance in the whole country,

Noting the efforts of the League of Arab States, the Organization of African Unity, and in particular the proposal made by the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity at the forty-seventh regular session of the General Assembly for the organization of an international conference on Somalia, and the Organization of the Islamic Conference and other regional agencies and arrangements to promote reconciliation and political settlement in Somalia and to address the humanitarian needs of the people of that country,

Commending the ongoing efforts of the United Nations, its specialized agencies and humanitarian organizations and of non-governmental organizations and of States to ensure delivery of humanitarian assistance in Somalia,

Responding to the urgent calls from Somalia for the international community to take measures to ensure the delivery of humanitarian assistance in Somalia,

Expressing grave alarm at continuing reports of widespread violations of international humanitarian law occurring in Somalia, including reports of violence and threats of violence against personnel participating lawfully in impartial humanitarian relief activities; deliberate attacks on non-combatants, relief consignments and vehicles, and medical and relief facilities; and the impeding of the delivery of food and medical supplies essential for the survival of the civilian population,

Dismayed by the continuation of conditions that impede the delivery of humanitarian supplies to destinations within Somalia, and in particular reports of looting of relief supplies destined for starving people, attacks on aircraft and ships bringing in humanitarian relief supplies, and attacks on the

Pakistani contingent in Mogadishu of the United Nations Operation in Somalia,

Taking note with appreciation of the letters of 24 and 29 November 1992 from the Secretary-General to the President of the Security Council,

Sharing the Secretary-General's assessment that the situation in Somalia is intolerable and that it has become necessary to review the basic premises and principles of the United Nations effort in Somalia, and that the Operation's existing course would not in present circumstances be an adequate response to the tragedy in Somalia,

Determined to establish as soon as possible the necessary conditions for the delivery of humanitarian assistance wherever needed in Somalia, in conformity with resolutions 751 (1992) and 767 (1992),

Noting the offer by Member States aimed at establishing a secure environment for humanitarian relief operations in Somalia as soon as possible,

Determined also to restore peace, stability and law and order with a view to facilitating the process of a political settlement under the auspices of the United Nations, aimed at national reconciliation in Somalia, and encouraging the Secretary-General and his Special Representative for Somalia to continue and intensify their work at the national and regional levels to promote these objectives,

Recognizing that the people of Somalia bear ultimate responsibility for national reconciliation and the reconstruction of their own country,

1. *Reaffirms* its demand that all parties, movements and factions in Somalia immediately cease hostilities, maintain a ceasefire throughout the country, and cooperate with the Special Representative of the Secretary-General for Somalia as well as with the military forces to be established pursuant to the authorization given in paragraph 10 below in order to promote the process of relief distribution, reconciliation and political settlement in Somalia;

2. *Demands* that all parties, movements and factions in Somalia take all measures necessary to facilitate the efforts of the United Nations, its specialized agencies and humanitarian organizations to provide urgent humanitarian assistance to the affected population in Somalia;

3. *Also demands* that all parties, movements and factions in Somalia take all measures necessary to ensure the safety of United Nations and all other personnel engaged in the delivery of humanitarian assistance, including the military forces to be established pursuant to the authorization given in paragraph 10 below;

4. *Further demands* that all parties, movements and factions in Somalia immediately cease and desist from all breaches of international humanitarian law including from actions such as those described above;

5. *Strongly condemns* all violations of international humanitarian law occurring in Somalia, including in particular the deliberate impeding of the delivery of food and medical supplies essential for the survival of the civilian population, and affirms that those who commit or order the commission of such acts will be held individually responsible in respect of such acts;

6. *Decides* that the operations and the further deployment of the three thousand five hundred personnel of the United Nations Operation in Somalia authorized by paragraph 3 of resolution 775 (1992) should proceed at the discretion of the Secretary-General in the light of his assessment of conditions on the ground; and requests him to keep the Council informed and to make such recommendations as may be appropriate for the fulfilment of the mandate of the Operation where conditions permit;

7. *Endorses* the recommendation by the Secretary-General in his letter of 29 November 1992 to the President of the Security Council that action under Chapter VII of the Charter of the United Nations should be taken in order to establish a secure environment for humanitarian relief operations in Somalia as soon as possible;

8. *Welcomes* the offer by a Member State described in the Secretary-General's above-mentioned letter concerning the establishment of an operation to create such a secure environment;

9. *Welcomes also* offers by other Member States to participate in that operation;

10. Acting under Chapter VII of the Charter of the United Nations, *authorizes* the Secretary-General and Member States cooperating to implement the offer referred to in paragraph 8 above to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia;

11. *Calls on* all Member States which are in a position to do so to provide military forces and to make additional contributions, in cash or in kind, in accordance with paragraph 10 above and requests the Secretary-General to establish a fund through which the contributions, where appropriate, could be channelled to the States or operations concerned;

12. *Also authorizes* the Secretary-General and the Member States concerned to make the necessary arrangements for the unified command and control of the forces involved, which will reflect the offer referred to in paragraph 8 above;

13. *Requests* the Secretary-General and the Member States acting under paragraph 10 to establish appropriate mechanisms for coordination between the United Nations and their military forces;

14. *Decides* to appoint an ad hoc commission composed of members of the Security Council to report to the Council on the implementation of the present resolution;

15. *Invites* the Secretary-General to attach a small Operation liaison staff to the field headquarters of the unified command;

16. Acting under Chapters VII and VIII of the Charter, *calls upon* States, nationally or through regional agencies or arrangements, to use such measures as may be necessary to ensure strict implementation of paragraph 5 of resolution 733 (1992);

17. *Requests* all States, in particular those in the region, to provide appropriate support for the actions undertaken by States, nationally or through regional agencies or arrangements, pursuant to the present and other relevant resolutions;

18. *Requests* the Secretary-General and, as appropriate, the States concerned to report to the Council on a regular basis, the first such report to be made no later than fifteen days after the adoption of the present resolution, on the implementation of the present resolution and the attainment of the objective of establishing a secure environment so as to enable the Council to make the necessary decision for a prompt transition to continued peacekeeping operations;

19. *Also requests* the Secretary-General to submit a plan to the Council initially within fifteen days after the adoption of the present resolution to ensure that the Operation will be able to fulfil its mandate upon the withdrawal of the unified command;

20. *Invites* the Secretary-General and his Special Representative to continue their efforts to achieve a political settlement in Somalia;

21. *Decides* to remain actively seized of the matter.

After the vote, the representatives of France, Austria, the United Kingdom, the United States, Venezuela, Japan, Morocco and Hungary, and the President, in his capacity as the representative of India, made statements.

The representative of France stated that, given the intolerable situation prevailing in Somalia, the international community had to react vigorously. His Government appreciated the suggestions made by the Secretary-General and welcomed the offer by the United States which would make possible a broad-scale international operation to establish, in a lasting manner, conditions in which humanitarian assistance could be delivered without hindrance. The decision just taken was of major importance. In adopting resolution 794 (1992), which envisaged action under Chapter VII of the Charter, the Council had demonstrated its determination to put an end to the suffering of the Somalis. For France, that commitment was part of the principle of establishing access to victims and of the right to emergency humanitarian assistance, which it

supported. It would, therefore, make a substantial contribution to the operation. He noted that the operation would be carried out in close liaison with the United Nations and clearly as part of the Organization's humanitarian and political sphere of action. The role devolving upon the Secretary-General with respect to all aspects of the operation — its establishment, follow-through, and implementation through UNOSOM, which would eventually take it over — was thus essential. His delegation was also pleased that the resolution provided for regular reports to the Council, not only by the Secretary-General, but also by an ad hoc commission composed of some Council members. He stated that it was not surprising that, given the unprecedented situation prevailing in Somalia, the Council had at that stage determined upon an approach different from the usual form of peacekeeping operations. By the present resolution, the United Nations had demonstrated its capacity to adapt to new challenges and was acting in line with the proposals put forward in the Secretary-General's report entitled "An Agenda for Peace". He added that, in tandem with United Nations intervention and humanitarian action, he appealed to the international community, and above all to the States of the region and to the African States, to work together for a political settlement in Somalia and for the re-establishment of a State, which required national reconciliation.⁵²

The representative of Austria said that, by taking a more determined approach under Chapter VII of the Charter, the Council was fulfilling its responsibility towards the afflicted population in Somalia and was acting upon its claim on international solidarity. This bold new step was a further development of steps the Council had taken already in resolutions 678 (1990), 688 (1991) and 770 (1992). He recalled that, in speaking in the Council on a previous occasion, he had mentioned possible lessons from the Gulf conflict and the United Nations response. One suggestion had been to look more closely into possible "fine print" for enforcement action under the auspices of the United Nations. The resolution just adopted advanced in a pragmatic manner a number of important elements of which the following could be singled out: the Secretary-General's role in the use of all necessary means and in making the arrangements for the unified command and control of the forces involved; the

⁵² *Ibid.*, pp. 28-31.

appointment of the ad hoc commission of the Council; the creation of a liaison staff; and the improved reporting requirements.⁵³

The representative of the United Kingdom shared the Secretary-General's analysis that action under Chapter VII of the Charter had to be taken to establish a secure environment for the distribution of humanitarian relief. His country welcomed the offer of the United States to make available very substantial resources to achieve that objective. It would be essential that the United Nations and the unified command deal effectively and forcefully with the elements that had hitherto obstructed the United Nations relief efforts. However, those parts of the country not affected by looting and anarchy but where the need for international assistance was still very real should not be forgotten. Those areas also required the sustained attention and support of the international community. He stressed that the United Kingdom attached importance to the continuing mandate of UNOSOM to operate in those regions where security conditions permitted and the consent of the parties had been obtained. He stressed also the importance of ensuring that the Somalis were aware that the international community had no desire to intervene in the internal affairs of their country, but that it could not stand by and permit a humanitarian crisis of such magnitude to continue. That was a unique set of circumstances which required special measures.⁵⁴

The representative of the United States emphasized that the measures authorized by the resolution and supported by his Government had one objective: to achieve a secure environment for the delivery of humanitarian relief to the Somali people in the areas of greatest need. Although the resolution authorized the use of "all necessary means", the United States mission was essentially a peaceful one; force would be used only if it were necessary to achieve that objective. By acting in response to the tragic events in Somalia, the international community was also taking an important step in developing a strategy for dealing with the potential disorder and conflicts of the post-cold-war world. That step must entail unprecedented levels of cooperation among the international community in response to urgent humanitarian needs and to peacekeeping, utilizing the military forces of its

⁵³ *Ibid.*, pp. 31-32.

⁵⁴ *Ibid.*, pp. 33-35.

members, if necessary, to do so. Cooperation would have to occur on a case-by-case basis, given the complexity of the post-cold-war order. He emphasized that, in offering to contribute to the effort authorized by the resolution, his country had no objective beyond enabling the United Nations to confront a challenge to international peace and security. Once deployed, his country's military forces would remain in Somalia no longer than was necessary. His country looked forward to the early transition to an effective United Nations peacekeeping force. Military intervention was no substitute for political reconciliation, and that task belonged firmly in the hands of Somalis. By acting to provide a secure environment for the delivery of humanitarian relief to the people of Somalia, the Council had once again taken an essential step to restore international peace and security. He believed that that courageous decision by the Council strengthened the United Nations and affirmed the ideas upon which it was based. In concluding, he noted that the international community in the post-cold-war era was being confronted with problems which were quite different from the threat that had hung over the world for the past 45 years. There could be no simple solution to those problems. However, it was important to send the unambiguous message that the international community had the intent and will to act decisively regarding peacekeeping problems that threatened international stability.⁵⁵

The representative of Venezuela characterized the decision the Council had just taken as an attempt to respond to an extraordinary humanitarian emergency with equally extraordinary measures. Despite efforts to mediate a ceasefire, the imposition of an arms embargo, a United Nations operation, an airlift, the humanitarian activities of intergovernmental bodies and non-governmental organizations, and the political efforts of regional organizations, the situation had gradually and tragically worsened, with the result that the state of affairs in Somalia constituted an affront to the dignity and conscience of the international community. Although the Council had been confident that it was possible to act in a conventional manner, that had not been the case. The Secretary-General's judgement that there was no national authority in Somalia could not be disputed. A critical point had been reached. His country had no doubt that the situation required exceptional measures. All the values

and purposes of the Organization would have been without foundation if the Council had not taken that decision. The resolution was aimed at meeting an urgent need: creating the necessary conditions for the delivery of humanitarian assistance throughout Somalia. He reiterated his country's view that the crisis in Somalia would be resolved only if that nation recognized the need for its own reconciliation. The future of Somalia was, moreover, intimately connected with the political circumstances of the countries of the Horn of Africa; hence, the search for machinery to establish regional stability had to be uppermost in the minds of the Council members when undertaking future action.⁵⁶

The representative of Japan considered that the situation demanded that urgent and effective action be taken to establish a secure environment for humanitarian relief operations in Somalia. His country welcomed the initiative of the United States to meet that challenge, and supported the new operation provided for in the resolution just adopted. He added that it was important that the United Nations and the new military operation maintain close cooperation and coordination, and that the Council be kept fully informed of the implementation of the resolution.⁵⁷

The representative of Morocco supported the Secretary-General's innovative approach, observing that an extraordinary situation required an exceptional response. There was no alternative but to launch a large-scale operation within the framework of Chapter VII of the Charter, in order to restore a situation that was worsening daily, a situation characterized by terror, blackmail, banditry and devastation. That action — whose first objective was to protect humanitarian assistance — must at the same time pave the way for national reconciliation in Somalia and an international reconstruction effort. The operation should not, therefore, reduce or overshadow the laudable role of UNOSOM, which must still achieve the objectives set by the Council in its resolutions. By authorizing the urgent and exceptional operation, the Security Council was responding to the expectations of the international community as a whole, particularly those of the Arab, African and Muslim community. Morocco had thus voted without hesitation in favour of the resolution just

⁵⁵ Ibid., pp. 36-38.

⁵⁶ Ibid., pp. 39-42.

⁵⁷ Ibid., pp. 42-43.

adopted and would be taking an active part in the operation.⁵⁸

The representative of Hungary considered the resolution just adopted to be of fundamental importance in the life of the United Nations, in that it opened up the possibility of joint, determined and innovative action by which it would be possible to put an end to the hardship of an entire people, and to the dangers that were threatening it with extermination. The Security Council had demonstrated that it was quite feasible to adapt to the realities of the world and to undertake an international operation that would make it possible to carry out wide-scale and extraordinary humanitarian actions. The resolution just adopted might, moreover, provide inspiration and guidelines for the future. In the light of the newly authorized operation in Somalia, it seemed to Hungary that it would be even more difficult, confronted with world public opinion, for the international community to avoid its responsibility to meet the challenges arising in hotbeds of crisis as serious as the one that was continuing to tear Somalia apart. His country was pleased that the new type of action had been planned and formulated in such a way as to establish an organic link with the United Nations. It demonstrated how far the United Nations had come since adopting resolution 678 (1990) on the Gulf crisis; the distance covered demonstrated the more effective and dynamic role the United Nations could play in the creation of a new international environment.⁵⁹

The President, in his capacity as the representative of India, stated that the resolution just adopted recognized the uniqueness of the Somali crisis. The rapidly deteriorating complex and extraordinary

situation, with no Government in control, demanded an immediate and exceptional response from the international community. His delegation had favoured the fifth option put forward by the Secretary-General, namely a countrywide enforcement operation carried out under United Nations command and control. In the light of the positions taken by the United States, France and Morocco, which had offered to contribute to the operation, the Indian delegation had favoured an arrangement under which the United Nations would keep effective political command and control while leaving enough flexibility for the contributing States to retain on the ground the operational autonomy they had requested. The views of the non-aligned members of the Council on that important point had been accommodated to a considerable extent in the resolution, notably in paragraphs 10, 12 and 19. India could therefore go along with it, particularly in view of the compelling need for speedy action. He stressed, however, that the present action should not set a precedent. India expected that, should situations arise in the future requiring action under Chapter VII, the action would be carried out in full conformity with the Charter provisions and in the spirit of the Secretary-General's report entitled "An Agenda for Peace". This would also be consistent, as was noted in the Secretary-General's letter of 29 November 1992, with the recent expansion of the Organization's role in the maintenance of international peace and security and with its long-term evolution as an effective system of collective security. It was India's hope that Member States would develop the necessary political will and confidence in the Organization so that they would be able to contribute to and participate in full-scale United Nations operations.⁶⁰

⁵⁸ Ibid., pp. 43-47.

⁵⁹ Ibid., pp. 47-49.

⁶⁰ S/PV.3145, pp. 49-52.

7. The question of South Africa

Decision of 16 July 1992 (3096th meeting): resolution 765 (1992)

By a letter dated 2 July 1992 addressed to the President of the Security Council,¹ the representative of Madagascar, on behalf of the Group of African States, requested an urgent meeting of the Council to

consider the situation in South Africa. He also transmitted the text of a resolution adopted by the Council of Ministers of the Organization of African Unity (OAU) meeting at its fifty-sixth ordinary session, held at Dakar, from 22 to 28 June 1992. In the resolution, the Ministers, inter alia, expressed grave concern over the escalation of violence in South Africa targeted at black communities, in particular the recent massacre at Boipatong Township; called for the urgent

¹ S/24232.

convening of a meeting of the Security Council to examine the issue of violence in South Africa and take all appropriate action to put an end to it as well as to create the conditions for negotiations leading towards a peaceful transition to a democratic, non-racial and united South Africa; decided to send a ministerial delegation to present Africa's position to the Security Council; and invited the Secretary-General of the United Nations to follow closely the evolution of the situation and take all necessary measures aimed at achieving the above-mentioned objectives.

At its 3095th meeting, on 15 July 1992, the Council included the letter from the representative of Madagascar in its agenda. Following the adoption of the agenda, the Council invited the following, at their request, to participate in the discussion without the right to vote: at the 3095th meeting, the representatives of Algeria, Angola, Antigua and Barbuda, Australia, Barbados, Botswana, Brazil, Canada, the Congo, Cuba, Egypt, Germany, Indonesia, Lesotho, Malaysia, Namibia, Nepal, the Netherlands, New Zealand, Nigeria, Norway, Peru, the Philippines, Portugal, Senegal, South Africa, Spain, Suriname, Sweden, Uganda, Ukraine, the United Republic of Tanzania, Zaire and Zambia; and at the 3096th meeting, the representatives of Greece, the Islamic Republic of Iran and Italy.

At the 3095th meeting, the Council decided, in addition, to extend an invitation, at his request, to the Chairman of the Special Committee against Apartheid, under rule 39 of its provisional rules of procedure. At the same meeting, the Council also extended invitations, under rule 39, at the request of the representative of Zimbabwe, to the Secretary-General of the Organization of African Unity, to Messrs. Clarence Makwetu, President of the Pan Africanist Congress of Azania (PAC), and Nelson Mandela, President of the African National Congress of South Africa (ANC); and, at the request of the representative of South Africa, to the following participants in the Convention for a Democratic South Africa (CODESA): Messrs. Mangosuthu G. Buthelezi, Lucas M. Mangope, Oupa J. Gqozo, J. N. Reddy, Ebrahim Joosab, Kenneth M. Andrew and E. E. Ngoben. At the 3096th meeting, the Council extended invitations, under the same rule, at the request of the representative of India, to Messrs. Bantu Holomisa, Essop Pahad, Philip Mahlangu and Manguenzi Zitha. In giving the floor to certain speakers invited under rule 39 of the Council's provisional rules

of procedure, the President stated: "This does not in any way entail the recognition by the Council or any of its members of the organization or entity he [the speaker] claims to represent".²

The Council considered the item at its 3095th and 3096th meetings, on 15 and 16 July 1992.

At the 3095th meeting, the President (Cape Verde) drew the attention of the members of the Council to a letter dated 8 July 1992 from the representative of South Africa addressed to the Secretary-General,³ enclosing a letter of the same date from the Minister for Foreign Affairs of South Africa to the Secretary-General. In his letter, the Foreign Minister stated that the South African Government welcomed the Secretary-General's informal proposal for a goodwill visit to South Africa and suggested that it might take place before the envisaged meeting of the Security Council. Should a visit by the goodwill mission not be feasible before the Council met in open session, the Government of South Africa would support a Council meeting to authorize the Secretary-General to send a goodwill mission, which would report through the Secretary-General to the Council as soon as possible.

Commencing the discussion, the representative of Senegal, speaking on behalf of the current Chairman of OAU and of the ministerial delegation of OAU which he headed, stated that Africa as a whole was deeply concerned by the turn of events in South Africa. In the light of the atmosphere of unacceptable violence, as evidenced by the Boipatong massacre, and of the precarious political situation, it was impossible to go on with a credible negotiating process aimed at creating a democratic, non-racial South Africa. OAU believed that the South African Government must be made to shoulder its responsibilities for guaranteeing the security of life and property and creating a climate of civil peace. At the same time, all the parties that believed in the possibility of setting up a democratic regime in South Africa must work for the elimination of all forms of violence. The OAU approach to the Security Council was based on the findings of the Commission of Inquiry on the Prevention of Violence and Public Intimidation chaired by Judge Goldstone (the Goldstone Commission) and recent international

² S/PV.3096, pp. 35, 58, 67 and 137, in relation to Messrs. Buthelezi, Mangope, Gqozo and Holomisa, respectively.

³ S/24255.

commissions of inquiry that the violence in South Africa was gradually eroding the society and causing serious security problems. OAU believed that the Council was the best possible place to seek a solution to the crisis, which, if it continued, threatened to spill over the frontiers of the country and threaten peace and security in the region. The Council could, among other things and in agreement with all the parties concerned, provide a United Nations presence in South Africa, with the aim, *inter alia*, of helping to consolidate the measures to combat violence, to restore a climate of security and to explore and create conditions in which it would be possible to relaunch the negotiating process within CODESA. Ending the violence was undoubtedly one of the ways to bring about a resumption of the negotiations, which OAU encouraged. Recalling the United Nations long-standing involvement with the problem of South Africa, OAU considered that the United Nations should take up the matter again — to help to identify the causes of the violence and to take the necessary steps to put an end to it. As for the proposed international presence, OAU believed that the designation by the Secretary-General of a Special Representative might be a solution, provided that the Security Council remained seized of the question until the establishment of a democratic, united and non-racial South Africa.

Mr. Nelson Mandela, President of ANC, recalled that the United Nations had been seized of the question of South Africa for the past 45 years because its people had been subjected to the policy of apartheid, which the United Nations had determined was a crime against humanity. The decisions taken by the Security Council and the General Assembly had aimed at ending apartheid and helping to transform the country into a non-racial democracy. That objective had not yet been achieved. The Government of South Africa, representing the system of white minority rule to which the United Nations was opposed, continued to govern the country under a constitution that the Security Council had declared null and void. Since its purposes had not yet been achieved, the United Nations should remain seized of the question of South Africa and continue to look for ways and means by which it could help to expedite the process leading to the democratic transformation of the country. In the meantime, an extremely critical situation had arisen. The process for drafting a new constitution for a democratic, non-racial society, set in motion by the Declaration of Intent adopted at the Convention for a Democratic South

Africa on 21 December 1991, was deadlocked. The Security Council was meeting because that process had been brought to a halt by the carnage in the black townships. Mr. Mandela contended that the Government of South Africa was involved in the escalating violence — through acts of omission and commission. The regime had failed to use its power and legal authority to stop the violence and take action against the perpetrators; and the complicity of State security forces in the violence had been confirmed by the Goldstone Commission and international fact-finding missions. Directed at the democratic movement, the violence constituted a strategy of State terrorism intended to create the conditions under which the forces responsible for the introduction and entrenchment of the system of apartheid would be able to impose their will on a weakened democratic movement at the negotiating table. Faced, however, with the horrendous escalation of the violence, as evidenced by the Boipatong massacre, ANC had been forced to withdraw from the multilateral process of negotiations that had been taking place in CODESA. Mr. Mandela acknowledged that there were instances of counter-violence by members of the democratic movement, but stressed that ANC stood opposed to the promotion of violence and remained firmly committed to that position.

Recalling earlier decisions of the Council to help the people of South Africa to transform the country into a non-racial democracy, Mr. Mandela and ANC believed that that commitment placed an urgent obligation on the Council to intervene in the South African situation to end the carnage. Moreover, the interest of the Council in seeing the resumption of negotiations so that a peaceful solution could be found — a solution in keeping with the democratic principles contained in the 1989 Declaration on Apartheid and its Destructive Consequences in Southern Africa,⁴ and the resolutions of the Security Council itself — required the Council to act on the matter of violence in South Africa firmly and speedily. Its failure to do so would undermine its prestige and authority at a time when the Council and the United Nations as a whole were being called upon to play an even more active role in the ordering of world affairs. He therefore urged the Council to request the Secretary-General to appoint a Special Representative for South Africa to investigate the situation with a view

⁴ General Assembly resolution S-16/1, annex.

to helping the Council to decide on the measures it should take to help end the violence. The Council should then take the necessary decisions to implement such measures and should continuously monitor the situation to ensure their effectiveness.

During the debate, many speakers condemned the escalation of violence in South Africa, in particular the Boipatong massacre; stressed the Government's primary responsibility for curbing violence and for maintaining law and order; called for a halt to the violence and for the resumption of the negotiations within the framework of CODESA; supported the proposed appointment of a Special Representative of the Secretary-General for South Africa; and urged the Council to act decisively to address the situation.⁵

The representative of Algeria said that OAU was having recourse to the United Nations because it had worked for more than 40 years to end racial discrimination. Although considerable progress had been made, the escalation of violence was now threatening to derail the entire negotiating mechanism that had been so laboriously established. He thought that the Government of South Africa, which was responsible for maintaining public order and security, should be firmly invited by the Council to exercise that responsibility without discrimination and to bring to justice the perpetrators of those criminal acts. But that, in itself, would not suffice. The Government also had to address the causes of violence. The Council should call upon it to adopt concrete measures, including the dissolution of private militias, the demobilization of the foreign mercenary battalion which specialized in

brutal repression in the townships, the purging of police and army ranks of reactionary elements and the promotion of recruitment among the black majority, and the reinstatement of the ban on arms, including "traditional" weapons, in public places.⁶

The representative of France concurred with the previous speakers that the Council should call upon the South Africans to put an end to violence and to resume negotiations. He supported the draft resolution, including the invitation to the Secretary-General to send a Special Representative to South Africa. As France saw it, that envoy would undertake a dialogue with all the parties concerned and determine, in agreement with them, the precise modalities of his mission.⁷

The representative of the United Kingdom stated that the responsibility for dealing with the violence lay with the South Africans themselves — primarily the Government and the police, but also those whose position in South African society gave them influence and authority. He welcomed the constructive approach the Government of South Africa was adopting to the various offers of external assistance, in inviting, for example, non-South Africans to participate in its internal investigations. He expected such help to be aimed at reinforcing the peace structures that South Africans themselves had already built. As to the process of negotiation, the sooner it could be resumed, the better. The outside world should do whatever it could to assist; but it should seek to help, not to prescribe. In that spirit, the troika of European Community Foreign Ministers would visit South Africa later in the year to explore with all the parties ways to restore momentum to the negotiating process and to combat political violence. He added that his Government strongly supported the continuing use by the Secretary-General of his good offices, and believed that the best first step was the dispatch to South Africa of a Special Representative. That envoy's contacts with all parties should enable the Secretary-General and the Security Council to discuss what useful and constructive role the United Nations could play in the period ahead. The Special Representative would need to cooperate closely with other organizations working

⁵ S/PV.3095, pp. 32-40 (Algeria); pp. 41-47 (Egypt); pp. 47-55 (Zaire); pp. 56-58 (Venezuela); pp. 59-62 (France); pp. 62-65 (United Kingdom); pp. 65-69 (Morocco); pp. 69-71 (China); pp. 71-73 (Russian Federation); pp. 73-79 (India); pp. 91-93 (Hungary); pp. 93-96 (Ecuador); pp. 96-97 (Japan); pp. 113-118 (Congo); pp. 132-140 (Uganda); pp. 141-143 (Canada); pp. 143-146 (Sweden); pp. 146-148 (New Zealand); pp. 149-152 (Nepal); pp. 152-155 (Suriname); pp. 156-160 (Indonesia); pp. 162-166 (Angola); pp. 167-171 (Cuba); pp. 171-175 (Philippines), pp. 175-182 (Lesotho); and S/PV.3096, pp. 30-34 (Malaysia); pp. 92-93 (Norway); pp. 97-100 (Portugal); pp. 103-110 (Botswana); pp. 111-113 (Greece); pp. 114-116 (Netherlands); pp. 117-120 (Spain); pp. 121-127 (Zambia); pp. 128-134 (Islamic Republic of Iran); pp. 136-137 (Italy); pp. 187-189 (Cape Verde); pp. 189-192 (Belgium); and pp. 192-195 (Austria).

⁶ S/PV.3095, pp. 32-40.

⁷ *Ibid.*, pp. 59-62.

for the same objectives, such as the Commonwealth, OAU and the European Community.⁸

The representative of the United States observed that the participation in the Council's debate of so many representatives from OAU, other African countries, opposition movements within South Africa and the Government of South Africa provided a unique opportunity to reach a consensus on what must be done to suggest how to bring all South African parties together to continue their negotiations. On the issue of violence, the United States had full confidence in the Goldstone Commission and supported the implementation of its findings by all parties. It also supported the efforts of the National Peace Accord Forum. The United Nations stood ready to support those efforts, but they would only bear fruit if the parties themselves resolved to control the violence. As to what was necessary to get all the leaders of South Africa back to the negotiating table in an atmosphere free of violence, that was impossible for the Council to ascertain precisely. However, a small United Nations team dispatched to South Africa would be able to gain a better perspective. The United States accordingly proposed that a United Nations goodwill mission, under the good offices of the Secretary-General, travel to South Africa to meet all leaders and offer its services to bring the parties closer together. Such a mission would seek to enhance the complex negotiating process, but would not seek to supplant it.⁹

The representative of Zimbabwe welcomed the agreement on the necessity of the Council taking all appropriate action to ensure that the violence was brought to an end. It was important that the violence be stopped for negotiations to continue. However, what had brought CODESA to a halt was not only the issue of violence but also the refusal of the National Party — the ruling party of South Africa — to accept the principle of majority rule. The negotiations had to get back on track, but on a basis that would clearly lead to non-racialism and democracy within South Africa. Characterizing the tragic massacre at Boipatong and other recent similar incidents as merely the tip of the iceberg, he questioned whether the Goldstone Commission — appointed by the South African Government — was the right body to investigate the endemic violence in the country and provide definitive

information about it. Zimbabwe did not think it was enough to internationalize the Commission, as had recently been done. It would have preferred a commission appointed by the Security Council or by another body of the United Nations or, failing that, by the Commonwealth. That would have ensured impartiality and continued monitoring of South Africa.¹⁰

Mr. Clarence Makwetu, President of the Pan Africanist Congress of Azania, stated that the Government of South Africa had been forced to adopt a reformist posture by the twin pressures of heightened internal resistance and the international isolation campaign, including punitive economic sanctions. Relaxing those pressures had played into the hands of the regime, which had announced reforms while simultaneously unleashing an unprecedented wave of violence. The lifting of sanctions against the South African regime by sections of the international community had been premature. Contending that the problem of South Africa had already been internationalized through the involvement of foreign mercenaries, he urged the Security Council to internationalize the solution. He invited the United Nations to send an international commission to South Africa to investigate and recommend measures to end the violence, and to supervise the disbanding and expulsion of foreign mercenaries. He called for the strengthening of selective and voluntary sanctions and the introduction of a moratorium on sports contacts until peace and democracy had been achieved through elections. He also asked the Council to adopt a resolution demanding that the South African regime stop the recruitment of white immigrants, intended to increase the white population in the country, until a democratically elected Government was in place. Contending that the South African regime opposed meaningful and effective international involvement on sovereignty grounds, he said that "Azania" would not be an independent and sovereign State until its colonized indigenous majority had exercised its inalienable right to self-determination. The South African problem, which involved colonialism, apartheid and genocide, was an international problem. In conclusion, he urged the Council to authorize the Secretary-General to identify a neutral venue and representatives of the United Nations to convene, chair and mediate discussions on, and the election of, a

⁸ *Ibid.*, pp. 62-65.

⁹ *Ibid.* pp. 79-81.

¹⁰ *Ibid.*, pp. 81-91.

constituent assembly, since his party considered that CODESA was unrepresentative and undemocratic.¹¹

The representative of Nigeria welcomed the suggestion of the Secretary-General of a goodwill mission to South Africa, but advocated a two-pronged approach to the issue of violence. It was important to secure the immediate implementation of the conditions requested by ANC and all the liberation movements in the country. It was also correct to observe that, since an OAU monitoring or fact-finding mission on violence had visited South Africa earlier in the year, township violence had virtually disappeared. If OAU could make such a noticeable impact, he wondered what a United Nations mission could not achieve in a different environment. He said his country saw no reason why the Council could not act immediately on that request of OAU. He suggested that the Secretary-General, in consultation with all the parties involved, could work out the modalities of carrying out the proposal, recognizing that the primary objective was to put an end to violence and intimidation and thereby to help create a climate conducive to successful negotiation and transition to a non-racial and democratic society in South Africa.¹²

The Chairman of the Special Committee against Apartheid elaborated upon the two critical issues that must be addressed by the Council — namely, violence and the deadlock in the political negotiations — both of which could undermine peace and security in South Africa and consequently in the southern African subregion. He stated that the Council had an obligation under the Charter to act immediately. Beyond that, the international community had a moral responsibility for the implementation of the 1989 Declaration on Apartheid and its Destructive Consequences in Southern Africa. He noted that various suggestions had been made during the meeting, ranging from the introduction of international monitors to oversee the implementation of the Peace Accord in particular and law enforcement in general, to direct involvement in the political negotiations so as to guarantee the neutrality of both the convener and the venue. Observing that there was a broad spectrum of possible action that could be taken, he urged the Council to act in a timely manner.¹³

The representative of Australia shared the view of other speakers that the time had come for direct involvement in South Africa. There was a need for prompt, effective and constructive action by the United Nations and other international agencies, such as the Commonwealth, to stem the violence and to restore confidence in the constitutional negotiations. He agreed that, as a first step, a Special Representative should be appointed, and, in determining the precise form of any further United Nations involvement, the Council should await his report. Noting that various options had been mentioned — a goodwill or fact-finding mission, a peacekeeping presence, the establishment of the office of a Special Representative — he hoped that due weight would be given to the needs and wishes of all parties in South Africa. It would also be important that there be close consultation and coordination between the various international organizations concerned with the situation. In conclusion, he stressed that the Council's meeting should be seen as a beginning of a concerted international campaign to restore a climate for the elimination of violence and the resumption of negotiations, and not as an end in itself.¹⁴

The representative of Canada encouraged the efforts that were being made to develop a coordinated international response to the situation in South Africa by organizations such as the United Nations and the Commonwealth. On the negotiations, she stated that it was not appropriate for any country to prescribe a particular constitutional model for South Africans. Her country was convinced, however, that a political settlement must be secured through a process of peaceful negotiations and ratified through free and fair elections. Regarding violence, the speaker underlined that all groups shared responsibility for its continuation and that they must all accept responsibility for ending the cycle of aggression, blame and distrust. In concluding, she suggested that international observers, acting in support of the National Peace Accord, might be able to play a useful role in moving the country towards a non-racial and peaceful democracy. She also urged the Security Council to endorse the proposal to send a Special Representative of the Secretary-General to South Africa.¹⁵

¹¹ *Ibid.*, pp. 97-109.

¹² *Ibid.*, pp. 109-113.

¹³ *Ibid.*, pp. 119-129.

¹⁴ *Ibid.*, pp. 129-132.

¹⁵ *Ibid.*, pp. 141-143.

The representative of Suriname considered that international observers should be deployed in South Africa to monitor the policing of the townships and deemed appropriate the request that the Secretary-General appoint a Special Representative.¹⁶

The representative of Antigua and Barbuda, speaking on behalf of the 12 member States of the Caribbean Community (CARICOM), recalled the position taken on the developments in South Africa by the Heads of Government of CARICOM at their last summit meeting. He expressed their support for the terms of the draft resolution before the Council, and pledged that they would maintain existing economic and financial sanctions against South Africa until an interim Government was established.¹⁷

The representative of Angola recalled that his country, with all other members of OAU, had strongly and unequivocally supported the steps taken by the South African Government towards the abolition of apartheid, and the measures for the gradual lifting of sanctions against that country. He regretted the new wave of violence in which the protagonists were mainly the black peoples, with the participation of the South African police and foreign mercenary troops. Expressing his deepest abhorrence of the fact that Angolan citizens had participated in the Boipatong massacre, he urged the Council to take the strongest steps possible towards the immediate disbanding of the foreign mercenary forces before they committed any more atrocities in South Africa, Mozambique, Angola or any other country in the region. He also called for the appointment of a United Nations representative to monitor, step-by-step, the implementation of the measures aimed at the final solution of the conflict and the establishment of a democratic, non-racial South Africa.¹⁸

The representative of Cuba described the decision by certain members of the international community to relax international pressure on the apartheid regime as premature and unjustified. Indulgence and inertia were largely to blame for the current situation. In the case of apartheid, nothing had been done in the Council to prevent a “wrong signal” being sent to those who opposed urgent change. He hoped that the question of South Africa and the violence besetting the country

would get the attention it deserved. He stressed that the Council had the inescapable duty under the Charter to address, and act upon, all issues that threatened peace and security in the world, irrespective of where they occurred, of the forces involved and of the great Powers’ strategic interests in them.¹⁹

The representative of Lesotho said that his country’s immediate neighbours had pinned their hopes on the Council for the establishment of a protection force which, it was hoped, would contribute to genuine multilateral negotiations by all South Africans acting in good faith.²⁰

The representative of the United Republic of Tanzania stressed that the Council’s meeting was about the tragic violence in South Africa, not about the resumption of negotiations. Priority could not be put on negotiations when carnage was going on in South Africa. The whole purpose of negotiations was to secure the restoration to the majority people of South Africa of their fundamental freedom and rights. But before they could enjoy those rights, including their inalienable right to self-determination, they first had to secure their foremost fundamental right, namely the right to life. While acknowledging that the South Africans needed a negotiated constitution for a post-apartheid South Africa, he asserted that no one had a right to ask them to negotiate “with a gun pointed at their heads”. He recalled that the previous Security Council resolutions concerning South Africa, including resolution 418 (1977) imposing an arms embargo — the first and only Chapter VII measure against the Government of South Africa — had all been adopted in response to massive repression and brutality following violence in the country. In planning an appropriate response to the current crisis, the Council should keep in mind that some members of the international community had been in too much of a hurry to lift sanctions. That had emboldened the South African authorities not only to ignore their undertaking to take steps to end the violence but also to slow down the negotiations. The first responsibility of the Council, therefore, was to reaffirm the need for continued pressure on the South African regime; existing sanctions had to be maintained.²¹

¹⁶ Ibid., pp. 152-155.

¹⁷ Ibid., pp. 160-162.

¹⁸ Ibid., pp. 162-166.

¹⁹ Ibid., pp. 167-171.

²⁰ Ibid., pp. 176-182.

²¹ Ibid., pp. 183-191.

At its 3096th meeting, on 16 July 1992, the Council resumed consideration of the item on its agenda. The President drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.²² He also drew their attention to two letters dated 15 July 1992 from the Chairman of the Special Committee against Apartheid addressed to the Secretary-General and the President of the Security Council, respectively,²³ transmitting the statements made by Archbishop Trevor Huddleston and Reverend Frank Chikane at the International Hearing on Political Violence in South Africa and the implementation of the National Peace Accord, held in London on 14 and 15 July 1992.

Opening the discussion, the representative of South Africa welcomed the even-handedness of the Council's approach thus far. With regard to the violence, he agreed that his Government bore the primary responsibility for maintaining order. That did not mean, however, that the other parties to the National Peace Accord were absolved from their commitments. He rejected the allegations that the South African Government was involved in fomenting violence or acquiescing in it. In fact, President De Klerk had taken numerous initiatives to combat the violence, leading to the conclusion of the National Peace Accord and the appointment of the Goldstone Commission. He had made many attempts to arrange a joint meeting with the leaders of ANC and Inkatha to consider the issue of violence and possible monitoring mechanisms. The role of the international community, including the Security Council, in an observer or other acceptable capacity, could be considered in that connection. With respect to his Government's constitutional proposals, the speaker said that they would ensure that the Government would be accountable through free and regular elections in a multi-party system on the basis of one person, one vote. Power would be devolved to autonomous regions and human rights would be entrenched in the Constitution and protected by an independent judiciary. He refuted the allegations that the Government was opposed to an interim Government and favoured the writing of a constitution by a body that was not democratically elected. On the contrary, it favoured the

expeditious establishment of a transitional government, operating under a transitional constitution. That remained its primary objective at CODESA. He also denied that the Government was aiming at a transitional government which would be permanent. He stated for the record that if the transitional constitution had not been replaced within three years, a general election would be held. There could be no justification for the claims that the Government's constitutional proposals proceeded from a desire to cling to power or to entrench a white veto, and affirmed that, following the referendum of 17 March, "the book on apartheid was closed". In concluding, he associated himself with an analysis that appeared in an editorial of the *Washington Post*, which supported the sending of a United Nations fact-finding or goodwill mission to South Africa, but stressed that ultimately the task of curbing the violence belonged to South Africans themselves; and added that only South Africans could determine the pace of the transformation of their country into a practising democracy. The Security Council's meeting enabled the United Nations to mobilize support for that vital transition.²⁴

Mr. Mangosuthu G. Buthelezi, President of the Inkatha Freedom Party (IFP), speaking in his personal capacity, said that he would welcome a strong and effective international fact-finding mission charged with researching the origins of the violence and monitoring it. He qualified the claim by ANC that the Government of South Africa was the dominant cause of violence as unproven, and maintained that an independent United Nations fact-finding team would establish that both insurgency and counter-insurgency forces had killed for political gains. CODESA remained, in his view, the only viable negotiating forum despite its flaws. Its deadlock had nothing to do with the Boipatong violence or the white minority veto. The controversy was about the predetermining of a system of checks and balances. Turning to the draft resolution, he said that the KwaZulu Government and his party would welcome and cooperate with any special representative charged with investigating the origins and underlying causes of the violence, with a view to recommending measures to bring the violence to an end. They had no serious objection, moreover, to the establishment of some monitoring mechanism to observe, on a continuous basis, developments in South Africa and to make recommendations. However, he

²² S/24288, adopted without change as resolution 765 (1992).

²³ S/24291 and S/24292.

²⁴ S/PV.3096, pp. 6-29.

sounded a warning that whatever international presence was envisaged would exacerbate the situation if it were perceived to be designed to buttress the position of any party or group of parties to the internal political conflict. It was vital that any investigation should establish the facts of the situation objectively and impartially. He also stressed that, in the prevailing circumstances, nothing in the nature of peacekeeping with security or military forces was called for. In conclusion, he acknowledged that the international community had played a major role in the fight against apartheid and could continue to help, but he added that, if sanctions were kept in place, violence would not stop in South Africa.²⁵

Mr. Lucas M. Mangope, speaking in his personal capacity, stated that Bophuthatswana had thus far largely escaped the violence currently sweeping South Africa. Describing Bophuthatswana as a model of what a near-ideal future South Africa could be like, both in terms of development and inter-racial harmony, he invited the Security Council to visit and see for itself. He contended, however, that ANC was seeking to destabilize Bophuthatswana with the aim of creating a climate of ungovernability in order to install an administration to its own liking. Insisting that the problems of the region would only be solved at the negotiating table, he proposed that all southern African leaders should assume their responsibility to end the chaos and misery through reasoned negotiations. He appealed to the Council and the United Nations as a whole to use their influence to endorse that proposal.²⁶

Mr. Oupa Gqozo, speaking in his personal capacity, appreciated the fact that some other parties, which were a reality in South Africa, were being heard in the Council irrespective of their status with the Council. He stressed that it was not true that ANC alone represented black political aspirations in South Africa. Over the years, many political groups had mushroomed, a number of which were represented at the CODESA negotiations. He emphasized that ANC was not justified, therefore, in presupposing a right to negotiate on behalf of all others. He noted that South Africa had 10 homelands, of which 6 were self-governing and 4 were politically independent and autonomous, like his "country", Ciskei. Whether or not they were recognized internationally was beside the

point. They existed and their leadership could not be wished away. He stated that ANC and its allies had vowed publicly to render South Africa and Ciskei and Bophuthatswana ungovernable, and considered that ANC was intolerant of opposition. He stressed that it was the wish of all South Africans that, whenever an opinion was required, all leaders should be consulted, including the leaders of "independent and self-governing states" in South Africa. He added that a peacekeeping force would not be successful, as it would have to serve ANC interests and comply with its demands.²⁷

Mr. J. N. Reddy, speaking as the leader of the Solidarity Party of South Africa, said that his party was firmly committed to seeking change through peace. The responsibility for ending the violence was a collective one, though the Government of South Africa bore the greater share of that responsibility and should pursue its role vigorously and with greater determination. The way forward lay through negotiations, which could only take place in a climate of peace and stability. His party welcomed the involvement of the Security Council in contributing to conditions conducive to negotiations, and supported the proposal to send a special representative of the Secretary-General to South Africa to facilitate the resumption of the CODESA process and negotiations. It also requested the establishment of a United Nations constitution-monitoring committee to monitor and evaluate the proceedings and outcome once negotiations had resumed.²⁸

Mr. Ebrahim Joosab, of the National People's Party of South Africa, said that the Council's decision to invite all the participants of CODESA demonstrated the impartial and objective manner in which the Council had handled the sensitive situation in his country. He stressed that there was no alternative to peace and negotiations. While he believed that South Africans were capable of coming together, there was a genuine need for the international community to be involved. The United Nations had a role to play in providing objectivity and in ensuring that no one was coerced into accepting a particular constitutional model for South Africa. He suggested that the Security Council should play a role in the resumption of negotiations, and underlined that the nature of the role

²⁵ Ibid., pp. 35-58.

²⁶ Ibid., pp. 59-67.

²⁷ Ibid., pp. 68-78.

²⁸ Ibid., pp. 78-83.

of the United Nations or of any other organization should be negotiated between the participants of CODESA.²⁹

Mr. Kenneth Andrew, speaking on behalf of the Democratic Party of South Africa, considered the reports of the Goldstone Commission and the International Commission of Jurists on the causes of violence to be generally correct in their analyses and conclusions. His party shared the view that the causes of violence were “many and varied”. It believed that the international community could play a constructive role in helping to resolve the crisis. One of the most critical problems in restoring peace was the level of mistrust in the security forces and their ability to deal effectively with political violence. The Democratic Party of South Africa was of the view that restoring trust and confidence in the institutions responsible for peace required the promotion and strengthening of the mechanisms established by the National Peace Accord. To that end, he suggested that it might be useful to appoint a panel of international figures, commanding the respect and trust of all signatories to the Accord, to promote the Accord both internally and internationally. He also considered that there might well be a role for a respected and impartial person to undertake a mission to South Africa to facilitate the resumption of negotiations. He believed that the international community could play a role in maintaining the momentum of the negotiation and transition processes, and an independent person or agency could perhaps perform a mediating function. He stressed, however, that, to be effective, any action contemplated by the international community to promote peace in South Africa should be endorsed by all the signatories to the Accord. Involvement of the international community should not absolve political parties inside South Africa from their responsibility to resolve problems, particularly those resulting from violence and the breakdown of negotiations. At best, the international community could help the process. Moreover, it could not impose a constitution on South Africa. In the final analysis, a new constitution, to be durable and binding, would have to be the product of negotiation and agreement among South Africans themselves.³⁰

The representative of Norway said that his country favoured the direct involvement of the United

Nations in the current situation. That involvement could be in the form of an international mechanism agreed to by all parties, and should result from close consultations based on fact-finding by the Secretary-General and his proposed special representative.³¹

The representative of Brazil said that the well-known links between the need to eradicate apartheid and to preserve international security fully warranted the Council’s participation in measures to overcome the problem of civil conflict in South Africa and to accelerate the complete dismantling of the structures of apartheid. In that context, it was the duty of all Member States and organs of the United Nations to assist the efforts of those who sincerely wished to break the cycle of violence and achieve long-lasting civil peace.³²

The representative of Botswana stressed the importance of the Council’s meeting, which had given South African leaders the opportunity to express themselves on the issue under consideration. The information they had provided was valuable for the Council because those who came from southern Africa believed it was important that the same concern that the Council had shown for crises elsewhere should be shown for the crises in Africa, of which the crisis in southern Africa was one. He affirmed the commitment of the front-line States, the countries of southern Africa and of the continent at large to the negotiation process, but underlined the need for peace and tranquillity if the negotiations were to succeed. The responsibility for creating such a climate lay with the Government of South Africa. All the leaders of South Africa had a responsibility to help the Government maintain law and order, but the Government bore the primary responsibility in that regard. He hoped that the Council would enable the Special Representative whose appointment was envisaged in the draft resolution to do what had to be done to assist the people of South Africa in their negotiations for the new South Africa.³³

Mr. Bantu Holomisa, speaking in his personal capacity, maintained that the South African Government was a colonial administration, as the indigenous people of South Africa were denied self-determination; the international community was therefore justified in intervening in the situation. He

²⁹ *Ibid.*, pp. 84-86.

³⁰ S/PV.3096, pp. 86-92.

³¹ S/PV.3096, pp. 92-93.

³² *Ibid.*, pp. 93-97.

³³ *Ibid.*, pp. 103-110.

said that members of the international community, such as the Council, should exercise caution when it came to imposing punitive measures against the country. They should avoid taking unilateral decisions without consulting the South African black protagonists. He contended that the international community would be effective only in South Africa when it had a direct say over the negotiation process and was invested with mandatory powers to intervene and arbitrate between the parties. He appealed for the dispatch of an international peacekeeping force to South Africa. Its duties should include dispatching an advance team to the country to meet various leaders; looking into the general stability of the whole country; helping to create a free political climate; helping to identify and repatriate all foreign mercenaries in the employ of the South African Defence Force; monitoring the South African arms manufacturers and preventing the flow of weapons to the surrogate forces of the South African Defence Force and Police; monitoring the possibly extensive violation of the arms embargo; and taking over control of the National Peace Accord and revamping it. In conclusion, he said that he saw no purpose in the international community simply insisting on the resumption of CODESA negotiations under existing arrangements and in the present climate.³⁴

Mr. Essop Pahad, of the South Africa Communist Party, rejected the claim, made by some, that the violence in South Africa was black-on-black violence. He contended that the violence emanated from a corrupt, discredited system, and could have been significantly reduced — if not avoided — if the South African police and South African Defence Force had fulfilled their obligations and not played an active role in fomenting it. As to the negotiations, he maintained that the objective of the ANC-led alliance in the negotiation process had been to seek the transfer of power from a white minority regime into the hands of the people — not into the hands of ANC or anybody else. It was the people of South Africa who must decide who should govern them. That was the nub of the breakdown in CODESA. The continuation of CODESA was inconceivable until the National Party regime gave a clear and unambiguous statement that it was prepared to accept a constitution which gave to the people of South Africa the right to decide who should govern them. If the international community were to

intervene on that question, it should be in the direction of giving to South Africa what every other democratic society enjoyed, namely, the right of a people to elect its own government. He stated that his party considered it vital that the international community begin to play a much more active role in monitoring the situation in South Africa. It was crucial that the proposed representative of the Secretary-General arrive in the country as soon as possible, for the Security Council, which had been seized of the situation in South Africa since 1946, had a duty and obligation to all humanity to bring to an end what was a crime against humanity.³⁵

Mr. Philip Mahlangu, of the Intando Yesizwe Party, said that the situation warranted urgent international intervention. He appealed to the Security Council to send a high-powered monitoring committee to South Africa with a mandate, *inter alia*, to monitor, investigate and report on the violence in the country, to recommend to the Secretary-General steps to be taken by the United Nations to end the violence, and to report on the advisability and necessity of having permanent United Nations observers in CODESA.³⁶

The representative of Ukraine considered that, given the atmosphere of mutual mistrust prevailing in South Africa, the international community had a role to play. An international team of independent investigators should be sent urgently to South Africa to monitor the violence. Moreover, during the transitional period, there should be local, regional and national elections, which would also require some form of international supervision to ensure their fairness. He stated that the complexity of the transitional process called for continuous wide-ranging support from the international community, which could be effective only when properly coordinated. There was a need for a combined approach to the problems of political, social and economic development, the protection of human rights and the democratization of South African society. In that context, he suggested that the role of the Special Committee against Apartheid and the Centre against Apartheid should be increased. He hoped that the Security Council would urge the international community to maintain the existing

³⁴ *Ibid.*, pp. 138-147.

³⁵ *Ibid.*, pp. 147-152.

³⁶ *Ibid.*, pp. 153-160.

measures imposed for the purpose of bringing about an early end to apartheid.³⁷

Drawing on his country's experience in dealing with South African Governments, the representative of Namibia maintained that the test for ensuring the resumption of the CODESA process was not only the ending of the violence, but the emplacement of effective and durable mechanisms to prevent the armed forces and security units from being used against opponents of the Government. He noted the unprecedented situation as far as the South African participation in the Council meeting was concerned, which was perhaps indicative of how much things had changed. Apart from the delegations of the Government of South Africa and of the national liberation movements recognized by the United Nations, the Council had decided to afford the privilege of addressing it to some of the parties represented at CODESA. The debate and the draft resolution before the Council clearly indicated the convergence of views between OAU and the Council concerning the events in South Africa. Moreover, various intergovernmental bodies, such as the European Community and the Commonwealth, had already taken initiatives similar to those that had been taken or were being contemplated by either OAU or the United Nations. That broad consensus should send a clear message to the Government of South Africa that, on the one hand, the escalating violence was unacceptable and the South African Government must stop it, and, on the other hand, the international community was ready to help normalize the situation. He welcomed the draft resolution as a necessary first step towards a meaningful United Nations role, but urged that that step be followed by a more permanent mechanism: a monitoring group that would remain in the country until a new constitution was adopted.³⁸

The representative of Zimbabwe, in a further statement, denied the allegation made by the representative of South Africa that the Zimbabwean National Army had assisted in transporting weapons to the liberation movements in South Africa. Zimbabwe had never involved itself in the armed conflict or violence occurring there. He also mentioned another issue that had emerged from the day's discussions. In his view, there was a need for a referee of the situation

in South Africa. He thought the Council and the United Nations in general should view the role of the Special Representative as a slightly broader one, involving some kind of supervision or refereeing of the process.³⁹

The Council proceeded to vote on the draft resolution before it.

Speaking before the vote, the representative of Belgium noted that his delegation had worked to see that the draft resolution was a balanced text and in keeping with reality. However, it considered that certain references in the draft to previous texts were anachronistic. In its view, despite the tragic recent events, there should have been greater acknowledgment of the progress made. As for the mandate to be given to the Secretary-General, Belgium thought it important not to lose sight of the fact that the process of democratization was above all domestic and national in character. It wished to encourage a resumption of dialogue, not the placing of that dialogue under supervision.⁴⁰

The representative of Austria stressed that, at the request of the parties concerned, the international community should encourage and support the process of change in South Africa. His country supported the idea of giving the Secretary-General a mandate to use his good offices towards creating conditions conducive to further progress.⁴¹

The draft resolution was then put to the vote and adopted unanimously as resolution 765 (1992), which reads:

The Security Council,

Recalling its resolutions 392 (1976) of 19 June 1976, 473 (1980) of 13 June 1980, 554 (1984) of 17 August 1984 and 556 (1984) of 23 October 1984,

Gravely concerned by the escalating violence in South Africa, which is causing a heavy loss of human life and by its consequences for the peaceful negotiations aimed at creating a democratic, non-racial and united South Africa,

Concerned that the continuation of this situation would seriously jeopardize peace and security in the region,

Recalling the Declaration on Apartheid and its Destructive Consequences in Southern Africa adopted by consensus by the General Assembly at its sixteenth special

³⁷ *Ibid.*, pp. 161-166.

³⁸ S/PV.3096, pp. 176-182.

³⁹ *Ibid.*, pp. 182-186.

⁴⁰ *Ibid.*, pp. 189-192.

⁴¹ *Ibid.*, pp. 192-195.

session, on 14 December 1989, which called for negotiations in South Africa to take place in a climate free of violence,

Emphasizing the responsibility of the South African authorities to take all necessary measures to stop the violence immediately and protect the life and property of all South Africans,

Emphasizing also the need for all parties to cooperate in combating violence and to exercise restraint,

Concerned at the break in the negotiating process and determined to help the people of South Africa in their legitimate struggle for a non-racial, democratic society,

1. *Condemns* the escalating violence in South Africa and in particular the massacre at Boipatong township on 17 June 1992, as well as subsequent incidents of violence, including the shooting of unarmed protesters;

2. *Strongly urges* the South African authorities to take immediate measures to bring an effective end to the ongoing violence and to bring those responsible to justice;

3. *Calls upon* all the parties to cooperate in combating violence and to ensure the effective implementation of the National Peace Accord;

4. *Invites* the Secretary-General to appoint, as a matter of urgency, a Special Representative for South Africa in order to recommend, after, inter alia, discussion with the parties, measures which would assist in bringing an effective end to the violence and in creating conditions for negotiations leading towards a peaceful transition to a democratic, non-racial and united South Africa, and to submit a report to the Security Council as early as possible;

5. *Urges* all parties to cooperate with the Special Representative of the Secretary-General in carrying out his mandate, and to remove the obstacles to the resumption of negotiations;

6. *Underlines*, in this regard, the importance of all parties cooperating in the resumption of the negotiating process as speedily as possible;

7. *Urges* the international community to maintain the existing measures imposed by the Council for the purpose of bringing an early end to apartheid in South Africa;

8. *Decides* to remain seized of the matter until a democratic, non-racial and united South Africa is established.

After the vote, the representative of Senegal made a further statement on behalf of the OAU ministerial delegation and the current Chairman of OAU, pledging the Organization's full assistance to, and cooperation with, the Secretary-General's Special

Representative for South Africa in the discharge of his task.⁴²

**Decisions of 17 August 1992 (3107th meeting):
resolution 772 (1992) and statement by the
President**

On 7 August 1992, pursuant to resolution 765 (1992), the Secretary-General submitted to the Security Council a report on the mission carried out by his Special Representative and a small team to South Africa from 21 to 31 July 1992.⁴³ The mission had discussed with a wide range of parties measures to assist them in bringing an end to the violence and to create conditions for the resumption of negotiations. On the basis of its findings, the Secretary-General recommended a number of measures. On the issue of violence, he recommended that the efforts of the Goldstone Commission be supported by the international community and that its recommendations be fully and speedily implemented by the Government and, when so required, by the parties in South Africa. He also recommended that the mechanisms established by the National Peace Accord, to which all parties had agreed, be strengthened and reinforced. To that end, he recommended the deployment of some 30 United Nations observers to South Africa, to work in close association with the National Peace Secretariat, in order to further the purposes of the Accord. Their number could, as necessary, be supplemented by other appropriate international organizations, such as the Commonwealth, the European Community and OAU. As to the negotiations, they were uniquely the responsibility of South Africans. The Secretary-General was heartened by the determination of the major parties to return to the negotiating table as soon as possible and urged them to do so. He expressed the view that certain actions could contribute greatly to improving the political climate and creating trust: for example, the immediate release of all remaining political prisoners; and fair and objective reporting on State-owned radio and television. He endorsed the CODESA process. For all its shortcomings, it should be pursued and improved. Others should be encouraged to join and its work should be better coordinated and made much more transparent. In addition, the Secretary-General recommended that the establishment of a deadlock-resolving machinery at the highest

⁴² Ibid., pp. 195-196.

⁴³ S/24389.

political level and the appointment of an eminent and impartial person be considered by all concerned. The Secretary-General concluded by stressing that, to discharge its functions, the Security Council should have before it regular, impartial and objective information. To that end, he proposed that missions such as that just completed be undertaken on a quarterly basis or more frequently, if the situation warranted, and that reports be provided to the Council.

At its 3107th meeting, held on 17 August 1992, in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the President (China) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations,⁴⁴ as well as to a letter dated 12 August 1992 from the representative of Senegal addressed to the Secretary-General,⁴⁵ transmitting a communiqué issued by the Government of Senegal, whose President was the current Chairman of OAU, welcoming the successful completion of the mission to South Africa by the Special Representative of the Secretary-General.

The draft resolution was thereupon put to the vote and adopted unanimously as resolution 772 (1992), which reads:

The Security Council,

Reaffirming its resolution 765 (1992) of 16 July 1992,

Having considered the report of the Secretary-General of 7 August 1992 on the question of South Africa,

Determined to help the people of South Africa in their legitimate struggle for a non-racial, democratic society,

Cognizant of the expectations of the people of South Africa that the United Nations will assist with regard to the removal of all obstacles to the resumption of the process of negotiations,

Bearing in mind the areas of concern relevant to the question of violence in South Africa, including the issues of the hostels, dangerous weapons, the role of the security forces and other armed formations, the investigation and prosecution of criminal conduct, mass demonstrations and the conduct of political parties,

Also bearing in mind the need to strengthen and reinforce the indigenous mechanisms set up under the National Peace Accord, so as to enhance their capacity in the building of peace, both in the present and in the future,

Determined to assist the people of South Africa to end violence, the continuation of which would seriously jeopardize peace and security in the region,

Underlining, in this regard, the importance of all parties cooperating in the resumption of the negotiating process as speedily as possible,

1. *Welcomes with appreciation* the report of the Secretary-General of 7 August 1992 on the question of South Africa;

2. *Expresses its appreciation* to all relevant parties in South Africa for the cooperation they extended to the Special Representative of the Secretary-General for South Africa;

3. *Calls upon* the South African Government and all parties in South Africa to implement urgently the relevant recommendations contained in the report of the Secretary-General;

4. *Authorizes* the Secretary-General to deploy, as a matter of urgency, United Nations observers in South Africa, in such a manner and in such numbers as he determines necessary to address effectively the areas of concern noted in his report, in coordination with the structures set up under the National Peace Accord;

5. *Invites* the Secretary-General to assist in the strengthening of the structures set up under the National Peace Accord in consultation with the relevant parties;

6. *Requests* the Secretary-General to report to the Security Council quarterly, or more frequently if necessary, on the implementation of the present resolution;

7. *Calls on* the Government of South Africa, parties and organizations, and the structures set up under the National Peace Accord, to extend their full cooperation to the United Nations observers to enable them to carry out their tasks effectively;

8. *Invites* international organizations such as the Organization of African Unity, the Commonwealth and the European Community to consider deploying their own observers in South Africa in coordination with the United Nations and the structures set up under the National Peace Accord;

9. *Decides* to remain seized of the matter until a democratic, non-racial and united South Africa is established.

Following the adoption of the resolution, the President stated that, in connection with the resolution

⁴⁴ S/24444, adopted without change as resolution 772 (1992).

⁴⁵ S/24453.

just adopted, he had been authorized to make the following statement on behalf of the Council:⁴⁶

It is the understanding of the members of the Council that the Secretary-General will consult the Council on the number of observers he has the intention to deploy from time to time.

Decision of 10 September 1992: statement by the President

By a letter dated 9 September 1992 addressed to the Secretary-General,⁴⁷ the representative of South Africa submitted a memorandum issued by his Government on the events that had taken place at Bisho, Ciskei, on 7 September 1992, resulting in the death of 28 people and injury of approximately 190. In the memorandum, the Government urged the Secretary-General and the members of the Security Council to demand that the ANC/Communist Party alliance abandon any further provocative actions which put at risk the lives of innocent South Africans. It also appealed to the Secretary-General to consider sending his representative to South Africa, as soon as possible, in order to assist in the strengthening of the National Peace Secretariat and its regional structures. The Government suggested, further, that the Secretary-General's representative attend the proposed meeting of the signatories of the National Peace Accord as an observer, and enter into discussions with the main political players with a view to assisting in bringing violence to an end and in removing the remaining obstacles to the resumption of negotiations.

On 10 September 1992, following consultations held on the same day, the President (Ecuador) made the

following statement to the media on behalf of the Council:⁴⁸

The members of the Security Council deplore the killing of 28 demonstrators and the wounding of nearly 200 others by security elements in South Africa on 7 September 1992. They reiterate their grave concern at the continued escalation of the violence in South Africa. They emphasize once again the responsibility of the South African authorities for the maintenance of law and order and call on them to take all measures to end the violence and to protect the right of all South Africans to engage in peaceful political activity without fear of intimidation or violence. They urge all parties in South Africa to cooperate in combating violence and to exercise maximum restraint in order to help break the spiralling cycle of violence.

The members of the Council emphasize the need to put an end to the violence and create conditions for negotiations leading to the establishment of a democratic, non-racial and united South Africa. They note in this regard that the Council, in its resolution 772 (1992) of 17 August 1992, authorized the Secretary-General to deploy United Nations observers in South Africa, in coordination with the structures set up under the National Peace Accord, to provide a framework and basis for putting an end to violence in the country. They welcome the Secretary-General's decision to deploy an advance party of 13 United Nations observers in South Africa on 11 September 1992 as part of the complement of 50 observers to be deployed within one month.

The members of the Council call upon the Government of South Africa, parties and organizations, and the structures set up under the National Peace Accord, to extend their full cooperation to the United Nations observers to enable them to carry out their tasks effectively. They reiterate their call to other relevant regional and inter-governmental organizations to consider deploying their own observers in South Africa in coordination with the United Nations and the structures set up under the National Peace Accord in order to facilitate the peace process.

⁴⁶ S/24456.

⁴⁷ S/24544.

⁴⁸ S/24541; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, p. 106.

8. The situation concerning Western Sahara

Decision of 27 June 1990 (2929th meeting): resolution 658 (1990)

On 18 June 1990, pursuant to resolution 621 (1988) of 20 September 1988, the Secretary-General submitted to the Security Council a report on the situation concerning Western Sahara.¹ It contained the text of the settlement proposals made by the Secretary-

General and the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity (OAU), as accepted in principle on 30 August 1988 by the parties to the conflict in Western Sahara, namely, Morocco and the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro (Frente Polisario). The report also contained the outline of an implementation plan proposed by the Secretary-General for giving effect to those proposals. The main elements of the settlement

¹ S/21360.

plan were a ceasefire and the holding of a referendum without military or administrative constraints to enable the people of Western Sahara, in the exercise of their right to self-determination, to choose between independence and integration with Morocco. The implementation plan was based on recommendations made by the Technical Commission established on 30 June 1989 and the responses of the parties to the Commission's draft timetable. It provided, inter alia, for a ceasefire monitored by United Nations military personnel, followed by an exchange of prisoners of war; a substantial and phased reduction by Morocco of its troops in the Territory; the confinement of the combatants on each side to designated locations monitored by United Nations military personnel; the organization and conduct by the United Nations of a referendum 24 weeks after the ceasefire had come into effect; the monitoring by the United Nations of other aspects of the administration of the Territory, especially the maintenance of law and order, to ensure that the necessary conditions existed for the holding of a free and fair referendum; and the return of refugees, other Western Saharans living outside the Territory and Frente Polisario members found eligible to vote.

Under the implementation plan, during a transitional period lasting from the entry into force of the ceasefire to the announcement of the results of the referendum, the Special Representative of the Secretary-General would have sole and exclusive responsibility over all matters relating to the referendum. He would be assisted by an integrated support group of United Nations civilian, military and civil police personnel, to be known as the United Nations Mission for the Referendum in Western Sahara (MINURSO). The Secretary-General expressed the belief that the proposed implementation plan — to be carried out by the United Nations in cooperation with OAU, whose representatives would act as official observers — provided an effective means of holding a referendum and permitting the people of Western Sahara to determine their future without military or administrative constraints. He accordingly commended it to the Council for such action as the latter might consider appropriate to facilitate its implementation at the earliest possible date. He stressed that the United Nations operation would be large and complicated, and noted that, owing to a number of unknown factors, it was impossible at that stage to present to the Council even a preliminary estimate of costs. He therefore intended to dispatch, in the immediate future, a

technical mission to the Territory and neighbouring countries, to refine the administrative aspects of the plan and to obtain the information — especially about the availability of logistic supplies and support in the Territory — which was required to prepare a further report to the Council containing an estimate of the cost of MINURSO. In that report, he would recommend to the Council that it authorize the immediate establishment of MINURSO.

At its 2929th meeting, held on 27 June 1990 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. After the adoption of the agenda, the President (France) drew the attention of the members of the Council to a draft resolution prepared in the course of the Council's prior consultations.² The draft resolution was thereupon put to the vote and adopted unanimously as resolution 658 (1990), which reads:

The Security Council,

Recalling its resolution 621 (1988) of 20 September 1988, by which it decided to authorize the Secretary-General to appoint a special representative for Western Sahara and to request the Secretary-General to transmit to it as soon as possible a report on the holding of a referendum for self-determination of the people of Western Sahara and on ways and means to ensure the organization and supervision of such a referendum by the United Nations in cooperation with the Organization of African Unity,

Recalling also that, on 30 August 1988, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguia el-Hamra y de Río de Oro gave their agreement in principle to the proposals of the Secretary-General of the United Nations and the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity in the framework of their joint mission of good offices,

Having considered the report of the Secretary-General on the situation concerning Western Sahara,

1. *Expresses* its full support to the Secretary-General in his mission of good offices, pursued jointly with the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity, with a view to settling the question of Western Sahara;

2. *Approves* the report of the Secretary-General, transmitted to the Council in accordance with resolution 621 (1988) with a view to settling the question of Western Sahara, which contains the full text of the settlement proposals as accepted by the two parties on 30 August 1988 as well as an

² S/21376, adopted without change as resolution 658 (1990).

outline of the plan provided by the Secretary-General in order to implement those proposals;

3. *Calls upon* the two parties to cooperate fully with the Secretary-General of the United Nations and the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity in their efforts aimed at an early settlement of the question of Western Sahara;

4. *Welcomes* the intention of the Secretary-General to dispatch, in the immediate future, a technical mission to the territory and to neighbouring countries, in particular to refine the administrative aspects of the outlined plan and to obtain the necessary information for the preparation of a further report to the Council;

5. *Requests* the Secretary-General to transmit to the Security Council as soon as possible a further detailed report on his implementation plan, containing, in particular, an estimate of the cost of the United Nations Mission for the Referendum in Western Sahara, on the understanding that this further report should be the basis on which the Council would authorize the establishment of the Mission.

**Decision of 29 April 1991 (2984th meeting):
resolution 690 (1991)**

On 19 April 1991, pursuant to resolution 658 (1990), the Secretary-General submitted to the Security Council a further report on the situation concerning Western Sahara.³ Taking account of the work of the technical mission and the views of the two parties, the report contained detailed proposals with regard to the composition, strength and timetable of MINURSO,⁴ and an estimate of the overall cost of the mission. The mission would consist of three units: (a) a civilian unit, which would include an Identification Commission, charged with the central task of identifying and registering all Western Saharans eligible to vote in the referendum; a Referendum Commission, to assist the Special Representative in all aspects of the organization and conduct of the referendum; and a component under the responsibility of the United Nations High Commissioner for Refugees, to implement the repatriation programme and facilitate the voluntary return of identified eligible voters; (b) a security unit; and (c) a military unit.

With regard to timing, the Secretary-General proposed that D-Day (the day on which the transitional period would begin and the ceasefire come into effect) be scheduled for 16 weeks after the approval of the

MINURSO budget by the General Assembly. With regard to the duration of the operation, he envisaged that the referendum could be held 36 weeks after the approval of the Mission's budget by the General Assembly, although MINURSO would continue to discharge its monitoring responsibilities arising from the referendum results for a period of some four to six weeks thereafter. He cautioned, however, that the duration stipulated for the various processes in the timetable were estimates and might require adjustment.

With regard to the financial aspects of the operation, the Secretary-General estimated that its overall cost, including the repatriation programme, would be approximately \$200 million. He recommended that the expenditures of MINURSO be considered as expenses of the Organization to be borne by the Member States in accordance with Article 17 (2) of the Charter except for the repatriation programme, estimated at some \$35 million, which would be funded through voluntary contributions. He stressed, however, that the programme should not be considered solely as a humanitarian activity: it was a political element crucial to the success of the operation. Consequently, he recommended that MINURSO not be deployed in the mission area on D-Day unless, by that date, the voluntary contributions needed for the implementation of the repatriation plan had been paid in full. The Secretary-General was confident that his proposals constituted a balanced and equitable way of achieving the goal of the holding of a free, fair and impartial referendum for the people of Western Sahara. However, he stressed that, for MINURSO to be effective, the following four essential conditions must be met: (a) it must at all times have the full support of the Security Council; (b) it must operate with the full cooperation of the two parties, particularly with regard to the comprehensive cessation of all hostile acts; (c) the cooperation and support of the neighbouring countries (Algeria and Mauritania) must be assured; and (d) the necessary financial resources must be made available by Member States in a full and timely manner. The Secretary-General concluded by recommending that the Security Council should decide to authorize the establishment of MINURSO and link the beginning of the transitional period to the appropriation action by the General Assembly.

At its 2984th meeting, on 29 April 1991, the Council included the report of the Secretary-General in its agenda. The President (Belgium) drew the attention

³ S/22464 and Corr.1.

⁴ For details concerning the establishment and operation of MINURSO, see chapter V.

of the members of the Council to the statement the Secretary-General had made at the Council's informal consultations on 24 April 1991,⁵ recommending the establishment of MINURSO as soon as possible in order to hasten the restoration of peace and stability in the region. He also drew their attention to a draft resolution that had been prepared in the course of the Council's prior consultations.⁶ The draft resolution was thereupon put to the vote and adopted unanimously as resolution 690 (1991), which reads:

The Security Council,

Recalling its resolution 621 (1988) of 20 September 1988, by which it, inter alia, requested the Secretary-General to transmit to it a report on the holding of a referendum for self-determination of the people of Western Sahara and on ways and means to ensure the organization and supervision of such a referendum by the United Nations in cooperation with the Organization of African Unity,

Recalling also that, on 30 August 1988, the Kingdom of Morocco and the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro gave their agreement in principle to the proposals of the Secretary-General of the United Nations and the current Chairman of the Assembly of Heads of State and Government of the Organization of African Unity in the framework of their joint mission of good offices,

Recalling further its resolution 658 (1990) of 27 June 1990, by which it approved the report of the Secretary-General of 18 June 1990, which contains the full text of the settlement proposals as accepted by the two parties on 30 August 1988, as well as an outline of the plan provided by the Secretary-General in order to implement those proposals, and by which it requested the Secretary-General to transmit to it a further detailed report on his implementation plan, containing in particular an estimate of the cost of the United Nations Mission for the Referendum in Western Sahara,

Desirous of reaching a just and lasting solution of the question of Western Sahara,

Having examined the report of the Secretary-General of 19 April 1991 on the situation concerning Western Sahara,

1. *Approves* the report of the Secretary-General, transmitted to the Council in accordance with resolution 658 (1990);

2. *Expresses its full support* for the efforts of the Secretary-General for the organization and the supervision, by the United Nations in cooperation with the Organization of African Unity, of a referendum for self-determination of the

people of Western Sahara, in accordance with the objectives mentioned in his report;

3. *Calls upon* the two parties to cooperate fully with the Secretary-General in the implementation of his plan as described in his report of 18 June 1990 and amplified in his report of 19 April 1991;

4. *Decides* to establish, under its authority, a United Nations Mission for the Referendum in Western Sahara in accordance with the report of 19 April 1991;

5. *Also decides* that the transitional period will begin no later than sixteen weeks after the General Assembly approves the budget for the Mission;

6. *Requests* the Secretary-General to keep the Security Council regularly informed of the implementation of his settlement plan.

Decision of 4 September 1991: letter from the President of the Security Council to the Secretary-General

By a letter dated 8 July 1991 addressed to the President of the Council,⁷ the Secretary-General informed the Council that, in accordance with paragraph 12 of his report of 18 June 1990,⁸ he had written to Morocco and the Frente Polisario on 24 May 1991, proposing that a formal ceasefire should commence on 6 September 1991, and that the two parties had accepted that date.

By a letter dated 3 September 1991 addressed to the President of the Council,⁹ the Secretary-General transmitted a note regarding the implementation of the ceasefire. Expressing concern at recent developments along the international frontier, he stated that he had decided that United Nations efforts should be concentrated, at that stage, in the areas specified in the note. He intended to deploy about 100 military observers in those areas, as from 6 September 1991, to verify compliance with the ceasefire. Full deployment of MINURSO would not begin until the activities set out in the timetable for the plan were well under way. By a letter dated 4 September 1991,¹⁰ the President informed the Secretary-General that the members of the Council endorsed his action.

⁷ S/22779.

⁸ S/21360.

⁹ S/23008.

¹⁰ S/23009.

⁵ S/22532.

⁶ S/22525, adopted without change as resolution 690 (1991).

Decision of 17 September 1991: letter from the President of the Security Council to the Secretary-General

By a letter dated 13 September 1991 addressed to the President of the Council,¹¹ the Secretary-General informed the Council that, in the context of the deployment of military observers to verify the ceasefire in the areas referred to in his letter of 3 September, he intended to deploy about 100 additional military observers and the staff necessary for command and control functions, logistical support, communications, air transport and medical support. By a letter dated 17 September 1991,¹² the President informed the Secretary-General that the members of the Council endorsed his action.

Decision of 31 December 1991 (3025th meeting): resolution 725 (1991)

On 19 December 1991, pursuant to resolution 690 (1991), the Secretary-General submitted to the Council a report on the implementation of his settlement plan for Western Sahara.¹³ He reported that, during the three months following the acceptance by the parties of the date of the ceasefire, it had become apparent that it would not be possible to carry out a number of tasks that were supposed to be completed before the ceasefire came into effect on 6 September 1991. It had also become clear that, notwithstanding the parties' earlier acceptance of the settlement plan, substantial areas of difference between them remained. Consequently, one party had not been able to agree that the transition period should begin on 6 September 1991, as envisaged in the plan. Meanwhile, hostilities had broken out in the Territory, interrupting an informal ceasefire that had been in effect for more than two years. In those circumstances, the Secretary-General said he had decided that the ceasefire should come into effect on 6 September as agreed, on the understanding that the transition period would begin as soon as the outstanding tasks had been completed. There was no doubt, in his view, that the United Nations military and civilian presence in the area had contributed significantly to a calming of the situation, although both parties had complained about violations of the ceasefire.

The Secretary-General regretted that slow progress in the accomplishment of certain tasks had made it necessary to adjust the timetable of the settlement plan, largely because of the complexity of the identification process, aimed at establishing the list of those who would vote in the referendum, and the parties' different interpretations of the plan in that regard. The parties also differed in their interpretation of the plan in relation to the confinement of troops and the return of refugees and other Saharans living outside the Territory. There was likely to be a further delay of some months while consultations continued on those issues. The Secretary-General stressed that everything would be done to reduce costs. In conclusion, he noted that serious efforts would have to be made at the political and technical levels in order to keep the process going.

At its 3025th meeting, on 31 December 1991, the Council included the report of the Secretary-General in its agenda. After the adoption of the agenda, the President (Russian Federation) drew the attention of the members of the Council to a draft resolution prepared in the course of the Council's prior consultations.¹⁴ He also drew their attention to three letters addressed to the President of the Security Council relating to the item on the agenda: a letter dated 23 December 1991 from the representative of Ghana; a letter dated 24 December 1991 from the representative of Morocco; and a letter dated 26 December 1991 from the representative of Algeria.¹⁵

The draft resolution was thereupon put to the vote and adopted unanimously as resolution 725 (1991), which reads:

The Security Council,

Reaffirming its resolutions 621 (1988) of 20 September 1988, 658 (1990) of 22 June 1990 and 690 (1991) of 29 April 1991,

Having considered the report of the Secretary-General of 19 December 1991 on the situation concerning Western Sahara,

Noting with concern the difficulties and delays encountered in the implementation of the settlement plan regarding the question of Western Sahara, as adopted by resolutions 658 (1990) and 690 (1991),

1. *Approves* the efforts of the Secretary-General for the organization and the supervision, by the United Nations in

¹¹ S/23043.

¹² S/23044.

¹³ S/23299.

¹⁴ S/23330, adopted without change as resolution 725 (1991).

¹⁵ S/23315, S/23321 and S/23323, respectively.

cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara, and therefore welcomes the report of the Secretary-General of 19 December 1991 on the situation concerning Western Sahara;

2. *Reiterates its support* for further efforts by the Secretary-General for the organization and the supervision, by the United Nations in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara in conformity with resolutions 658 (1990) and 690 (1991), by which the Council adopted the settlement plan for Western Sahara;

3. *Calls upon* the two parties to cooperate fully with the Secretary-General in the implementation of the settlement plan, which has been accepted by them;

4. *Invites* the Secretary-General to submit a further report to the Security Council as soon as possible, but in any event within two months of the date of passage of this resolution.

**Decision of 25 March 1992: letter from the
President of the Security Council to the
Secretary-General**

On 28 February 1992, pursuant to resolution 725 (1991), the Secretary-General submitted to the Security Council a report on MINURSO.¹⁶ He underlined that the primary function of the Mission in its current limited deployment was to monitor the ceasefire. He reported that the ceasefire had held: there had been no exchanges of fire between the two sides and no deaths as a result of hostile action. However, there had been a worrying number of lesser violations of the ceasefire, the great majority of which had been attributable to one of the parties. Recalling that the referendum in Western Sahara should have been held in January 1992, the Secretary-General said that it had not been possible to proceed in conformity with the original timetable in view of persistent differences of interpretation with regard to the implementation of the plan. The fact that the United Nations had never before organized a referendum of this kind also contributed to the delay. The Secretary-General stated that he was not in a position at that stage to propose a revised timetable for implementation. However, he believed that a target date should be set for resolution of all outstanding issues that blocked implementation of the plan. He accordingly proposed to report further to the Council not later than the end of May 1992. In the meantime, he recommended that MINURSO be maintained for the

¹⁶ S/23662.

next three months at its current level of activity, on the grounds that its continued presence helped to maintain the ceasefire and thus created conditions for the remaining obstacles to be removed.

By a letter dated 25 March 1992,¹⁷ the President of the Council informed the Secretary-General that the members of the Council had taken note of his report of 28 February and reiterated the Council's support for his efforts and those of his newly appointed Special Representative to accelerate the implementation of the settlement plan. Taking into consideration the urgency of the situation, the members of the Council looked forward to a further report from the Secretary-General on the progress made in the implementation of the plan.

**Decision of 3 June 1992: letter from the
President of the Security Council to the
Secretary-General**

On 29 May 1992, pursuant to the Council's expressed interest and his stated intention, the Secretary-General submitted to the Security Council a further report on the status of the implementation of the settlement plan.¹⁸ He reported that, although ceasefire violations had continued with somewhat increased frequency since his last report, the incidents had generally not been of a violent nature and that, since the deployment of MINURSO the previous year, there had not been a single casualty. Furthermore, the parties had assured his Special Representative that they would make every effort to adhere to the provisions of the ceasefire agreement and to cooperate with MINURSO within the framework of the settlement plan. In the light of the foregoing and bearing in mind the critical role the MINURSO observers were playing in the maintenance of peace and tranquillity, the Secretary-General recommended that the Council extend the mandate of MINURSO for a further period of three months, until the end of August 1992. He added that if, by that time, the peace process remained deadlocked, the Council might wish to consider a different approach.

By a letter dated 3 June 1992,¹⁹ the President of the Council informed the Secretary-General that his report of 29 May had been brought to the attention of

¹⁷ S/23755.

¹⁸ S/24040.

¹⁹ S/24059.

the members of the Council who reaffirmed their support for the efforts he and his Special Representative were making to reactivate the settlement plan. The President added that the members of the Council shared the Secretary-General's views on the necessity of maintaining in place the MINURSO personnel currently deployed in Western Sahara in order to monitor the ceasefire. In view of the increasing urgency of the situation, the members of the Council requested the Secretary-General to submit, at the earliest possible date, a further progress report on the implementation of the plan.

Decision of 31 August 1992: letter from the President of the Security Council to the Secretary-General

On 20 August 1992, pursuant to the last paragraph of the President's letter of 3 June, the Secretary-General submitted to the Council a further progress report on the situation concerning Western Sahara.²⁰ He reported that, since his last report, there had been a marked decline in the number of ceasefire violations confirmed by MINURSO observers. In accordance with the agreement reached with the two parties, his Special Representative had embarked on a series of talks with each of them, focusing initially on the formulation of safeguards to protect the rights and liberties of the losing side in the referendum, whatever the outcome. Each party had submitted proposals for such safeguards. The parties had been reminded that, in the interest of restoring confidence in the peace process, they should abide scrupulously by the ceasefire and abstain from any provocative behaviour endangering the settlement plan. The Secretary-General stated that the talks had achieved their principal objective of creating a climate in which obstacles to the holding of the referendum — primarily, disagreements over the criteria for eligibility to vote²¹ — could be overcome. He also reported on the discussions his Special Representative had had with the Government of Morocco concerning the latter's reported intention of holding, in the coming months, municipal and legislative elections, as well as a plebiscite on constitutional reform, in which the inhabitants of Western Sahara would be eligible to

²⁰ S/24464.

²¹ For the criteria for eligibility to vote, see the annex to the Secretary-General's report of 19 December 1991 (S/23299).

vote. While reluctant to consider postponing the intended elections, Morocco had expressed its readiness to give a written commitment to the Secretary-General to the effect that those elections would be independent of, and separate from, the United Nations referendum and that it would abide by the results of the latter. In concluding, the Secretary-General stated his intention to submit a further report to the Council before the end of September, focusing on the results of the next round of talks between his Special Representative and the parties which would concentrate on the interpretation of the criteria for eligibility to vote. In the meantime, he proposed to maintain the existing deployment and staffing of MINURSO.

By a letter dated 31 August 1992,²² the President of the Council informed the Secretary-General that his report of 20 August had been brought to the attention of the members of the Council and that they had agreed to his proposal to maintain the existing staffing and deployment of MINURSO. They also shared the Secretary-General's views on the necessity of the parties abiding by the ceasefire and abstaining from any provocative behaviour endangering the settlement plan. The members expressed the hope that both parties would cooperate fully with the Secretary-General and his Special Representative in their efforts to achieve speedy progress in the implementation of the plan, and strongly urged the parties themselves to make extraordinary efforts to ensure the success of the plan. They looked forward to receiving a further progress report on the implementation of the plan, as indicated, before the end of September.

Decision of 8 October 1992: letter from the President of the Security Council to the Secretary-General

By a letter dated 2 October 1992 addressed to the President of the Council,²³ the Secretary-General stated that the results of the talks of his Special Representative with each of the parties on the interpretation of the criteria for eligibility to vote had been inconclusive. He had therefore authorized his Special Representative to undertake further consultations with a view to clarifying certain unresolved questions and also to determining whether a

²² S/24504.

²³ S/24644.

meeting of tribal chiefs, such as that organized by the United Nations at Geneva in June 1990, could help solve the problems impeding the implementation of the settlement plan. Pending the completion of those consultations, the Secretary-General proposed to postpone the submission of his report to the Council by six to eight weeks. In the meantime, he recommended maintaining the existing deployment and staffing of MINURSO.

By a letter dated 8 October 1992,²⁴ the President of the Council informed the Secretary-General that his letter of 2 October had been brought to the attention of the members of the Council. They reiterated their full support for the continuing efforts of the Secretary-General and the Special Representative to resolve the problems impeding the implementation of the settlement plan, welcoming, in particular, the Secretary-General's intention to explore the possibility of a further meeting of tribal chiefs. The members of the Council emphasized the urgency of settling the pending questions, especially those which related to the interpretation of the criteria for inclusion in the voters' lists, so that the implementation of the plan might begin as soon as possible. They also approved the Secretary-General's proposal to maintain the existing deployment and staffing of MINURSO, and awaited his further report in due course.

²⁴ S/24645.

By a letter dated 22 December 1992 addressed to the President of the Council,²⁵ the Secretary-General referred to his letter of 16 November²⁶ in which he had expressed the need to postpone the presentation of his report until the second week of December in order to await the results of the consultative meeting of tribal chiefs, scheduled to be held at Geneva earlier in the month. He regretted to inform the Council that it had not been possible to hold the meeting, owing to discrepancies regarding the notion of tribal chiefs — discrepancies which were themselves linked to the persisting divergences on the criteria for identification and their interpretation. The Secretary-General recalled that it had been his hope that the referendum in Western Sahara could be organized on the basis of agreements among all concerned on the major aspects of the settlement plan. However, he had to conclude with much regret that the considerable efforts made by his Special Representative over the past several months to reach such agreements had not achieved the desired results. He now felt obliged to take concrete steps towards the holding of the referendum, in the expectation that both parties would fully cooperate with him pursuant to their commitment to abide by the provisions of the settlement plan. In his forthcoming report, which he would submit to the Council in the second half of January 1993, he intended therefore to set forth the various steps which would need to be taken in order to hold the referendum at the earliest possible date.

²⁵ S/25008.

²⁶ The letter was not issued as a document of the Council.

Americas

9. Central America: efforts towards peace

Initial proceedings

By a letter dated 24 February 1989 addressed to the Secretary-General,¹ the representatives of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua transmitted the text of the Joint Declaration of the Central American Presidents² adopted by their respective Heads of State on 14 February 1989 at their summit meeting held at Costa del Sol, El Salvador. The five Presidents noted that they had reviewed the status of the Central American peace process and adopted decisions required to put it into effect, on the understanding that the commitments entered into under the Esquipulas II Agreement of 7 August 1987³ and the Alajuela Declaration of 16 January 1988⁴ constituted a single, indivisible whole. The President of Nicaragua had informed them that he was prepared to undertake a process of democratization and national reconciliation in his country, in the context of the Esquipulas II Agreement, to hold elections by 25 February 1990 and to invite international observers, including representatives of the Secretary-General, to verify the electoral process. The Central American Presidents undertook to draw up, within 90 days, a joint plan for the voluntary demobilization, repatriation or relocation in Nicaragua or third countries of members of the Nicaraguan resistance and their families. To that end, they would request technical advice from specialized agencies of the United Nations. They also entrusted an Executive Commission with the task of establishing, in accordance with talks with the Secretary-General of the United Nations, an international mechanism to verify their security commitments.

On 26 June 1989, the Secretary-General submitted to the Security Council a report on the

situation in Central America,⁵ pursuant to Security Council resolutions 530 (1983) and 562 (1985). He recalled that the Central American Presidents had, in their Joint Declaration of 14 February 1989, made several specific commitments with a view to implementing the Esquipulas II Agreement and had entrusted the United Nations with three important tasks: assistance in the establishment of an international mechanism for on-site verification of the security commitments; provision of international observers to verify the genuineness of the electoral process in Nicaragua; and provision of technical advice from specialized agencies of the United Nations on the voluntary demobilization, repatriation or relocation of members of the Nicaraguan resistance.

With regard to the establishment of a possible security verification mechanism, the Secretary-General reported that the Secretariat had prepared, with the Governments of the five Central American countries, a working paper providing for the creation of a United Nations Observer Group in Central America (ONUCA), to be deployed in their countries. On the basis of that working paper, the Ministers for Foreign Affairs of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua had addressed to him a letter dated 31 March 1989,⁶ asking him to take the necessary steps to establish the Observer Group. However, the Secretary-General explained that he was not in a position to take those steps because of a reservation formulated by one of the signatories. With regard to the electoral process in Nicaragua, the Secretary-General reported that he had received a formal request from the Government of Nicaragua to proceed with setting up a group of electoral observers and that he was in contact with the Government concerning the performance of that task. Noting that the performance of the observation task belonged in the context of the Central American peace plan, he said he had reported on it to the President of the General

¹ S/20491.

² *Ibid.*, annex. Also known as the “Costa del Sol Declaration” or “Tesoro Beach Agreement”.

³ Document entitled “Procedure for the establishment of a firm and lasting peace in Central America”, signed at Guatemala City on 7 August 1987 by the Presidents of the five Central American republics (S/19085, annex). Also known as the “Guatemala Agreement”.

⁴ The Joint Declaration issued by the Central American Presidents on 16 January 1988 at Alajuela, Costa Rica (S/19447, annex).

⁵ S/20699, and Add.1 of 9 October 1989. The report was also submitted to the General Assembly pursuant to its resolution 43/24 of 15 November 1988.

⁶ S/20642.

Assembly. He had also been in contact with the Secretary General of the Organization of American States (OAS) with a view to performing the observation jointly. As to the prospective joint plan for demobilization, repatriation or relocation of members of the Nicaraguan resistance, the Secretary-General reported that the Central American Presidents had not yet approved such a plan.

The Secretary-General expressed concern that, since the last summit meeting of the Central American Presidents, the political climate had deteriorated and, in some cases, there had been a resurgence of violence. He emphasized his view that the means to address the problems afflicting the Central American countries and their people existed in the instruments that had been signed by their leaders. More specifically, it was essential, if the peace process were to be set on the right track again, to put into practice without delay the decisions referred to in his report which envisaged a role for the United Nations.

**Decision of 27 July 1989 (2871st meeting):
resolution 637 (1989)**

At its 2871st meeting, held on 27 July 1989 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled "Central America: efforts towards peace".

Following the adoption of the agenda, the President (Yugoslavia) drew the attention of the members of the Council to the report of the Secretary-General and to a draft resolution that had been prepared in the course of the Council's prior consultations.⁷ He explained that the primary objective of the draft resolution was to extend the Council's full support to the five Central American countries and their Presidents to continue their efforts towards achieving a firm and lasting peace in the region. He noted that the draft resolution also lent the Council's full support to the Secretary-General to continue his mission of good offices in the region in consultation with it. The draft resolution was then put to the vote and adopted unanimously as resolution 637 (1989), which reads:

The Security Council,

Recalling its resolutions 530 (1983) of 19 May 1983 and 562 (1985) of 10 May 1985 and General Assembly resolutions

38/10 of 11 November 1983, 39/4 of 26 October 1984, 41/37 of 18 November 1986, 42/1 of 7 October 1987 and 43/24 of 15 November 1988, as well as the initiative that the Secretary-General of the United Nations undertook on 18 November 1986 together with the Secretary General of the Organization of American States,

Convinced that the peoples of Central America wish to achieve a peaceful settlement to their conflicts without outside interference, including support for irregular forces, with respect for the principles of self-determination and non-intervention while ensuring full respect for human rights,

Taking note of the report of the Secretary-General of 26 June 1989 submitted in pursuance of Security Council resolutions 530 (1983) and 562 (1985),

Recognizing the important contribution of the Contadora Group and its Support Group in favour of peace in Central America,

Welcoming the agreement on "Procedures for the establishment of a firm and lasting peace in Central America" signed at Guatemala City on 7 August 1987 by the Presidents of the Republics of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua as the manifestation of the will of the peoples of Central America to achieve peace, democratization, reconciliation, development and justice, in accordance with their decision to meet the historical challenge of forging a peaceful destiny for the region,

Welcoming also the subsequent Joint Declarations issued by the Central American Presidents on 16 January 1988 at Alajuela, Costa Rica and on 14 February 1989 at Costa del Sol, El Salvador,

Aware of the importance which the Central American Presidents attach to the role of international verification as an essential component for the implementation of the above-mentioned instruments, including, in particular, their commitments relating to regional security, especially non-use of territory to support destabilization of neighbouring countries and democratization, especially free and fair elections, as well as to the voluntary demobilization, repatriation or relocation of irregular forces, as agreed in the Costa del Sol accord of 14 February 1989,

Aware also that the commitments enshrined in the Guatemala agreement form a harmonious and indivisible whole,

Noting with appreciation the efforts undertaken to date by the Secretary-General in support of the Central American peace process, including his assistance in the establishment of appropriate mechanisms to verify compliance with the provisions of the Guatemala agreement and of the Joint Declaration adopted by the Central American Presidents at their meeting held in El Salvador on 14 February 1989, and particularly the Secretary-General's agreement with Nicaragua to deploy a United Nations observer mission to verify the electoral process,

⁷ S/20752.

1. *Commends* the desire for peace expressed by the Central American Presidents in signing on 7 August 1987 at Guatemala City the agreement on “Procedures for the establishment of a firm and lasting peace in Central America” and in the Joint Declarations subsequently signed in pursuance of it;

2. *Expresses its firmest support* for the Guatemala agreement and the Joint Declarations;

3. *Calls upon* the Presidents to continue their efforts to achieve a firm and lasting peace in Central America through the faithful implementation of the commitments entered into in the Guatemala agreement and in the expressions of good will contained in the Joint Declaration of 14 February 1989;

4. *Appeals* to all States, in particular to those which have links with the region and interests in it, to back the political will of the Central American countries to comply with the provisions of the Guatemala agreement and of the Joint Declaration, particularly that regional and extra-regional Governments which either openly or covertly supply aid to irregular forces or insurrectional movements in the area immediately halt such aid, with the exception of the humanitarian aid that contributes to the goals of the Costa del Sol accord;

5. *Lends* its full support to the Secretary-General to continue his mission of good offices, in consultation with the Security Council, in support of the Central American Governments in their effort to achieve the goals set forth in the Guatemala agreement;

6. *Requests* the Secretary-General to report to the Security Council regularly on the implementation of the present resolution.

Speaking after the vote, the representative of the United States stated that the resolution reflected and supported three important elements in the Central American peace process: the centrality of the fulfilment of the principles and provisions of the Esquipulas II and Tesoro Beach⁸ agreements to the achievement of peace and democracy in the region; the crucial need for a free and fair election and electoral process in Nicaragua to unlock regional movement towards peace, democracy and development; and the fact that States which continued to supply lethal assistance to insurgent forces in the region — namely, Nicaraguan and Cuban support to the Frente Farabundo Martí para la Liberación Nacional (FMLN) — must cease that supply and publicly renounce such practices.⁹

⁸ See note 2.

⁹ S/PV.2871, pp. 3-5.

Decision of 20 September 1989: letter from the President of the Security Council to the Secretary-General

By a letter dated 28 August 1989 addressed to the President of the Security Council,¹⁰ the Secretary-General recalled that the Council had examined the agreement reached on 7 August 1989 by the five Central American Presidents at their meeting at Tela, Honduras,¹¹ regarding a Joint Plan for the voluntary demobilization, repatriation or relocation in Nicaragua or third countries of the members of the Nicaraguan resistance and their families. He had since received a request dated 14 August 1989 from the representatives of the five Central American countries,¹² for the establishment, with the Secretary-General of OAS, of an International Support and Verification Commission to execute and implement the Joint Plan. The Secretary-General stated that he and the Secretary General of OAS had agreed to establish the International Commission, with effect from 6 September, and had defined its terms of reference. He observed that the tasks entrusted to the Commission comprised components of interest to various programmes of the United Nations and other agencies of the system. However, the question of demobilization concerned the Security Council in particular, since it was an operation of a clearly military nature. The Commission was asked to collect the weapons, materiel and military equipment of members of the Nicaraguan resistance and to keep them in its custody until the five Presidents decided where they should be sent. In the Secretary-General’s opinion, that was not a task which could be taken on by civilian personnel of the United Nations, but one which should be entrusted to military units equipped with defensive weapons. The launching of such an operation was clearly within the competence of the Security Council.

Stressing the voluntary aspect of the demobilization, the Secretary-General stated that, prior to undertaking that task, every necessary precaution would have to be taken to obtain the assurance that the Nicaraguan resistance was indeed determined to agree to being demobilized. To that end, he had agreed with the Secretary General of OAS to contact the resistance as soon as possible to explain how the Secretaries-General interpreted the Plan and the role of the

¹⁰ S/20856.

¹¹ The Tela Declaration (S/20778).

¹² S/20791.

International Commission, and to hear what the position of the resistance was on the issue. In light of those considerations, the Secretary-General considered it premature to ask the Security Council to take steps to establish the military component of the International Commission, particularly since an assessment of its needs could only be made after a technical reconnaissance in the resistance camps and he was not yet assured of having access to them. He proposed, therefore, to revert to the Council later, once those conditions had been met.

By a letter dated 20 September 1989 addressed to the Secretary-General,¹³ the President of the Council informed him that the members of the Council had noted with approval the steps he had taken to set up the International Commission and put it into operation and welcomed his intention to ask the Council to adopt in due course the measures needed to establish its military component. They had also reiterated their support for the Central American peace process as envisaged in the various instruments signed by the five Central American Presidents and, recalling resolution 637 (1989), had welcomed the Secretary-General's intention to consult the Council and keep it fully and regularly informed of action taken in support of that process.

**Decisions of 7 November 1989 (2890th meeting):
resolution 644 (1989) and statement by the
President**

On 11 October 1989, in accordance with resolution 637 (1989), the Secretary-General submitted to the Council a report concerning the request of the five Central American Governments for the establishment of ONUCA to verify their security commitments.¹⁴ The report reflected the operational concept of ONUCA set out in the working paper that had been agreed earlier with those Governments and took into account the findings and recommendations of a reconnaissance mission which had visited the region in September 1989. As requested by the Central American Governments, the mandate of ONUCA would be to conduct on-site verification of (a) the cessation of aid to irregular forces and insurrectionist movements; and (b) the non-use of the territory of one State for attacks on other States. It was proposed that

the monitoring and investigative functions of ONUCA would be performed by mobile teams of unarmed military observers. The Observer Group would be under the command of the United Nations, vested in the Secretary-General, under the authority of the Council. It was also envisaged that, in addition to its functions as observer and monitor, ONUCA would by its very presence perform a preventive function — and, as appropriate, a deterrent function — with regard to possible non-fulfilment of the parties' commitments. Its commander would have the authority, on his own initiative or at the request of a party, to suggest follow-up action to the Secretary-General, who in turn might recommend it to the Council so as to assist the parties in properly fulfilling their commitments. On the basis of the report of the reconnaissance mission, the Secretary-General recommended that the Council should accept the request of the five Central American Presidents and decide to establish forthwith an observer group on the above lines, to be deployed in four phases. He further recommended that, in accordance with the Council's recent practice, ONUCA should be established for an initial period of six months.

At its 2890th meeting, held on 7 November 1989 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (China) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's consultations.¹⁵ The draft resolution was put to the vote and adopted unanimously as resolution 644 (1989), which reads:

The Security Council,

Recalling its resolution 637 (1989) of 27 July 1989,

1. *Approves* the report of the Secretary-General of 11 October 1989;

2. *Decides* to set up immediately, under its authority, a United Nations Observer Group in Central America and requests the Secretary-General to take the necessary steps to this effect, in accordance with his above-mentioned report, bearing in mind the need to continue to monitor expenditures carefully during this period of increasing demands on peacekeeping resources;

3. *Also decides* that the United Nations Observer Group in Central America shall be established for a period of six months, unless the Security Council decides otherwise;

¹³ S/20857.

¹⁴ S/20895.

¹⁵ S/20951.

4. *Requests* the Secretary-General to keep the Security Council fully informed of further developments.

At the same meeting, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁶

The members of the Security Council reaffirm their full support for the Secretary-General's efforts to assist the Central American Governments in their efforts to achieve the goals set forth in the Guatemala agreement of 7 August 1987 and in the Joint Declarations subsequently signed in pursuance of it. In any consideration of the renewal of the mandate of the United Nations Observer Group in Central America, they will wish to assure themselves that the presence of the Observer Group is continuing to contribute actively to the achievement of a firm and lasting peace in Central America.

Following the statement by the President, the Secretary-General addressed the Council. He expressed his conviction that, by approving the establishment of ONUCA, the Council had taken an important step towards the impartial verification of compliance with the parties' undertakings in the security area. The Observer Group could also play a significant political role, since its establishment in itself constituted a confidence-building measure which could contribute to restoring and strengthening stability in the region. The Secretary-General hoped, moreover, that the Council's decision would help in recovering the momentum of the peace process. He observed, further, that ONUCA was a complex and innovative operation being set in motion in a volatile region, a circumstance which justified his proposal that its deployment be carried out incrementally. Although it was proposed to remain within the terms of his report, he noted that, as the operation proceeded, the personnel and material resource needs originally foreseen might require adjustment or reconfiguration in order to carry out effectively the mandate of ONUCA. He therefore intended to monitor carefully each stage of the implementation of ONUCA in cooperation with the Council.¹⁷

¹⁶ S/20952.

¹⁷ S/PV.2890, pp. 6-7. For details on the composition and operation of ONUCA, see chapter V.

**Decision of 27 March 1990 (2913th meeting):
resolution 650 (1990)**

On 15 March 1990, the Secretary-General submitted to the Council a report on ONUCA.¹⁸ He sought the Council's urgent approval, on a contingency basis, of an enlargement of the mandate of ONUCA and the addition of armed personnel to enable it to play a part in the voluntary demobilization of the members of the Nicaraguan resistance. He recalled, *inter alia*, that in the Declaration signed at San Isidro de Coronado, Costa Rica, on 12 December 1989,¹⁹ the five Central American Presidents had requested that the ONUCA mandate be expanded to include verification of any cessation of hostilities and demobilization of irregular forces that might be agreed upon in the region. He reported that, following the elections in Nicaragua on 25 February 1990, he had been asked by the Government of Nicaragua and the Nicaraguan Opposition National Union to consult with them about how ONUCA could assist with regard to the transition process in that country. Agreement in principle had been reached on the modalities, subject to the approval of the Council. It was envisaged that ONUCA would be responsible for implementing the military aspects of the Joint Plan agreed at Tela, Honduras, on 7 August 1989²⁰ (i.e., for taking delivery of the weapons, materiel and military equipment of the Nicaraguan resistance), while the International Support and Verification Commission, set up pursuant to the Tela Accord, would be responsible for implementing the civilian aspects (i.e., for the repatriation, or relocation elsewhere, of the members of the Nicaraguan resistance and for their resettlement). The Secretary-General noted that the role thus envisaged for ONUCA went beyond its existing mandate, which was to verify, on the ground, compliance by the five Central American Governments with their security commitments, and that it would require the addition of armed personnel, as all existing ONUCA personnel were unarmed. He believed, moreover, that, as considerable additional responsibilities would fall on ONUCA in connection with this expanded role, the final phase of its deployment should begin as soon as possible. In recommending such an expanded role for the mission, the Secretary-General underlined that the voluntary demobilization of the Nicaraguan resistance

¹⁸ S/21194.

¹⁹ S/21019, annex.

²⁰ S/20778, annex I.

was an essential element in the Central American peace process to which both the existing Government and the Government-elect in Nicaragua attached importance as part of the process of transferring power following the elections in that country. However, he stressed that the additional armed personnel would not be deployed until the necessary political conditions were fulfilled, namely, an agreement by all concerned for the voluntary demobilization of the members of the Nicaraguan resistance.

At its 2913th meeting, held on 27 March 1990 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (Democratic Yemen) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's consultations.²¹ The draft resolution was then put to the vote and adopted unanimously as resolution 650 (1990), which reads:

The Security Council,

Recalling its resolutions 637 (1989) of 27 July 1989 and 644 (1989) of 7 November 1989,

Reiterating its support for the Central American peace process and commending the efforts made by the Central American Presidents, represented by the agreements they have concluded,

Urging all parties to comply with their undertakings under those agreements, including in particular the commitments relating to regional security, and reiterating its full support of the Secretary-General's mission of good offices in the region,

Noting with appreciation the efforts undertaken to date by the Secretary-General in support of the Central American peace process, including his continuing efforts to promote voluntary demobilization, resettlement and repatriation as reflected in his report of 15 March 1990,

1. *Approves* the report of the Secretary-General;

2. *Decides* to authorize, on a contingency basis in accordance with that report, an enlargement of the mandate of the United Nations Observer Group in Central America and the addition of armed personnel to its strength, in order to enable it to play a part in the voluntary demobilization of the members of the Nicaraguan resistance;

3. *Requests* the Secretary-General to keep the Security Council fully informed of further developments regarding the implementation of the present resolution.

Speaking after the vote, the representative of the United States observed that, together with OAS and

²¹ S/21207.

other observers, the United Nations had played a key role in the free and fair elections that had taken place in Nicaragua in February. He hoped it could play a further essential role in the democratization of that troubled region. His Government's position on the question of the *contras* was clear: it wanted and encouraged them to demobilize freely and return to their land to contribute to its development. He welcomed the framework of the expanded ONUCA mandate as providing a useful starting-point for achieving agreement by all the involved parties on a settlement leading to the voluntary demobilization and repatriation of the Nicaraguan resistance. He stressed that the first priority had to be the achievement of a formal agreement on and adherence to a ceasefire, and a clear-cut separation of forces within the country. Noting that the conditions for, and the mechanisms to verify, a comprehensive settlement were not yet in place, he added that his Government believed that, in addition to ONUCA, it was essential that the International Support and Verification Commission be made fully operational. He added that his Government also supported the Secretary-General's intention to deploy the final phase of ONUCA immediately.²²

The representative of Cuba stated that his delegation had voted in favour of the resolution on the understanding that it authorized the Secretary-General to expand the mandate of ONUCA and strengthen it with armed personnel "for the specific purpose of playing a role in the demobilization of the members of what is termed the Nicaraguan resistance". Alluding to concerns that had been expressed with regard to the financial implications of the United Nations operation, he observed that "it would be ironic if, at the end of this episode, it were to fall to the international community and to all Members of the Organization to pay for the mechanisms to monitor the end of an operation that should never have taken place, particularly since the so-called Nicaraguan resistance [had] benefited from well-known external financing".²³

**Decision of 20 April 1990 (2919th meeting):
resolution 653 (1990)**

By a letter dated 19 April 1990 addressed to the President of the Security Council,²⁴ the Secretary-General referred to his statement at the Council's

²² S/PV.2913, pp. 3-5.

²³ *Ibid.*, pp. 5-7.

²⁴ S/21257.

informal consultations earlier that day,²⁵ in which he had informed the members of the Council that a series of agreements had been signed that day in Managua by the Government of Nicaragua, representatives of the President-Elect, representatives of the Nicaraguan resistance and the Archbishop of Managua, relating to the voluntary demobilization of members of the Nicaraguan resistance. The agreements provided for the establishment of a ceasefire, security zones and a timetable for voluntary demobilization from 25 April to 10 June 1990. As a consequence of those agreements, the parties had requested that ONUCA should monitor both the ceasefire, which had come into effect on 19 April, and the separation of forces which would result from the withdrawal of the Nicaraguan Government's forces from the security zones, to which the members of the Nicaraguan resistance would move. The Secretary-General believed that the agreements just signed constituted an important step forward in the Central American peace process, and therefore recommended that the Council approve the necessary enlargement of the ONUCA mandate to include the new tasks.

At its 2919th meeting, held on 20 April 1990 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled "Central America: efforts towards peace". Following the adoption of the agenda, the President (Ethiopia) drew the attention of the members of the Council to the letter from the Secretary-General and to a draft resolution that had been prepared in the course of its consultations.²⁶ The draft resolution was put to the vote and adopted unanimously as resolution 653 (1990), which reads:

The Security Council,

Having examined the letter addressed to the President of the Council by the Secretary-General on 19 April 1990 concerning the United Nations Observer Group in Central America, as well as his statement of the same date to the members of the Security Council in which he briefed them on the agreements signed at Managua that day, which envisage the complete demobilization of the Nicaraguan resistance by the Observer Group during the period from 25 April to 10 June 1990,

Reaffirming its resolutions 644 (1989) of 7 November 1989 and 650 (1990) of 27 March 1990,

1. *Approves* the proposals concerning the addition of new tasks to the mandate of the United Nations Observer Group in Central America contained in the letter of the Secretary-General of 19 April 1990 and in his statement;

2. *Requests* the Secretary-General to report to the Security Council on all aspects of the operations of the Observer Group before the expiry of the current mandate period on 7 May 1990.

Speaking after the vote, the representative of Cuba said that his delegation supported the draft resolution above all because the adoption of a formal procedure by which the Council acceded to the Secretary-General's request through a resolution was the least the Council should do in dealing with a request implying a substantial alteration to the expanded mandate given by the Council to ONUCA. However, his delegation had grave reservations about some aspects of the request made to the Council — both as regards substance and procedure. The request before the Council was the result of a series of agreements which the Council did not yet have before it. He said that he had seen the agreements, and expressed concern about several elements of the agreement establishing the ceasefire, which conferred a task on ONUCA which Cuba did not regard as clearly defined and which implied, *inter alia*, that the Nicaraguan resistance would continue to have an organized military structure and would receive humanitarian assistance. He stated that it would be immoral — and unprecedented — if the United Nations were to provide such assistance to uniformed units, militarily organized and with their leadership intact. He also pointed out an apparent discrepancy between another of the agreements and the resolution just adopted concerning the role of ONUCA. Whereas the agreement suggested that the demobilization would be carried out in the presence of ONUCA, the resolution clearly provided for the demobilization of the Nicaraguan resistance by ONUCA. In conclusion, he stressed that the United States, as the Government responsible for the perpetuation and insolubility of the situation in Nicaragua, should cover the costs involved in ending it, not the international community.²⁷

The representative of the Soviet Union stated that his delegation had voted in favour of the draft resolution expanding the mandate of ONUCA on the basis of the explanations of the tasks, composition and timetable for the disarmament of the *contras* and the

²⁵ S/21259.

²⁶ S/21258.

²⁷ S/PV.2919, pp. 6-15.

financing of the operation, as laid down in the Secretary-General's statement during the Council's consultations. While welcoming the 19 April agreements which would eventually lead to the full demobilization of the Nicaraguan resistance, he expressed concern about the sincerity of the *contra* leaders with regard to those agreements. The Council could not permit a situation in which the security zones that had been created were transformed into a springboard for the armed opposition in Nicaraguan territory, a kind of State within a State. The existence of those zones, as his Government saw it, would be legitimate only within the context of the implementation of the main task of ensuring the disarming of the *contras* within the prescribed timetable. Non-compliance could not only dash hopes of national reconciliation in Nicaragua but also undermine the authority of the United Nations in the region.²⁸

The representative of the United States took exception to the assertion of the representative of Cuba that somehow the United States was responsible for all the ills that had befallen Nicaragua. He expressed full support for the agreement by which the parties in Nicaragua expected to achieve peace; that was not something imposed on them by outsiders but something that they had arrived at themselves. He also supported the efforts of the Secretary-General and the United Nations to contribute to that process.²⁹

**Decision of 4 May 1990 (2921st meeting):
resolution 654 (1990)**

On 27 April 1990, pursuant to resolution 653 (1990), the Secretary-General submitted to the Security Council a report containing an account of the operations of ONUCA during its first six months.³⁰ He recalled that the original mandate of the Observer Group was to verify compliance by the five Central American Governments with the security undertakings each of them had given to the others in the Esquipulas II Agreement: namely, to cease aid to irregular forces and insurrectionist movements operating in the region; and to prevent the use of its territory for attacks on other States. To that end, mobile teams of military observers had been deployed in phases. While specific breaches of the security undertakings had not been

directly observed by ONUCA patrols, cross-border movements had undoubtedly taken place during the period under review, especially a major movement of members of the Nicaraguan resistance from Honduras into Nicaragua. ONUCA had received and investigated complaints about alleged violations of the security undertakings. Although the five Governments concerned had fully cooperated with ONUCA, the hostilities in El Salvador had limited its ability to patrol in that country and no verification centre had so far been set up outside the capital. The Secretary-General also recalled that, following the elections in Nicaragua in February, there had been two enlargements of the ONUCA mandate, at the request of the Nicaraguan parties: to monitor the ceasefire and separation of forces in Nicaragua; and to demobilize members of the Nicaraguan resistance. The Secretary-General welcomed this evolution in the role of ONUCA; he had hoped that its very presence in the area would encourage the five Central American Governments to ask the Council to give ONUCA additional functions as the peace process developed. He hoped to approach the Council before long regarding the monitoring of a cessation of the armed confrontation in El Salvador.

The Secretary-General acknowledged, but did not share, the view that recent and prospective developments in Central America, notably the elections in Nicaragua, the imminent demobilization of the members of the Nicaraguan resistance and the early start of talks under his auspices between the Government of El Salvador and FMLN, had rendered obsolete the original ONUCA mandate to verify the five Governments' compliance with their security commitments. He believed that those developments needed to be followed up and consolidated and that more time was needed to assess the consequences of what had happened and was happening in the region. He therefore considered it prudent to leave the mandate and military observer strength of ONUCA unchanged for the time being, adding that the five Central American Governments had also expressed the wish that the Council should extend the ONUCA mandate in its present form. The Secretary-General accordingly recommended that the Council extend the mandate of ONUCA, as defined in its previous resolutions, for a further period of six months. His recommendation was made on the understanding that, in accordance with the agreements signed by the Nicaraguan parties concerned, the ONUCA tasks of monitoring the

²⁸ Ibid., pp. 16-18.

²⁹ Ibid., pp. 19-21.

³⁰ S/21274.

ceasefire and separation of forces in Nicaragua and demobilizing members of the Nicaraguan resistance would lapse with the completion of the demobilization process, not later than 10 June 1990.

On 2 May 1990, in an addendum to his report of 27 April,³¹ the Secretary-General observed, as a matter of grave concern, that the demobilization of the Nicaraguan resistance had not begun on 25 April, as stipulated in the Managua agreements of 18 and 19 April. He added that it had always been intended that the role of ONUCA in this process should be to help ensure the speedy return of the members of the Nicaraguan resistance to civilian life and not to assist them in establishing armed camps for an indefinite period of time on Nicaraguan territory. It was on that basis and on the strength of the agreements signed at Managua that he had recommended to the Council that ONUCA should play the part requested of it in monitoring the ceasefire and separation of forces. He believed that serious efforts should now be made by all concerned to get the demobilization process back on track.

At its 2921st meeting, held on 4 May 1990 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the report of the Secretary-General of 27 April and 2 May. The President (Finland) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's consultations.³² The draft resolution was put to the vote and adopted unanimously as resolution 654 (1990), which reads:

The Security Council,

Recalling its resolutions 637 (1989) of 27 July 1989, 644 (1989) of 7 November 1989, 650 (1990) of 27 March 1990 and 653 (1990) of 20 April 1990, as well as the statement made by the President of the Security Council on its behalf on 7 November 1989,

Recalling the initial agreement reached at Geneva on 4 April 1990 by the parties to the conflict in El Salvador, under the auspices of the Secretary-General,

1. *Approves* the report of the Secretary-General of 27 April and 2 May 1990;

2. *Decides* to extend, under its authority, the mandate of the United Nations Observer Group in Central America as defined in resolutions 644 (1989), 650 (1990) and 653 (1990), for a further period of six months, that is, until 7 November

1990, on the understanding, as expressed by the Secretary-General in his report, that the tasks of the Observer Group of monitoring the ceasefire and separation of forces in Nicaragua and demobilizing members of the Nicaraguan resistance will lapse with the completion of the demobilization process, not later than 10 June 1990, and bearing in mind the need to continue to monitor expenditures carefully during this period of increasing demands on peacekeeping resources;

3. *Welcomes* the efforts of the Secretary-General to promote the achievement of a negotiated political solution to the conflict in El Salvador;

4. *Requests* the Secretary-General to keep the Security Council fully informed of further developments and to report on all aspects of the operations of the Observer Group before the expiry of the current mandate period and in particular to report to the Council not later than 10 June concerning the completion of the demobilization process.

**Decision of 23 May 1990 (2922nd meeting):
statement by the President**

At its 2922nd meeting, held on 23 May 1990 in accordance with the understanding reached in its prior consultations, the Council considered the item entitled "Central America: efforts towards peace". After the adoption of the agenda, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on their behalf:³³

The members of the Council recall that the Council, in conformity with its primary responsibility for the maintenance of international peace and security, has supported the Central American peace process from the outset. This has resulted in its decision to set up a United Nations Observer Group for Central America, whose mandate it subsequently enlarged and reaffirmed on two occasions.

The members of the Council also recall the decision taken by the Council in its resolution 654 (1990) of 4 May 1990 to extend the mandate of the Observer Group until 7 November 1990 on the understanding that its tasks of monitoring the ceasefire and separation of forces in Nicaragua and demobilizing members of the resistance would lapse with the completion of the demobilization process, not later than 10 June 1990.

The members of the Council, taking note of the report of the Secretary-General and fully supporting his efforts, express their concern at the slow pace of the demobilization process during its first two weeks. It is clear that the process must be accelerated if the deadline of 10 June set for its completion is to be met.

In the light of the foregoing, the members of the Council call on the resistance to meet fully and urgently the

³¹ S/21274/Add.1.

³² S/21286.

³³ S/21331.

commitments it made in agreeing to demobilize. They also support the Government of Nicaragua in its efforts to facilitate, by taking the necessary steps, timely demobilization and urge it to continue such efforts. They also call on all others with influence in this matter to take actions to ensure that demobilization now proceeds in accordance with the agreements entered into by the Nicaraguan parties, and in particular to ensure that the 10 June deadline is respected.

The members of the Council request the Secretary-General, through a senior representative, to continue to observe the situation on the ground first-hand and to report to the Council by 4 June.

The members of the Council request the Secretary-General to convey the Council's position to the five Central American Presidents.

The members of the Council also request the Secretary-General to convey the Council's concerns about the situation described above to the Secretary-General of the Organization of American States, who shares responsibilities with the Secretary-General of the United Nations as regards the operations of the International Support and Verification Commission.

**Decision of 8 June 1990 (2927th meeting):
resolution 656 (1990)**

On 4 June 1990, pursuant to the presidential statement made on 23 May, the Secretary-General submitted to the Council a report on the progress of the demobilization process in Nicaragua.³⁴ He observed that the rate of demobilization had increased following the signing on 30 May of an agreement entitled the "Managua Protocol"³⁵ between the Nicaraguan Government, the leaders of the Nicaraguan resistance and the Archbishop of Managua. However, the leaders of the resistance had still not achieved the minimum target to which they had committed themselves in that document. He warned that, unless there was a substantial increase in the pace of demobilization, the whole process would not be completed by the agreed target date of 10 June. The Secretary-General also reported that that his Alternate Personal Representative had met with the Secretary General of OAS and conveyed to him the Council's concerns, in accordance with the request contained in the presidential statement of 23 May. It was agreed that closely coordinated steps would need to be taken by the United Nations and OAS in the event that the various agreements relating to the demobilization process were not implemented. The

Secretary-General further stated that, if by 10 June demobilization had not been very largely completed, the Council would need to consider the decisions it should take to deal with the matter.

On 8 June 1990, pursuant to resolution 654 (1990), the Secretary-General submitted to the Council a report on ONUCA in which he provided an update on the status of the demobilization process.³⁶ He considered it doubtful that the process could be completed by 10 June. However, he reported that rapid progress had been made during the week just ended by the largest group of the Nicaraguan resistance, whose leaders had stated publicly and to the Government that they would honour their commitments. In those circumstances, the Nicaraguan Government had indicated its wish that that part of the mandate of ONUCA which was related to monitoring the ceasefire and separation of forces and demobilizing the members of the Nicaraguan resistance should not be allowed to lapse on 10 June but should be extended for a sufficient period to permit demobilization to be completed. The Secretary-General added that he thought it would be a mistake for ONUCA, which had played such a central role in making demobilization possible, to be withdrawn when the work was now, on the whole, proceeding rapidly and its completion was within reach. He accordingly recommended that the Council should authorize an extension of the relevant part of the ONUCA mandate for a period of up to 19 days, until 29 June 1990.

At its 2927th meeting, held on 8 June 1990 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the Secretary-General's reports of 4 and 8 June. The President (France) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.³⁷ He also drew their attention to a letter dated 7 June 1990 from the representatives of Spain and Venezuela, addressed to the Secretary-General.³⁸ As prominent contributors to ONUCA, they expressed their support for an extension of its mandate, as it related to demobilization, for a short and clearly defined period.

³⁴ S/21341.

³⁵ The text of the Managua Protocol on disarmament is attached to the Secretary-General's report.

³⁶ S/21349.

³⁷ S/21350.

³⁸ S/21347.

The draft resolution was put to the vote and adopted unanimously as resolution 656 (1990), which reads:

The Security Council,

Recalling its resolution 654 (1990) of 4 May 1990 and the statement made by the President of the Council on its behalf on 23 May, concerning the United Nations Observer Group in Central America,

Expressing its concern that the process of demobilization has not yet been fully completed, although progress is now being made after the removal of obstacles that prevented the conclusion of the demobilization process on 10 June 1990, as stipulated in resolution 654 (1990),

Having studied the report submitted by the Secretary-General on 4 June 1990 as well as his statement of 8 June to the members of the Council,

1. *Decides* that the tasks of the United Nations Observer Group in Central America of monitoring the ceasefire and separation of forces in Nicaragua and demobilizing members of the Nicaraguan resistance shall be extended, on the understanding, as recommended by the Secretary-General, that those tasks will lapse with the completion of the demobilization process, not later than 29 June 1990;

2. *Urges* all those directly involved in the demobilization process to take all necessary measures to maintain and, if possible, increase the rate of demobilization so as to complete it, at the latest, on the date specified in paragraph 1 above;

3. *Requests* the Secretary-General to keep the Security Council fully informed of further developments and in particular to report to it not later than 29 June 1990 concerning the completion of the demobilization process.

On 29 June 1990, pursuant to resolution 656 (1990), the Secretary-General submitted to the Council a further report on ONUCA,³⁹ informing it that the demobilization of the Nicaraguan resistance had essentially been completed the previous day. He stated that, by twice enlarging the mandate of ONUCA and later extending the deadline for the completion of demobilization, the Council had enabled ONUCA to play a role in helping end the conflict in Nicaragua.

Decision of 6 September 1990: letter from the President of the Security Council to the Secretary-General

By a letter dated 29 August 1990 addressed to the President of the Security Council,⁴⁰ the Secretary-

³⁹ S/21379.

⁴⁰ S/21718.

General referred to the negotiations which were under way, under his auspices, between the Government of El Salvador and FMLN. He stated that, as he had informed the Council in his statement in informal consultations of 3 August 1990,⁴¹ it was envisaged that the United Nations would in due course be formally requested to carry out a number of tasks relating to the verification of a ceasefire, the monitoring of the forthcoming electoral process and the verification of respect for human rights. The parties and a wide range of representatives of Salvadorian society shared the wish that preparations for carrying out the envisaged requests should be initiated at the earliest possible date. Despite the absence of a formal and verifiable ceasefire, the Secretary-General believed that the time had come to take steps which would permit the United Nations to assess the local situation and begin preparations, including the possible establishment of a small preparatory office in El Salvador, in order to enable a United Nations verification mission to undertake the monitoring tasks as soon as circumstances permitted. He therefore sought the concurrence of the Council with his making the necessary preparatory arrangements as soon as practicable. Verification per se would await further consultation with the members of the Council.

By a letter dated 6 September 1990 addressed to the Secretary-General,⁴² the President of the Council informed him that his letter of 29 August concerning preparatory arrangements for a United Nations verification mission in El Salvador had been brought to the attention of the members of the Council and that they concurred with his proposal.

Decision of 5 November 1990 (2952nd meeting): resolution 675 (1990)

On 26 October 1990, pursuant to resolution 654 (1990), the Secretary-General submitted to the Council a report containing an account of ONUCA operations during the period from 7 May to 26 October 1990 and his recommendations on its future.⁴³ He reported that, with the successful demobilization of the members of the Nicaraguan resistance, the Observer Group had now reverted to its original mandate: namely, verification of compliance by the five Central American Governments with their security

⁴¹ S/22031, annex.

⁴² S/21718.

⁴³ S/21909.

undertakings under the Esquipulas II Agreement. With its role limited to verification, ONUCA did not have the authority or the capacity to prevent physically either the movement of armed persons or warlike material across borders or other violations of the security commitments. Those were tasks that fell within the competence of the security forces of the Governments concerned. Experience had also shown that the capacity of ONUCA to detect violations of the security undertakings was very limited, mainly due to the fact that an international peacekeeping operation could not undertake the detection of clandestine activities without assuming functions that properly belonged to the security forces of the countries concerned, not least because they required armed personnel to carry them out. Although Governments had sometimes agreed that an armed United Nations peacekeeping operation should implement such a mandate on their territory, that was not the case in Central America. Nevertheless, the ONUCA method of operation — maintaining a regular and visible presence in those parts of the region where breaches of the undertakings would seem most likely to occur — enabled it to play an important part in ensuring compliance with the security commitments. Through its presence, it was able to perform a preventive or deterrent function which fell short of physical prevention or deterrence, but made it more difficult for activities contrary to the Esquipulas II Agreement to be carried out. The presence of ONUCA also provided a means whereby the Central American Governments could take up with each other, through an impartial third party, complaints about violations of the security undertakings.

As to the future of ONUCA, the Secretary-General reported that the five Governments had confirmed that they wished its mandate to be extended for six months. He agreed that it was important to maintain a United Nations military presence in the region in order to support the Central American peace process and concluded that ONUCA should maintain its current method of operation, with Observer Groups based in each country. However, following the end of the conflict in Nicaragua and the demobilization of the members of the Nicaraguan resistance, he considered that it would be possible to close some of the verification centres whose tasks were primarily related to the Nicaraguan conflict. That would permit a reduction of approximately 40 per cent in the number of military observers currently assigned to ONUCA.

Those proposals had been accepted by each of the five countries. With regard to his efforts to achieve a negotiated political solution to the conflict in El Salvador, the Secretary-General reiterated his previously expressed view that verification or observation of the implementation of such a settlement would most appropriately be carried out as an integrated whole, rather than as separate enterprises. It followed that verification of the military aspects would be undertaken by a military component rather than by ONUCA. He accordingly recommended to the Council that the mandate of ONUCA should be extended for a further period of six months, until 7 May 1991, and that its tasks and method of operation should continue to be those approved by the Council in its resolution 644 (1989) of 7 November 1989. If the Council approved that recommendation, the Secretary-General intended to reduce the strength of the ONUCA military observers as proposed, by mid-December.

At its 2952nd meeting, held on 5 November 1990 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (United States) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.⁴⁴ The draft resolution was then put to the vote and adopted unanimously as resolution 675 (1990), which reads:

The Security Council,

Recalling its resolutions 637 (1989) of 27 July 1989 and 644 (1989) of 7 November 1989, as well as the statement made by the President of the Security Council on its behalf on 7 November 1989,

1. *Approves* the report of the Secretary-General of 26 October 1990;
2. *Decides* to extend, under its authority, the mandate of the United Nations Observer Group in Central America, as defined in resolution 644 (1989), for a further period of six months, that is, until 7 May 1991, bearing in mind the report of the Secretary-General and the need to continue to monitor expenditures carefully during this period of increasing demands on peacekeeping resources;
3. *Requests* the Secretary-General to keep the Security Council fully informed of further developments and to report on all aspects of the operations of the Observer Group before the expiry of the new mandate period.

⁴⁴ S/21927.

**Decision of 6 May 1991 (2986th meeting):
resolution 691 (1991)**

On 29 April 1991, pursuant to resolution 675 (1990), the Secretary-General submitted to the Council a report containing an account of the organization and operational activities of ONUCA during the period from 27 October 1990 to 29 April 1991, together with his recommendations concerning the future of the mission.⁴⁵ He remained convinced that ONUCA continued to make a valuable contribution to the peace process in Central America by providing an impartial mechanism for verifying that the five Central American Governments were complying with their security commitments under the Esquipulas II Agreement. The five Presidents, themselves, had expressed their full confidence in ONUCA. He re-emphasized, however, the point made in his report of 26 October 1990,⁴⁶ that the Observer Group was not mandated, staffed or equipped to detect clandestine activities or to take physical action to prevent them, functions that properly belonged to the five Governments. Noting that the extensive patrolling activities of ONUCA had not so far led to the detection of a single violation of the security undertakings, the Secretary-General intended to modify its method of operations on the basis of recommendations by his Chief Military Observer aimed at making the mission more cost-effective. While ONUCA would continue to maintain a regular and visible presence in potentially sensitive border areas, that presence would be more directly focused on liaison and exchange of information with the security authorities of the States concerned, in order to enable ONUCA to verify that those States were taking the action necessary to enable them to comply with their security commitments. Those tasks could be carried out satisfactorily with a somewhat reduced strength of military observers. The five Central American Governments had welcomed the Secretary-General's decision to recommend a further six months' extension of the mission's mandate but wished to maintain its strength at its current level. However, based on the recommendations of the Chief Military Observer, and bearing in mind the Council's reference in resolution 675 (1990) to the need to continue to monitor expenditures carefully during a period of increasing demands on peacekeeping resources, the Secretary-General considered it right to recommend a modest

reduction in the strength of ONUCA. He accordingly recommended that the mission's mandate should be extended for an additional period of six months, until 7 November 1991; that its mandate should continue to be the one approved by the Council in resolution 644 (1989); and that its strength should be reduced to 130 military observers.

At its 2986th meeting, held on 6 May 1991 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (China) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.⁴⁷ The draft resolution was put to the vote and adopted unanimously as resolution 691 (1991), which reads:

The Security Council,

Recalling its resolutions 637 (1989) of 27 July 1989, 644 (1989) of 7 November 1989 and 675 (1990) of 5 November 1990, as well as the statement made by the President of the Security Council on its behalf on 7 November 1989,

1. *Approves* the report of the Secretary-General of 29 April 1991;

2. *Decides* to extend, under its authority, the mandate of the United Nations Observer Group in Central America, as defined in resolution 644 (1989), for a further period of six months, that is, until 7 November 1991, bearing in mind the report of the Secretary-General and the need to continue to monitor expenditures carefully during this period of increasing demands on peacekeeping resources;

3. *Requests* the Secretary-General to keep the Security Council fully informed of further developments and to report on all aspects of the operations of the Group before the expiry of the new mandate period.

**Decision of 20 May 1991 (2988th meeting):
resolution 693 (1991)**

On 21 December 1990, pursuant to resolution 637 (1989), the Secretary-General submitted to the Council a report in which he provided an account of his efforts to promote the achievement of a negotiated political situation to the conflict in El Salvador.⁴⁸ He recalled that, in his report of 8 November 1990,⁴⁹ he had reported on two agreements between the Government of El Salvador and FMLN arrived at under his

⁴⁵ S/22543.

⁴⁶ S/21909.

⁴⁷ S/22564.

⁴⁸ S/22031.

⁴⁹ S/21931.

auspices: the Geneva Agreement of 4 April 1990,⁵⁰ on the framework for negotiations to end the armed conflict by political means; and an agreement concluded at Caracas, on 21 May 1990,⁵¹ on the agenda and schedule of the negotiating process. The initial objective of the negotiation process, as set out in the Geneva Agreement, was to achieve political agreements for arranging a halt to the armed confrontation and any acts that infringed the rights of the civilian population, compliance with which would have to be verified by the United Nations, subject to the approval of the Council. The Secretary-General recalled that he had also drawn attention to the agreement on human rights reached between the two parties at San José on 26 July 1990,⁵² which contained detailed commitments to guarantee unrestricted respect for human rights in El Salvador, and provided for the establishment of a United Nations verification mission in the country upon cessation of the armed conflict.

The Secretary-General stated that while significant progress had been made to date — as exemplified by the San José Agreement on Human Rights — considerable problems had been encountered in reaching agreement on the issue of the armed forces, the most sensitive and complex issue on the agenda. Given the pervasive character of that question, it had not been possible to make substantive progress on other items. The Secretary-General recalled that, having considered the complex and interrelated character of the verification tasks envisaged for the United Nations under the above-mentioned agreements, he had put forward to the members of the Council the concept of an integrated operation under the authority of the Security Council to ensure proper coordination of operations on the ground and the rational use of resources,⁵³ a concept with which they had concurred. He reported that the Government of El Salvador and FMLN had since signified their desire to have the human rights mechanism in place as soon as possible without waiting for other agreements, notably a ceasefire agreement, to be concluded. He emphasized that such a desire was in keeping with the objectives laid down in the Esquipulas II Agreements, which had

been endorsed by the Council in resolution 637 (1989), with its emphasis on democratization and respect for human rights as key components of the peace process. The importance of international verification of Central American peace agreements had also been underlined by the Central American Governments as well as in successive General Assembly resolutions, notably resolution 45/15. Accordingly, the Secretary-General informed the Council of his intention to request its authorization to establish a United Nations Observer Mission in El Salvador (ONUSAL) to monitor compliance with the agreements concluded between the Government of El Salvador and FMLN, commencing with the verification of the Agreement on Human Rights. He recommended that the human rights verification component of ONUSAL be established as soon as the necessary preparations had been made on the ground: in particular, the extent to which the tasks of the mission could be conducted in the absence of a ceasefire had been determined; the personnel required for such a complex operation, for which “no precedent exist[ed] in the annals of the United Nations”, had been recruited; and satisfactory arrangements had been worked out with the Government and FMLN to ensure the safe deployment and effective functioning of ONUSAL. He intended to dispatch to El Salvador in early 1991 a technical mission to assist him in preparing an operational plan for submission to the Council. In the meantime, he had established the small preparatory office in El Salvador with which the Council had previously concurred.

On 16 April 1991, the Secretary-General submitted to the Council a report⁵⁴ recommending the establishment of the human rights component of ONUSAL, on the basis of the conclusions of a preliminary mission to El Salvador in March. The preliminary mission had reached the conclusion that there was a strong and widespread desire among all sectors of political opinion in the country that the United Nations should commence, as soon as possible, the verification of the Agreement on Human Rights without awaiting a ceasefire. It considered, moreover, that, in the absence of the other political agreements envisaged in the 1990 Geneva Agreement, ONUSAL would be able to reach working arrangements on an ad hoc basis with the military, security and judicial authorities and FMLN. The preliminary mission had also concluded that the risks posed by the armed

⁵⁰ *Ibid.*, annex I.

⁵¹ *Ibid.*, annex II.

⁵² S/21541.

⁵³ See the statement made by the Secretary-General in informal consultations on 3 August 1990 (S/22031, annex).

⁵⁴ S/22494; see also Corr.1 and Add.1 of 20 May 1991.

conflict to the tasks of verification and to the security of personnel were not to a degree that should prevent the establishment of the mission before a ceasefire. In the light of those and other relevant considerations, the Secretary-General accepted the preliminary mission's recommendation that the human rights component of ONUSAL be established at the earliest feasible moment in advance of a ceasefire agreement. He proposed that ONUSAL adopt a progressive approach to assuming the verification tasks envisaged for it under the Human Rights Agreement, concentrating first on the active monitoring of the human rights situation, and of the processing by the parties of cases involving allegations of human rights violations. In conclusion, the Secretary-General strongly recommended that the Council give early authorization for the initial establishment of ONUSAL as outlined above. He advised against linking the approval of this proposal to the success of the negotiations as a whole, reiterating his conviction that the commencement of the verification of human rights by ONUSAL would promote a significant improvement in the human rights situation in El Salvador and would act as a positive impetus to the negotiations. Once there was agreement on the ceasefire and the United Nations was called upon to play the broader role envisaged for it, the corresponding resources could be included in the mission's structure to enable it to operate effectively as an integrated whole.

At its 2988th meeting, on 20 May 1991, the Council included in its agenda the reports of the Secretary-General of 21 December 1990 and 16 April and 20 May 1991.⁵⁵ The President (China) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.⁵⁶ The draft resolution was put to the vote and adopted unanimously as resolution 693 (1991), which reads:

The Security Council,

Recalling its resolution 637 (1989) of 27 July 1989, in which it lent its full support to the Secretary-General for the continuation of his mission of good offices in Central America,

Recalling also the Geneva Agreement of 4 April 1990 and the Caracas Agenda of 21 May 1990 concluded between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional,

Deeply concerned at the persistence of and the increase in the climate of violence in El Salvador, which seriously affects the civilian population, and thus stressing the importance of the full implementation of the Agreement on Human Rights signed by the two parties at San José on 26 July 1990,

Welcoming the Mexico Agreements between the two parties of 27 April 1991,

Having considered the reports of the Secretary-General of 21 December 1990 and 16 April and 20 May 1991,

Commending the Secretary-General and his Personal Representative for Central America for their efforts at good offices, and expressing its full support for their continuing efforts to facilitate a peaceful settlement to the conflict in El Salvador,

Underlining the great importance that it attaches to the exercise of moderation and restraint by both sides to ensure the security of all United Nations-employed personnel as well as to the adoption by them of all other appropriate and necessary measures to facilitate the negotiations leading to the achievement of the objectives set forth in the Geneva and other above-mentioned agreements as soon as possible, including their full cooperation with the Secretary-General and his Personal Representative to this end,

Recognizing the right of the parties to determine their own negotiating process,

Calling upon both parties to pursue the current negotiations urgently and with flexibility, in a concentrated format on the items agreed upon in the Caracas Agenda, in order to reach, as a matter of priority, a political agreement on the armed forces and the accords necessary for the cessation of the armed confrontation and to achieve as soon as possible thereafter a process which will lead to the establishment of the necessary guarantees and conditions for reintegrating the members of the Frente Farabundo Martí para la Liberación Nacional within a framework of full legality into the civil, institutional and political life of the country,

Expressing its conviction that a peaceful settlement in El Salvador will contribute to a successful outcome in the Central American peace process,

1. *Approves* the report of the Secretary-General of 16 April and 20 May 1991;

2. *Decides* to establish, under its authority and based on the Secretary-General's report referred to in paragraph 1, a United Nations Observer Mission in El Salvador to monitor all agreements concluded between the two parties, whose initial mandate in its first phase as an integrated peacekeeping operation will be to verify the compliance by the parties with the Agreement on Human Rights signed at San José on 26 July 1990, and also decides that the subsequent tasks or phases of the Mission will be subject to approval by the Council;

⁵⁵ S/22031, and S/22494/Corr.1 and Add.1.

⁵⁶ S/22616.

3. *Also decides* that the United Nations Observer Mission in El Salvador will be established for an initial period of twelve months;

4. *Requests* the Secretary-General to take the necessary measures to establish the first phase of the Mission as described in paragraphs 2 and 3;

5. *Calls upon* both parties, as agreed by them, to pursue a continuous process of negotiations in order to reach at the earliest possible date the objectives set forth in the Mexico Agreements of 27 April 1991 and all other objectives contained in the Geneva Agreement of 4 April 1990, and to this end to cooperate fully with the Secretary-General and his Personal Representative in their efforts;

6. *Requests* the Secretary-General to keep the Security Council fully informed on the implementation of the present resolution.

Decision of 30 September 1991 (3010th meeting): resolution 714 (1991)

On 25 September 1991, the Government of El Salvador and FMLN signed the New York Agreement,⁵⁷ at United Nations Headquarters. The Agreement provided guarantees and conditions on which to reach a peaceful settlement of the armed conflict. These included provisions concerning the establishment of a National Commission for the Consolidation of Peace (COPAZ), responsible for overseeing the implementation of all political agreements reached by the parties, the creation of which was to be explicitly endorsed by Council resolution.

At its 3010th meeting, held on 30 September 1991 in accordance with the understanding reached in its prior consultations, the Council considered the item entitled "Central America: efforts towards peace". Following the adoption of the agenda, the President (France) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's consultations.⁵⁸ The resolution was put to the vote and adopted unanimously as resolution 714 (1991), which reads:

The Security Council,

Recalling its resolution 637 (1989) of 27 July 1989, by which it lent its full support to the Secretary-General for his mission of good offices in Central America,

Also recalling its resolution 693 (1991) of 20 May 1991, by which it established the United Nations Observer Mission in El Salvador,

Welcoming the New York Agreement signed 25 September 1991 by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional, which provides guarantees and conditions on which to reach a peaceful settlement to the armed conflict, including, inter alia, the provisions concerning the National Commission for the Consolidation of Peace, permitting the reintegration of the members of the Frente Farabundo Martí within a framework of full legality into the civil, institutional and political life of the country,

Welcoming also the oral report of the Secretary-General made at the consultations held on 30 September 1991,

1. *Commends* the parties for the flexibility and seriousness which they demonstrated during the course of the recent talks in New York;

2. *Congratulates* the Secretary-General and his Personal Representative for Central America for their skilful and tireless efforts which have been vital to the peace process;

3. *Expresses its appreciation* for the contributions of the Governments of the Group of Friends of the Secretary-General — Colombia, Mexico, Spain, and Venezuela — which have advanced the peace process in El Salvador;

4. *Urges* both parties, at the next negotiating round, which will begin on 12 October 1991, to proceed at an intensive and sustained pace to reach at the earliest possible date a ceasefire and a peaceful settlement to the armed conflict in accordance with the framework of the New York Agreement;

5. *Reaffirms its full support* for the urgent completion of the peace process in El Salvador, and expresses its readiness to support the implementation of a settlement;

6. *Urges* both parties to exercise maximum and continuing restraint, particularly with respect to the civilian population, in order to create the best climate for a successful last stage of the negotiations;

7. *Calls upon* both parties to continue to cooperate fully with the United Nations Observer Mission in El Salvador.

**Decision of 6 November 1991 (3016th meeting):
resolution 719 (1991)**

On 28 October 1991, pursuant to resolution 691 (1991), the Secretary-General submitted to the Security Council a report on the structure and operations of ONUCA during the period from 30 April to 28 October 1991, together with his recommendations regarding the future of the mission.⁵⁹ He noted that since the

⁵⁷ S/23082.

⁵⁸ S/23090.

⁵⁹ S/23171.

establishment of ONUCA, the political and military environment in which it functioned had been profoundly affected by a number of developments inside as well as outside Central America. These included the disengagement of the Powers that had earlier actively supported opposing sides in Central America and their announced intention to revise their policies vis-à-vis Central America, emphasizing their support for negotiated political solutions and assistance for economic and social development rather than military purposes. On the regional level, after 10 years of devastating internal strife in Nicaragua, there was now a climate of relative peace and tranquillity in the country. As for El Salvador, the agreements recently signed by both parties in New York constituted an important step towards the establishment of a lasting peace. He added that the ongoing direct negotiations between representatives of the Government of Guatemala and the Unidad Revolucionaria Nacional Guatemalteca also gave hope for an end to that conflict. In the light of the improved situation in the region, the five Central American Governments were making efforts to arrive at new collective security arrangements for the region, which would enable them to dispense with the need for international verification of their compliance with the Esquipulas II Agreement. In the meantime, however, the five Governments had indicated their wish that the mandate of ONUCA be extended for a further six months. The Secretary-General concluded that, in the prevailing fluid and dynamic situation, it would not be right to withdraw ONUCA or further reduce the scope of its operations. He therefore recommended a further extension of the Observer Group's mandate until 30 April 1992. He suggested, however, that the Council might wish to request him to report during the new mandate period if developments in the region indicated that the future of ONUCA should be reconsidered.

At its 3016th meeting, on 6 November 1991, the Council included the report of the Secretary-General in its agenda. The President (Romania) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of its prior consultations.⁶⁰ The draft resolution was put to the vote and adopted unanimously as resolution 719 (1991), which reads:

⁶⁰ S/23196.

The Security Council,

Recalling its resolutions 637 (1989) of 27 July 1989, 644 (1989) of 7 November 1989, 675 (1990) of 5 November 1990 and 691 (1991) of 6 May 1991, as well as the statement made by the President of the Security Council on its behalf on 7 November 1989,

1. *Approves* the report of the Secretary-General of 28 October 1991;

2. *Decides* to extend, under its authority, the mandate of the United Nations Observer Group in Central America, as defined in resolution 644 (1989), for a further period of five months and twenty-three days, that is, until 30 April 1992, bearing in mind the report of the Secretary-General and the need to continue to monitor expenditures carefully during this period of increasing demands on peacekeeping resources;

3. *Requests* the Secretary-General to keep the Security Council fully informed of further developments and to report on all aspects of the operations of the Group before the expiry of the new mandate period, and in particular to report to the Council within three months from the date of adoption of the present resolution, taking account of any developments in the region which indicate that the present size of the Group or its future should be reconsidered.

Decision of 3 January 1992: statement by the President

On 31 December 1991, the Government of El Salvador and FMLN signed the Act of New York.⁶¹ That instrument recorded that the two parties had concluded a number of further agreements whose implementation would put a final end to the armed conflict in El Salvador. The Final Peace Agreements would be signed in Mexico City on 16 January 1992, following a final round of negotiations on two outstanding issues.

On 3 January 1992, following consultations among the members of the Council, the President (United Kingdom) made the following statement on behalf of the Council:⁶²

The members of the Security Council have noted with appreciation the briefing provided by the Secretary-General on the agreement signed late in the night of 31 December 1991 by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional which, when implemented, will put a definite end to the Salvadorian armed conflict. The members of the Council warmly welcomed the agreement which is of vital importance for the normalization of the situation in El Salvador and in the region as a whole. They place on record their thanks

⁶¹ S/23402, annex.

⁶² S/23360.

and appreciation for the enormous contribution of the Secretary-General and his Personal Envoy for Central America, their collaborators, and all the Governments, especially those of Colombia, Mexico, Spain and Venezuela, that have assisted the Secretary-General in his efforts.

The members of the Council urge the parties to show maximum flexibility in resolving the pending issues in the negotiations at United Nations Headquarters in New York starting this weekend. They also urge the parties to exercise maximum restraint and to take no action in the coming days which would be contrary to the agreement reached in New York and to the excellent spirit in which these talks took place.

They welcomed the Secretary-General's intention, stated today, to submit a written report and proposals early next week with a view to Council action both regarding verification of ceasefire arrangements and the monitoring of the maintenance of public order pending the establishment of the new National Civil Police. This will require the approval by the Council of new tasks for the United Nations Observer Mission in El Salvador. The members of the Council stand ready to deal expeditiously with any recommendations that the Secretary-General may make.

**Decision of 14 January 1992 (3030th meeting):
resolution 729 (1992)**

On 10 January 1992, pursuant to resolution 693 (1991), the Secretary-General submitted to the Council a report,⁶³ recommending the enlargement of ONUSAL and an increase in its strength to enable it to undertake the additional functions desired of it by the Government of El Salvador and FMLN under the Final Peace Agreements to be signed in Mexico City on 16 January 1992. He noted that two of the agreements in particular envisaged additional verification and monitoring functions for ONUSAL, which would require an immediate and substantial increase in its strength. Under the Agreement on the Cessation of Armed Conflict, which provided for a ceasefire to come into force on 1 February 1992, the Mission would verify all aspects of the ceasefire and the separation of forces. Under the Agreement on National Civil Police, the Mission would monitor the maintenance of public order during the transitional period pending the establishment of the National Civil Police. If the mandate of ONUSAL were to be enlarged to fulfil these new tasks, it would be necessary to increase its strength by adding two new divisions — a Military Division and a Police Division — to the existing Human Rights Division. The Secretary-General recommended that the Council should take the

⁶³ S/23402 and Add.1 of 13 January 1992.

decision now to enlarge the ONUSAL mandate and increase its strength, in advance of signature of the agreements giving rise to the additional tasks for the Mission, so that ONUSAL would be ready to fulfil its new responsibilities as soon as the ceasefire came into force. He added that, in the exercise of his good offices with regard to the Central American peace process, he would continue, as provided in the Geneva Agreement of 4 April 1990, to call upon Member States, in particular Colombia, Mexico, Spain and Venezuela (informally known as the “Friends of the Secretary-General”) for support.⁶⁴

At its 3030th meeting, held on 14 January 1992 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (United Kingdom) invited the representative of El Salvador, at his request, to participate in the discussion without the right to vote. He then drew the attention of the Council members to the statement made by the President of the Council on 3 January 1992,⁶⁵ and to a draft resolution that had been prepared in the course of the Council's consultations.⁶⁶ The draft resolution was put to the vote and adopted unanimously as resolution 729 (1992), which reads:

The Security Council,

Recalling its resolution 637 (1989) of 27 July 1989,

Recalling also its resolution 714 (1991) of 30 September 1991, as well as the statement made by the President of the Security Council on behalf of its members on 3 January 1992 following the signature of the Act of New York on 31 December 1991,

Recalling further its resolution 693 (1991) of 20 May 1991 by which it established the United Nations Observer Mission in El Salvador,

Welcoming the conclusion of agreements between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional, which are to be signed at Mexico City on 16 January 1992 and which, when implemented, will put a definitive end to the Salvadorian armed conflict and will open the way for national reconciliation,

Calling upon both parties to continue to exercise maximum moderation and restraint and to take no action which would be contrary to or adversely affect the agreements to be signed in Mexico City,

⁶⁴ S/23402, paras. 17-19.

⁶⁵ S/23360.

⁶⁶ S/23411.

Expressing its conviction that a peaceful settlement in El Salvador will make a decisive contribution to the Central American peace process,

Welcoming the intention of the Secretary-General to convey shortly to the Council his recommendation on the termination of the mandate of the United Nations Observer Group in Central America,

1. *Approves* the report of the Secretary-General of 10 and 13 January 1992;

2. *Decides*, on the basis of the report of the Secretary-General and in accordance with the provisions of resolution 693 (1991), to enlarge the mandate of the United Nations Observer Mission in El Salvador to include the verification and monitoring of the implementation of all the agreements once these are signed at Mexico City between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional, in particular the Agreement on the Cessation of the Armed Conflict and the Agreement on the Establishment of a National Civil Police;

3. *Also decides* that the mandate of the Mission, enlarged in accordance with the present resolution, will be extended to 31 October 1992 and that it will be reviewed at that time on the basis of recommendations to be presented by the Secretary-General;

4. *Requests* the Secretary-General to take the necessary measures to increase the strength of the Mission as recommended in his report;

5. *Calls upon* both parties to respect scrupulously and to implement in good faith the commitments assumed by them under the agreements which are to be signed at Mexico City and to cooperate fully with the Mission in its task of verifying the implementation of these agreements;

6. *Reaffirms its support* for the Secretary-General's continuing mission of good offices with regard to the Central American peace process, and in particular for his observations in paragraphs 17 to 19 of the report regarding his intention to continue, as was foreseen in the Geneva Agreement of 4 April 1990 concerning the process which is to end definitively the armed conflict, to rely on the Governments of Colombia, Mexico, Spain and Venezuela, as well as other States and groups of States, to support him in the exercise of his responsibilities;

7. *Requests* the Secretary-General to keep the Security Council fully informed of developments relating to the implementation of the present resolution and to report on the operations of the Mission before the expiry of the new mandate period.

Decision of 16 January 1992 (3031st meeting): resolution 730 (1992)

On 14 January 1992, pursuant to resolution 719 (1991), the Secretary-General submitted to the Security Council a report on ONUCA,⁶⁷ in which he recommended that its operational mandate be terminated with effect from 17 January 1992, so as to enable him to proceed with the transfer of certain personnel and equipment from ONUCA to ONUSAL. He recalled the observations made in his predecessor's report of 28 October 1991,⁶⁸ concerning the need to reconsider the future of ONUCA in case of an early and successful conclusion of the peace process in El Salvador, and the widely held view that peacekeeping operations should be set up to do a specific task for a specific period and then be disbanded. The Secretary-General also referred to his report of 10 January 1992, which contained details of the major additional tasks of verification which would now fall to ONUSAL and of the resources that it would require.⁶⁹ In the circumstances, he believed that the Council should decide to terminate the mandate of ONUCA, and had so informed the five Central American countries in which the Observer Group was deployed. He believed that, in the present case, those considerations must necessarily prevail over the parties' concerns at the termination of a peacekeeping operation in which they had come to have confidence.

At its 3031st meeting, held on 16 January 1992 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (United Kingdom) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's consultations.⁷⁰ The draft resolution was put to the vote and adopted unanimously as resolution 730 (1992), which reads:

The Security Council,

Recalling its resolution 719 (1991) of 6 November 1991,

Recalling also its resolution 729 (1992) of 14 January 1992,

1. *Approves* the report of the Secretary-General of 14 January 1992;

⁶⁷ S/23421.

⁶⁸ S/23171.

⁶⁹ S/23402 and Add.1.

⁷⁰ S/23427.

2. *Decides*, in accordance with the recommendation in paragraph 7 of the report, to terminate the mandate of the United Nations Observer Group in Central America with effect from 17 January 1992.

**Decision of 3 June 1992: statement by the
President**

On 26 May 1992, pursuant to resolution 729 (1992), the Secretary-General submitted to the Security Council a report describing ONUSAL activities since the ceasefire between the Government of El Salvador and FMLN formally came into effect on 1 February 1992.⁷¹ The Mission had been carrying out the various verification tasks assigned to it in the agreements signed by the parties. In addition to its specific verification responsibilities, ONUSAL was exercising its good offices to help the parties to implement the agreements. In those endeavours, it had received valuable support from the four “Friends of the Secretary-General” (Colombia, Mexico, Spain and Venezuela), as well as other interested Governments. ONUSAL had also been participating as an observer in the work of the National Commission for the Consolidation of Peace. The Secretary-General observed that the peace process was not an easy one. The agreements were complex and demanded a commitment to compromise and fundamental adjustments in political and social attitudes. Nor were they self-executing. The United Nations was committed to assisting the two parties, but success would be assured only by their political will and their acceptance of national reconciliation as the overriding national goal. The Secretary-General commended the parties for their success in maintaining the ceasefire, which had not once been violated. However, he reported that there had been some serious delays in implementing various provisions of the agreements, which had undermined each side’s confidence in the other’s good faith. He was particularly concerned by the continuing failure of both sides to concentrate all their forces in the designated locations. Other sources of serious concern were the Government’s delay in adopting measures which it had committed itself to take to facilitate the reintegration of the FMLN ex-combatants into civilian life — especially as regards agriculture, political activity and recruitment into the National Civil Police — and the failure of FMLN to return the first 20 per cent of its combatants to civilian

⁷¹ S/23999, and Add.1 of 19 June 1992.

life. The Secretary-General added that the Mission was operating in an atmosphere of deep distrust and its insistence on maintaining its impartiality was sometimes misperceived by each side as being partiality towards the other. In that context, he reported with regret that there had recently been a recurrence of threats against the security of the Mission and its personnel.

On 3 June 1992, following consultations among the members of the Council, the President made the following statement on behalf of the Council:⁷²

The members of the Security Council have taken note of the report of the Secretary-General of 26 May and 19 June 1992 on the United Nations Observer Mission in El Salvador.

The members of the Council are pleased that the ceasefire is holding and there has not been a single violation since it came into force on 1 February 1992.

However, the members of the Council are deeply concerned about the many delays by both parties in implementing agreements concluded between the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional and the climate of mutual suspicion that still remains. If that situation were to continue, it would jeopardize the very foundation of the agreements.

The members of the Council urge both parties to demonstrate good faith in implementing the agreements fully, to abide by the agreed time limits, to exert every effort to bring about national reconciliation in El Salvador and to implement the process of demobilization and reform.

The members of the Council reaffirm their full support for the efforts made by the Secretary-General and his Special Representative for El Salvador, with the assistance of the Governments of the Group of Friends of the Secretary-General and other Governments concerned. They commend the staff of the Mission, who are working under very difficult conditions, and express their concern about the threats to their safety. They remind the parties of their obligation to take all necessary measures to guarantee the safety of the Mission and its members.

The members of the Council will continue to monitor closely developments in the implementation of the peace agreements in El Salvador.

**Decision of 30 October 1992 (3129th meeting):
resolution 784 (1992)**

By a letter dated 19 October 1992 addressed to the President of the Security Council on the situation in

⁷² S/24058.

El Salvador,⁷³ the Secretary-General reported that he did not believe that it would be possible to complete the demobilization of FMLN by 31 October 1992, as provided for in the Peace Agreements of 16 January 1992. He noted that delays in implementing the land transfer programme and the police project, both of which were to have been completed before the demobilization, had led to a suspension of the demobilization process.

By a letter dated 28 October 1992 addressed to the President of the Security Council,⁷⁴ the Secretary-General confirmed that, because of the above-mentioned difficulties, the demobilization process would not be completed on schedule. He had presented proposals for overcoming those difficulties to both parties. In the meantime, he recommended that the Council extend the mandate of ONUSAL for an interim period of one month, until 30 November 1992. The Secretary-General anticipated that, by then, he would be able to make a specific recommendation on the mandate and strength that ONUSAL would need in order to verify implementation of the final phases of the peace process in El Salvador.

At its 3129th meeting, held on 30 October 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the letter of 28 October from the Secretary-General. The President (France) drew the attention of the Council members to the Secretary-General's letter of 19 October, and to a draft resolution that had been prepared in the course of the Council's prior consultations.⁷⁵ The draft resolution was put to the vote and adopted unanimously as resolution 784 (1992), which reads:

The Security Council,

Recalling its resolution 637 (1989) of 27 July 1989,

Recalling also its resolutions 693 (1991) of 20 May 1991, 714 (1991) of 30 September 1991 and 729 (1992) of 14 January 1992,

Taking note of the letter from the Secretary-General of 19 October 1992 addressed to the President of the Security Council, in which he announced a delay in the schedule laid down in resolution 729 (1992),

Taking note also of the letter from the Secretary-General of 28 October 1992 addressed to the President of the Security Council, in which he proposed an interim extension of the current mandate of the United Nations Observer Mission in El Salvador,

1. *Approves* the proposal of the Secretary-General to extend the current mandate of the United Nations Observer Mission in El Salvador for a period ending on 30 November 1992;

2. *Requests* the Secretary-General to submit to the Security Council, between now and that date, recommendations on the period of extension of the mandate, on the mandate itself and on the strength that the Mission will need, taking into account progress already made, in order to verify the implementation of the final phases of the peace process in El Salvador, together with their financial implications;

3. *Urges* both parties to respect scrupulously and to implement in good faith the commitments assumed by them under the agreements signed on 16 January 1992 at Mexico City and to respond positively to the Secretary-General's latest proposals to them aimed at overcoming the current difficulties;

4. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of Venezuela noted that, together with Colombia, Spain and Mexico, his country had assisted in the delicate tasks of guaranteeing the agreements entered into by the Secretary-General. He supported unreservedly the efforts of the Secretary-General and, referring to paragraph 3 of the resolution, urged both parties to respond positively to his latest proposals to them aimed at overcoming the current difficulties. However, he emphasized that his country understood those proposals to be practical and realistic responses and not a renegotiation of the agreements signed on 16 January 1992 in Mexico City.⁷⁶

The representative of Ecuador said that the United Nations had played a unique role in building peace in El Salvador and stated that its impartiality in the conflict had made it possible for it to present objective proposals which had gained the approval of the parties. He welcomed, therefore, the Secretary-General's further initiative and urged the parties to cooperate with him. Although compliance with the original schedule envisaged in the peace agreements would have been preferable, the success achieved so far should not be jeopardized. A short and specific extension of the time frame, if it served the purpose of

⁷³ S/24688.

⁷⁴ S/24731.

⁷⁵ S/24737.

⁷⁶ S/PV.3129, pp. 3-6.

reactivating the peace process and was supported with goodwill by the parties, could be very positive.⁷⁷

Decision of 30 November 1992 (3142nd meeting): resolution 791 (1992)

On 23 November 1992, pursuant to resolutions 729 (1992) and 784 (1992), the Secretary-General submitted to the Security Council a report recommending the extension of the mandate of ONUSAL for a further six months.⁷⁸ He reported that ONUSAL continued to carry out all the verification functions assigned to it under the various agreements signed by the Government of El Salvador and FMLN. The Mission had also used its good offices in a variety of ways to assist the parties in overcoming difficulties that had arisen in the implementation of the peace accords, and had participated as an observer in the National Commission for the Consolidation of Peace. With regard to the timetable for implementation of the accords, the Secretary-General stated that his representative had, earlier in November, concluded arrangements with the parties which would formally bring the armed conflict to an end on 15 December 1992 (instead of by 31 October, as originally envisaged). The arrangements stipulated that compliance with specific undertakings by one side would be contingent upon compliance with specific undertakings by the other side. ONUSAL was therefore now verifying, with close attention, implementation by the parties to ensure that compliance took place on schedule.

The Secretary-General observed that the peace process continued to show signs of becoming irreversible, noting in particular the impeccable observance of the ceasefire and the involvement of FMLN in political activities. He welcomed the manner in which the parties had overcome obstacles, but noted that the implementation of the peace accords in their entirety would require flexibility and restraint, especially in the zones of former conflict. Successful completion of the peace process would also require continuing support from the international community — both through the continued existence of ONUSAL and through voluntary contributions for activities that the Government could not finance itself but which it would be inappropriate to include in the Mission's budget.

As the ONUSAL mandate under resolution 693 (1991) was “to monitor all agreements concluded between the two parties”, and certain major undertakings — such as the reduction of the Armed Forces and the deployment of the National Civil Police — extended into 1994, the Secretary-General intended to submit to the Council at regular intervals his recommendations on the future activities and strength of the mission, taking into account the progress made in implementing the peace process. He anticipated that ONUSAL would complete its work by mid-1994. In the interim, he recommended that the Council extend the mission's mandate for a further period of six months, to 31 May 1993. Such a decision would be another sign of the international community's commitment to support the peace process in El Salvador. That commitment was of course based on the belief that Salvadorians themselves would show a matching commitment. The Secretary-General stressed that only through determined efforts by all sectors of Salvadorian society would the country return to the path of lasting peace. He called on the Salvadorian media to play a positive role in that regard, expressing concern at anonymous threats that had appeared in the newspapers, aimed at FMLN leaders, political figures and members of ONUSAL, which the Government had been repeatedly asked to investigate.⁷⁹

At its 3142nd meeting, held on 30 November 1992 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (Hungary) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.⁸⁰

Speaking before the vote, the representative of Venezuela stated that, as one of the “Friends of the Secretary-General”,⁸¹ and with the support and participation of the United States, his country bore witness to the peace efforts of the United Nations in El Salvador. The peace process had demonstrated the positive scope of two main roles that could be played: on the one hand, the participation of the United Nations as mediator and guarantor of the peace agreements entered into by the parties in a civil conflict, with whom main responsibility rested; and, on the other hand, the important support role that could be

⁷⁷ *Ibid.*, pp. 6-8.

⁷⁸ S/24833, and Add.1 of 30 November 1992.

⁷⁹ *Ibid.*, para. 84.

⁸⁰ S/24861.

⁸¹ Colombia, Mexico, Spain and Venezuela.

played by friendly countries in the dialogue leading to agreements and in follow-up with regard to implementation. Those two roles could help to ensure, at the national and international levels, trust in the peace process and the reconciliation process.⁸²

The draft resolution was then put to the vote and adopted unanimously as resolution 791 (1992), which reads:

The Security Council,

Recalling its resolution 637 (1989) of 27 July 1989,

Recalling also its resolutions 693 (1991) of 20 May 1991, 714 (1991) of 30 September 1991, 729 (1992) of 14 January 1992 and 784 (1992) of 30 October 1992,

Having studied the report of the Secretary-General on the United Nations Observer Mission in El Salvador of 23 and 30 November 1992,

Noting with appreciation the continuing efforts of the Secretary-General to support implementation of the several agreements signed between 4 April 1990 and 16 January 1992 by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional to re-establish peace and promote reconciliation in El Salvador,

Noting the intention of the Secretary-General to continue, in this as in other peacekeeping operations, to monitor expenditures carefully during this period of increasing demands on peacekeeping resources,

1. *Approves* the report of the Secretary-General on the United Nations Observer Mission in El Salvador of 23 and 30 November 1992;

2. *Decides* to extend the mandate of the Mission as defined in resolutions 693 (1991) and 729 (1992), for a further period of six months ending on 31 May 1993;

3. *Welcomes* the intention of the Secretary-General to adapt the future activities and strength of the Mission, taking into account progress made in implementing the peace process;

4. *Urges* both parties to respect scrupulously and to implement in good faith the solemn commitments they have assumed under the agreements signed on 16 January 1992 at Mexico City and to exercise the utmost moderation and restraint, both at present and following the conclusion of the ceasefire phase, in order to respect the new deadlines agreed upon by them for the successful completion of the peace process and for the restoration of normal conditions, especially in the zones of former conflict;

5. *Shares*, in this context, the preoccupations expressed by the Secretary-General in paragraph 84 of his report;

6. *Reaffirms its support* for the Secretary-General's use of his good offices in the El Salvador peace process and calls upon both parties to cooperate fully with the Special Representative of the Secretary-General for El Salvador and the Mission in their tasks of assisting and verifying the parties' implementation of their commitments;

7. *Requests* all States, as well as the international institutions in the fields of development and finance, to continue to support the peace process, in particular through voluntary contributions;

8. *Requests* the Secretary-General to keep the Security Council fully informed of further developments in the El Salvador peace process and to report, as necessary, on all aspects of the operations of the Mission, at the latest before the expiry of the new mandate period;

9. *Decides* to remain seized of the matter.

⁸² S/PV.3142, pp. 3-5.

10. Letter dated 27 November 1989 from the Permanent Representative of El Salvador to the United Nations addressed to the President of the Security Council

Letter dated 28 November 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council

Initial proceedings

Decision of 8 December 1989 (2897th meeting): statement by the President

By a letter dated 27 November 1989 addressed to the President of the Security Council,¹ the representative of El Salvador requested an urgent meeting of the Council to consider actions by the Government of Nicaragua, which he contended constituted breaches of the regional agreements concluded by the Central American Presidents — specifically, the “Procedure for the establishment of a firm and lasting peace in Central America” (Esquipulas II Agreement);² the Joint Declaration of the Central American Presidents (Tesoro Beach Agreement);³ and the Tela Declaration of 7 August 1989.⁴ His Government believed that, unless those serious breaches of the Central American agreements were brought to an end, peace in Central America would be threatened and a regional conflict might be unleashed.

By a letter dated 28 November 1989 addressed to the President of the Security Council,⁵ the representative of Nicaragua requested that the scope of the urgent meeting of the Council be expanded to include consideration of the grave repercussions which the serious deterioration of the situation in El Salvador was having on the peace process in Central America.

At its 2896th meeting, on 30 November 1989, the Council included the two above-mentioned letters in its agenda. Following the adoption of the agenda, the President (China) noted that, in keeping with past practice and as agreed in the Council’s prior consultations, he had requested the Secretariat to make the necessary technical arrangements to permit the

representatives of El Salvador and Nicaragua to show in the Council chamber audio-visual material⁶ relating to the item under consideration. The President then invited the representatives of El Salvador and Nicaragua, at their request, to participate in the discussion without the right to vote. The question was considered by the Council at its 2896th and 2897th meetings, on 30 November and 8 December 1989, respectively.

The President also drew the attention of members of the Council to two other letters: a letter dated 22 November 1989 from the representative of Yugoslavia addressed to the Secretary-General, transmitting a communiqué issued on 20 November by the Coordinating Bureau of the Movement of Non-Aligned Countries on the situation in El Salvador;⁷ and a letter dated 27 November 1989 from the representatives of Argentina, Brazil, Colombia, Mexico, Peru, Uruguay and Venezuela addressed to the Secretary-General, enclosing a communiqué issued on 24 November by their Governments — the member countries of the Permanent Mechanism for Consultation and Concerted Political Action — concerning the situation in El Salvador.⁸ In the latter communiqué, the seven Governments expressed concern at the internal conflict in El Salvador, following the break-off of the dialogue between the Salvadorian Government and the Frente Farabundo Martí para la Liberación Nacional (FMLN), the Salvadorian opposition movement. They urged the immediate cessation of hostilities and the resumption of the national political dialogue. They also called on all States with ties to or interests in the region to

¹ S/20991.

² S/19085, annex.

³ S/20491, annex.

⁴ S/20778.

⁵ S/20999.

⁶ S/PV.2896, p. 6. The videotapes were shown during the course of the statements made by the two representatives.

⁷ S/20985.

⁸ S/20994.

refrain from intervening in the conflict; and urged cooperation in the efforts to achieve peace within the framework of the Esquipulas II agreements and in conformity with the commitments accepted by the Central American Presidents. They expressed firm support for the efforts of the Secretary-General of the Organization of American States in that regard.

The President remarked, at the beginning of the meeting, that the Council was mindful of the need to encourage efforts at ensuring that the peace process in Central America went forward and that nothing was done which would adversely affect those efforts. For that reason, as agreed in the course of the Council's prior consultations, he appealed to all speakers to show restraint in their statements so as not to disturb the peace process.⁹

The representative of El Salvador stated that his country had turned to the Council to lodge a complaint against the Government of Nicaragua because of serious acts of aggression for which the Sandinista regime was responsible. He stated that that regime was supplying weapons and military equipment to the irregular forces of El Salvador and providing them with military training. Such conduct was contrary to the Central American agreements, which established a total ban on Government aid to irregular forces operating in certain States. It was also in violation of the principle of non-intervention. He warned that El Salvador did not want the situation to lead to actions of legitimate self-defence and called on the Council to put an end to those violations of the Central American agreements so as to ensure that the conflict did not spread in the region. It should shoulder its primary responsibility by making an effective and impartial contribution to corroborating the substance of El Salvador's charges. If the Council were to decide to send a fact-finding mission, El Salvador would cooperate with it fully. In any case, El Salvador stressed the need for strict compliance with the Central American agreements: El Salvador would not "stand idly by" if the Sandinista regime did not end its interventionist policy. He noted that this was the first time that his country had resorted to the Council, which had become the "guarantor" of compliance with the agreements by virtue of its resolutions 637 (1989) and 644 (1989). He cautioned that violations of the agreements would render them "null and void", which

would block, and even set back, the process of peace and socio-economic development in the region. He concluded by insisting that the Central Americans had to resolve the crisis themselves. In that connection, El Salvador considered that it was worth holding a presidential summit meeting at a date to be renegotiated.¹⁰

The representative of Nicaragua contended that El Salvador's allegations were simply a "cover-up" for the real causes of the tragedy which had long beset the Salvadorian people. They could not be attributed to external factors allegedly attempting to destabilize the internal situation in El Salvador. Nor could they be ascribed to the internal opposition movement, FMLN. Responsibility lay, rather, with the Government of El Salvador, an "insensitive oligarchy" and a "repressive" army. It was they who were responsible for the exploitation and repression of the Salvadorian people and for the attacks on the civilian population, involving most recently the deaths of trade unionists and Jesuit priests. The United States also bore responsibility for those human rights abuses because of its continued military assistance to the Government of El Salvador. He stated that El Salvador was, moreover, in breach of its obligations under the Central American agreements as it was incapable of fostering reforms and of entering into serious negotiations with FMLN to find a political solution to the conflict. By bringing the matter to the Council, it was bypassing and deliberately endangering the machinery established by the agreements. Nicaragua had never done this, despite the fact that El Salvador was still engaged in "aggression" against Nicaragua — as was the United States — in continuing to provide assistance to the Nicaraguan "counter-revolutionaries" (the so-called *contras*). Such action was in violation of El Salvador's commitments under the Central American agreements, which required that those forces be demobilized, disarmed and repatriated. The grave deterioration of the situation in El Salvador and that country's conduct posed a serious threat to the Central American peace process. The speaker asked the Council urgently to take the measures necessary to guarantee basic human rights in El Salvador and to promote measures towards an agreed ceasefire and the commencement of effective, substantive negotiations between the Government of El Salvador and FMLN, as required by the Central American agreements. He drew attention to his

⁹ S/PV.2896, p. 6.

¹⁰ S/PV.2896, pp. 6-23.

delegation's draft resolution¹¹ to that end, as submitted to the President of the Council. He also called on the Secretaries-General of the United Nations and the Organization of American States to use or continue to use their good offices to guarantee the holding of the summit of the Central American Presidents scheduled for early December.¹²

The representative of El Salvador, in a further statement, rejected the accusations made by the representative of Nicaragua, and emphasized his Government's constitutional commitment to human rights.¹³

The representative of the United States regretted that he had to speak to denounce as baseless the charges made by Nicaragua against his country. The FMLN "war" on the democratically elected Government of El Salvador had escalated dramatically, fuelled by the Governments of Nicaragua and Cuba. In violation of the Central American agreements, the Government of Nicaragua continued to supply weaponry to FMLN. He appealed to that Government to abide by the spirit of those agreements and stressed that, for its part, the United States supported the process of democratization and peace enshrined in the Esquipulas agreements. Its economic, military and humanitarian assistance to El Salvador was aid directed to a constitutionally elected Government in support of the peace process and used to offset guerrilla damage and attacks on the economy and infrastructure. As regards United States aid to the Nicaraguan "resistance", all lethal aid had ceased, in compliance with the Esquipulas process; the Tela Accords specifically allowed for the provision of humanitarian assistance. He concluded by affirming that the United States stood by its commitment to support the democratically elected Government of El Salvador in its struggle against the Sandinista-supported violent and terrorist tactics of FMLN.¹⁴

The representative of Nicaragua, in a further statement, urged the United States to stop interfering in

Nicaragua's internal politics and to encourage the opportunities for Central Americans themselves to solve their own problems.¹⁵

At the 2897th meeting, held on 8 December 1989 in accordance with the understanding reached in the Council's prior consultations, the President said that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁶

The members of the Security Council, after hearing statements by the representatives of El Salvador and Nicaragua at the 2896th meeting of the Security Council, on 30 November 1989, express their grave concern over the present situation in Central America, in particular over the numerous acts of violence resulting in loss of lives and sufferings of the civilian population.

The members of the Council reiterate their firm support for the Esquipulas process of peaceful settlement in Central America and appeal to all States to contribute to the urgent implementation of the agreements reached by the five Central American Presidents. In this regard the members of the Council welcome the announcement by the five Central American Presidents to meet on 10 and 11 December at San José, Costa Rica, in order to discuss within the framework of the Esquipulas peace process, solutions to the problems confronting them.

The members of the Council consider that it is primarily the responsibility of the five Central American Presidents to find solutions to the regional problems, in accordance with the Esquipulas agreements. Therefore, they reiterate their appeal to all States, including those with links to the region and interests in it, to refrain from all actions that could impede the achievement of a real and lasting settlement in Central America through negotiations.

The members of the Council urge all parties concerned to cooperate in the search for peace and a political solution.

The members of the Council also express their firm support for the efforts being made by the Secretary-General of the United Nations and the Secretary-General of the Organization of American States in the peace process. In particular, they reiterate their full support for the Secretary-General of the United Nations in the exercise of the missions entrusted to him by the General Assembly and the Security Council, as well as for the early deployment of the United Nations Observer Group in Central America.

¹¹ S/21000.

¹² S/PV.2896, pp. 24-52.

¹³ S/PV.2896, p. 52.

¹⁴ *Ibid.*, pp. 53-56.

¹⁵ *Ibid.*, pp. 56-58.

¹⁶ S/21011.

11. Items relating to Cuba

Initial proceedings

A. Letter dated 2 February 1990 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council

By a letter dated 2 February 1990 addressed to the President of the Security Council,¹ the representative of Cuba requested the convening of a meeting of the Council to consider “the harassment of and armed attack on a Cuban merchant ship in the Gulf of Mexico by a vessel of the Coast Guard of the Government of the United States of America”. Cuba contended that that action constituted not only a violation of international law, but also an act of piracy endangering international peace and security.

By a letter dated 3 February 1990 addressed to the Secretary-General,² the representative of Cuba transmitted the texts of two notes dated 31 January and 1 February 1990 from the Ministry of Foreign Affairs of Cuba to the Interests Section of the United States in the Embassy of Switzerland in Havana. Cuba protested against the “illegal actions” of the United States Coast Guard Service, one of whose vessels had fired at and attempted to sink the merchant vessel *Hermann* in the early hours of 31 January as the latter — leased by a Cuban firm and manned by a Cuban captain and crew — was sailing in international waters from Cuba to Mexico. It observed that the Cuban Government had backed the decision of the captain and crew of the *Hermann* to resist the “illegal attempts” by the Coast Guard to board the vessel. Cuba rejected, moreover, the explanations by the United States Department of State that the attempted boarding and subsequent attack were part of an anti-drug-smuggling operation. It condemned the attack as a violation of freedom of navigation in international waters and of the human rights of its citizens whose lives had been put at risk. Cuba demanded that the United States put an end to such acts of provocation and aggression and make full reparation for the damage caused.

By a letter dated 3 February 1990 addressed to the Secretary-General,³ the representative of the United States provided his Government’s detailed account of the incident of 31 January. The Coast Guard authorities had requested permission to board and inspect the *Hermann* as there was reason to suspect that it was carrying narcotics or other contraband. When the captain denied permission, the United States had sought and received permission from the flag State, Panama, to stop and search the vessel. The Coast Guard vessel had resorted to authorized and appropriate force only after the captain’s continued refusal to stop and after having exhausted all internationally recognized means of stopping the *Hermann*. The action taken by the United States was fully consistent with international maritime law and practice. The letter stressed that the Security Council should not expend its valuable time considering this matter, which “in no way” constituted “a threat to international peace and security”.

By a letter dated 5 February 1990 addressed to the Secretary-General,⁴ the representative of Panama confirmed that the vessel concerned flew the Panamanian flag and that the Government of Panama had given express permission for United States authorities to board and inspect it. Panama accepted that, in such cases, all necessary measures could — even must — be taken, including the use of force.

At its 2907th meeting, on 9 February 1990, the Council included the letter dated 2 February 1990 from the representative of Cuba in its agenda. Following the adoption of the agenda, the President (Cuba) drew the attention of the members of the Council to the above-mentioned communications from the representatives of Cuba and the United States, dated 3 February 1990, and of Panama, dated 5 February 1990, concerning the matter.⁵ Prior to taking up the item, the President decided to exercise his discretion under rule 20 of the Council’s provisional rules of procedure and to vacate the Chair while the item was being discussed, since it concerned a matter that directly involved his country.

¹ S/21120.

² S/21121.

³ S/21122.

⁴ S/21127.

⁵ S/21121, S/21122 and S/21127.

He yielded the Chair to the representative of Democratic Yemen.

The representative of Cuba presented a detailed account of the operation against the merchant vessel *Hermann*, which, he said, had been conducted in international waters, hundreds of miles outside United States' territory. He rejected the United States contention that the Cuban Government was responsible for the incident and stated that Cuba's refusal to allow the United States Coast Guard to inspect the *Hermann* was justified. He did not accept that the United States' conduct had been authorized by the Panamanian authorities and criticized its selective resort to a convention on drugs that had not yet come into force.⁶ He contended that the United States had flagrantly violated the Charter of the United Nations, the 1958 Convention on the High Seas⁷ and the United Nations Convention on the Law of the Sea⁸ and had disregarded General Assembly declarations and resolutions relating to peaceful coexistence among States. It had committed crimes of piracy and State terrorism. In conclusion, the speaker claimed that the incident was part of the United States policy of interference and aggression in a part of the world that it intended to go on treating as if it were its own backyard. That policy constituted a clear threat to international peace and security; consequently, the Council should take the necessary decisions to put an end to it.⁹

The representative of the United States stated that his Government strongly disagreed that a routine drug-interdiction case merited Security Council consideration. That type of operation was standard, frequent and an essential component of the battle against international drug traffickers. In his Government's opinion, it was Cuba that had violated international law by interfering with the rights and obligations of the flag State and ordering a Cuban crew to resist lawful inspection. The United States' actions, on the other hand, had been taken with the authorization of the flag State¹⁰ and in accordance with

customary international law and practice, as codified in various treaties.¹¹ His Government saw no reason whatsoever for the Council to consider this routine law-enforcement issue, which in no way threatened international peace and security.¹²

The representative of Cuba made a further statement, reiterating a number of his previous points. The President then stated that the next meeting of the Council to continue its consideration of this item would be fixed in consultation with the members of the Council.¹³

B. Letter dated 27 April 1992 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council

By a letter dated 27 April 1992 addressed to the President of the Security Council,¹⁴ the representative of Cuba requested the convening of a meeting of the Council as soon as possible to consider the "terrorist activities being carried out against the Republic of Cuba, which are promoted, encouraged or tolerated by the United States authorities". He stated that these activities, which had been conducted for more than three decades, included the in-flight destruction of a Cuban civilian aircraft near Barbados on 6 October 1976, causing the death of 73 persons on board. Certain individuals who had plotted that atrocity had still not been punished and were currently under the protection of the United States Government. The representative of Cuba recalled that during 1992 the Council had stated its determination to eliminate international terrorism. In the presidential statement issued on 31 January 1992, on the occasion of the meeting of the Council at the level of Heads of State and Government, the members of the Council had expressed their deep concern over acts of international terrorism, and emphasized the need for the international community to deal effectively with all such acts. In resolution 748 (1992), moreover, the

⁶ United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. Although the Convention was not yet in force, it had been signed by Cuba, Panama and the United States.

⁷ Art. 22, para. 1.

⁸ Arts. 88 and 89.

⁹ S/PV.2907, pp. 8-25.

¹⁰ S/21127.

¹¹ 1958 Convention on the High Seas, art. 6; United Nations Convention on the Law of the Sea, art. 92; United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (not yet in force), arts. 17(1), (3) and (4).

¹² S/PV. 2907, pp. 26-37.

¹³ *Ibid.*, p. 46.

¹⁴ S/23850.

Council had reaffirmed that every State had the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involved a threat or use of force. That duty appertained to “every State”, including members of the Council and particularly its permanent members. The Council was accordingly obliged to condemn the terrorist actions for which the United States Government was responsible, and to demand that the latter hand over two named individuals to the Cuban courts and take immediate steps to eliminate completely the terrorist activities carried out from United States territory against Cuba. Just as Cuba condemned the attacks on Pan Am flight 101 and Union de Transports Aériens flight 772,¹⁵ so it demanded that the Council condemn the sabotage of the Cubana de Aviación aircraft. And, just as Cuba rejected international terrorism, so it demanded that an immediate end be put to the terrorism promoted, fostered or tolerated by the United States Government against Cuba.

By a letter dated 8 May 1992 addressed to the President of the Security Council,¹⁶ the representative of Cuba reiterated his request for a meeting. He drew attention to the fact that it was a formal request, made by a State Member of the United Nations exercising its right under Article 35 of the Charter of the United Nations, bearing in mind the obligation of the Council under Article 24 of the Charter. He noted that, on the basis of that right and that obligation, there had been a well-established and generally respected practice since the inception of the United Nations that no member of the Council could ignore or seek to debase. Since the meeting still had not been convened, he submitted further information to illustrate why the Council had a duty to examine the matter and take prompt and effective action.

By a letter dated 13 May 1992 addressed to the President of the Security Council,¹⁷ the representative of Cuba reiterated his country’s request for a meeting. He also expressed the view that, despite suggestions to the contrary, no decision had yet been adopted by the

Council with regard to his letter of 27 April as the Council had not held any meeting since that date.

At its 3080th meeting, on 21 May 1992, the Council included the letter dated 27 April from the representative of Cuba in its agenda and considered the matter at that meeting. The representative of Cuba was invited, at his request, to take part in the discussion without the right to vote.

The President (Austria) drew the attention of the members of the Council to several documents,¹⁸ including a draft resolution submitted by Cuba.¹⁹ By the draft resolution, in its preambular paragraphs, the Council would have, *inter alia*, reaffirmed its conviction that the suppression of acts of international terrorism, including those in which States were directly or indirectly involved, was essential for the maintenance of international peace and security; and that, in accordance with Article 2 (4) of the Charter, every State had the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involved the threat or use of force. In the operative part of the draft resolution, the Council, acting under Chapter VII of the Charter, would have, *inter alia*, condemned the act of sabotage against the Cuban Airlines aircraft; urged the United States Government to provide to the Council, through the Secretary-General, all the information and evidence in its possession on that act of sabotage and on the persons who had planned, directed and carried it out; and requested the Secretary-General to seek the cooperation of the United States Government in providing that information and evidence and facilitating the investigation of that act of sabotage and the punishment of the guilty parties so as to contribute to the eradication of international terrorism.

At the same meeting, the representative of Cuba reiterated his Government’s claim that two of the persons who had masterminded the bombing of the Cuban civilian aircraft had not been punished and were in the United States. He also contended that the United States Government possessed information and evidence concerning the incident which had never been made public despite the country’s legal and ethical obligations and the fact that the International Civil

¹⁵ See also “Items relating to the Libyan Arab Jamahiriya” in the present chapter (sect. 3).

¹⁶ S/23890.

¹⁷ S/23913.

¹⁸ S/23846, S/23890, S/23912 and S/23913.

¹⁹ S/23990. The draft resolution was not put to the vote.

Aviation Organization had called on all States to act with vigour and resolve in the matter so that the guilty might be duly punished. He detailed a number of other terrorist activities and threats against his country promoted and organized by Cuban expatriates living in Miami, Florida, United States. He concluded by stating that he hoped that the Council could support the draft resolution, the main elements of which he summarized.²⁰

The representative of the United States acknowledged that one of the fundamental principles of the United Nations was that all countries, members or non-members of the Council, had the right to be heard. However, he regretted Cuba's misuse of the Council's valuable time to make baseless allegations against his country, attempting to portray it as a

²⁰ S/PV.3080, pp. 6-36.

supporter of international terrorism and a harbourer of terrorists. He stated that the United States supported peaceful democratic change in Cuba and had no aggressive intentions towards that country. His Government neither supported nor condoned preparations in the United States for the violent overthrow of the Government of Cuba, or efforts from the United States to foment violence in Cuba. He refuted the specific allegations made by the representative of Cuba and referred to a statement circulated to the Council that dealt with them in greater detail.²¹

The representative of Cuba made a further statement in which he stated that although the complaint before the Council had happened 15 years ago, the events continued to occur even just before the Council started its meeting.²²

²¹ *Ibid.*, pp. 36-38, referring to document S/23989.

²² *Ibid.*, pp. 39-41.

12. Items relating to Haiti

Initial proceedings

A. Letter dated 30 September 1991 from the Permanent Representative of Haiti to the United Nations addressed to the President of the Security Council

By a letter dated 30 September 1991 addressed to the President of the Security Council,¹ the representative of Haiti requested an immediate meeting of the Council to consider the situation in Haiti and its consequences for regional stability.

At its 3011th meeting, on 3 October 1991, the Council included the letter from the representative of Haiti in its agenda and considered the item at the same meeting. It invited the representatives of Canada, Haiti and Honduras, at their request, to participate in the discussion without the right to vote.

The President (India) drew the attention of the Council to two additional documents addressed to the Secretary-General: a note verbale dated 2 October

¹ S/23098.

1991 from the representative of Panama;² and a letter dated 3 October 1991 from the representatives of Ecuador and the United States of America,³ transmitting the text of resolution MRE/RES.1/91, adopted on 2 October 1991 at a meeting of Ministers for Foreign Affairs of the Organization of American States (OAS). In its resolution, OAS, *inter alia*, vigorously condemned the grave events taking place in Haiti and demanded the full restoration of the rule of law and of constitutional order and the immediate reinstatement of President Aristide; called on the Secretary-General of OAS, together with a group of OAS Ministers for Foreign Affairs, to travel to Haiti immediately to inform those who held power illegally that the American States rejected the disruption of constitutional order and to advise them of the decisions adopted by the OAS meeting; recommended that States isolate diplomatically those who held power illegally in Haiti; recommended that all States suspend their economic, financial and commercial ties with Haiti and any aid and technical cooperation except that provided

² S/23105.

³ S/23109.

for strictly humanitarian purposes; urged all States to provide no military, police or security assistance of any kind and to prevent the delivery of arms, munitions, or equipment to Haiti; and urged the United Nations and its specialized agencies to consider the spirit and aims of the resolution.

Opening the discussion, the President of Haiti, Jean-Bertrand Aristide, stated that the threat to democracy in Haiti was a threat to democracy in the whole world. The international community had vigorously condemned the coup d'état and, through OAS, was attempting to negotiate a solution. He believed that, with the Council's support, those efforts could be strengthened further and many lives could be saved. He stressed that the international community should not try to decide for the Haitian people, but, rather, with them. The Haitian people opposed dictatorship and expected the Council's support in the protection of human rights. This implied action that would strengthen institutions in Haiti and would make it possible to deal with structures of exploitation, injustice and dictatorship. He said that they would be grateful if a delegation were to be dispatched to Haiti to "do justice that must be done beyond one's frontiers", so that "those criminals" would relinquish power. He would also welcome any help in shoring up Haiti's democratic structures, in particular humanitarian assistance in building a police force that could protect lives and property, without any obligation to support the army. It was due to the help of the international community that Haiti had been able to hold free, fair and democratic elections on 16 December 1990; it would also be with such help that Haiti would be able to save its threatened democracy.⁴

The President of the Council stated that the grave events that had taken place in Haiti, which represented a violent usurpation of legitimate democratic authority and power, deserved to be strongly condemned. He called for the restoration of the legitimate Government in Haiti. He expressed support for the OAS resolution and for the efforts of OAS to bring about the restoration of legitimate authority in Haiti. In conclusion, he said that they all hoped that President Aristide would be reinstated as soon as possible.⁵

⁴ S/PV.3011, pp. 4-10.

⁵ *Ibid.*, p. 11.

All the speakers who took part in the discussion echoed or endorsed the views of the President of the Council.⁶ Several considered that the United Nations had a particular responsibility in the circumstances, given the crucial role the Organization had played — through the United Nations Observer Group for the Verification of the Elections in Haiti (ONUVEH) — in monitoring and verifying the elections which had led to President Aristide's election.⁷ Some speakers, in addition to expressing firm support for the OAS actions, drew attention to the bilateral measures which they and others had already taken along the lines of those called for in the OAS resolution; the representatives of France, the United States, Canada and Belgium stated that they had suspended assistance to Haiti, as had the European Community and its member States.⁸

The representative of Honduras, speaking in his capacity as the Chairman of the Group of Latin American and Caribbean States, recalled that the General Assembly, in its resolution 45/2 of 1990, had supported the democratic electoral process in Haiti. However, on 30 September, the world had discovered that the Haitian military had deposed the constitutionally elected President. Noting that all preferred to remedy the situation through diplomatic and peaceful means, he urged strong and unequivocal solidarity with Haiti. The Group of Latin American and Caribbean States had requested the inclusion of an item entitled "Crisis of democracy and human rights in Haiti" in the agenda of the current session of the General Assembly. It trusted that the Council would support the action taken by OAS and follow closely the results of its major diplomatic effort.⁹

⁶ *Ibid.*, pp. 11-16 (Honduras); pp. 17-18 (Côte d'Ivoire); pp. 18-22 (France); pp. 22-25 (Austria); pp. 24-26 (Yemen); pp. 27-28 (Belgium); pp. 28-31 (Union of Soviet Socialist Republics); pp. 31-34 (United States); pp. 34-36 (Zaire); pp. 36-42 (Cuba); pp. 42-45 (Romania); pp. 46-47 (Ecuador); p. 48 (United Kingdom); pp. 49-50 (Zimbabwe); and pp. 51-54 (Canada).

⁷ See *ibid.*, pp. 17-18 (Côte d'Ivoire); pp. 18-22 (France); pp. 22-25 (Austria); pp. 24-26 (Yemen); pp. 27-28 (Belgium); pp. 28-31 (Union of Soviet Socialist Republics); pp. 31-34 (United States); pp. 46-47 (Ecuador); and pp. 51-54 (Canada).

⁸ *Ibid.*, pp. 18-22 (France); pp. 31-34 (United States); pp. 51-54 (Canada); and pp. 27-28 (Belgium).

⁹ *Ibid.*, pp. 11-16.

The representative of France stated that exceptional circumstances had given rise to the Council meeting. The Head of a sovereign State, legally elected in a free and democratic ballot monitored by the United Nations, was personally addressing the international community to request its support. France was ready to respond to the appeal. It was ready out of friendship for Haiti. It was ready because the United Nations, which had lent its assistance during the Haitian elections and guaranteed the fairness of the results, could not remain passive now that the will of the Haitian voters was being flouted. Finally, it was ready because the international community could no longer, in an era when democracy and human rights were being reaffirmed throughout the world, accept the flagrant violation of such values. He stressed that the United Nations had a particular responsibility to shoulder, since the events in Haiti constituted a direct attack on its authority. His Government believed that the Organization must take a stand as soon as possible to condemn the coup d'état, to demand the re-establishment of the rule of law in Haiti and to support the efforts undertaken at the regional level by OAS.¹⁰

The representative of Austria, after echoing the views of the President of the Council, added that the reaction of the international community to the events in Haiti was of paradigmatic importance that transcended the present case. Democracy and respect for human rights were being increasingly accepted as central principles for the further evolution of the society of nations. A new universal consensus was taking shape. Austria considered that the Council, "with its new-found determination", could make "an important contribution" in that respect.¹¹

The representative of Yemen stated that the coup d'état in Haiti was a manifestation of the dangers that could threaten new democratic regimes owing to the lack of democratic traditions, the fact that democratic institutions were not deeply rooted and, above all, economic problems. The perpetrators of the coup d'état had tried to justify their actions by the lack of economic progress and the existence of a recession. Therefore, while Yemen condemned the coup d'état and called on the United Nations to support all efforts to restore legitimacy, it also appealed to the United

Nations — and to all countries that were able to help — to assist democratic or newly democratic countries in the task of building their new institutions.¹²

The representative of Belgium stated that his country, as a member of the European Community, the Council of Europe and the Conference on Security and Cooperation in Europe, was convinced that regional organizations had a role to play in the protection, re-establishment and spread of freedom and democracy. Therefore, Belgium could not but welcome the firm position taken by OAS in its resolution, which the Council must support fully.¹³

The representative of the Union of Soviet Socialist Republics noted with satisfaction the determination of members of OAS to champion the political rights and freedoms of the Haitian people. What was particularly important in this case was the proposal put forward at the twenty-first session of the General Assembly of OAS concerning the establishment of machinery to protect democracy and legal order in countries that belonged to that regional organization. He observed that, within the framework of OAS, measures were being taken with a view to restoring legitimate power in Haiti.¹⁴

The representative of the United States noted, with approval, that the President of the Council had expressed clearly to President Aristide the Council's support for him and his Government. However, he stressed that such support must consist of more than words. The United States had not and would not recognize the junta which had illegally usurped power. It had, moreover, suspended all aid to Haiti, as had others. With regard to collective action, the United States strongly supported the OAS resolution and called upon members of the Council to do the same. The speaker stressed that the hard-won democratic rights of the people of Haiti must not be allowed to slip away. The United Nations was especially qualified to speak to the crisis, since ONUVEH had played a key role in restoring democracy in that country. The United Nations and the entire world must send a clear message to those who had seized power in Haiti: the military junta was illegitimate; it had no standing in the international community; and, until democracy was

¹⁰ Ibid., pp. 18-22.

¹¹ Ibid., pp. 22-25.

¹² Ibid., pp. 24-26.

¹³ Ibid., pp. 27-28.

¹⁴ Ibid., pp. 28-31.

restored, it would be treated as a pariah in the hemisphere. Noting the hemisphere's remarkable progress towards democracy since the mid-1970s, he stated that the junta's unconstitutional and violent seizure of power, which denied the people of Haiti their right of self-determination, must not and would not succeed.¹⁵

The representative of Cuba recalled that his Government had favoured an immediate meeting of the Council on 30 September when Haiti's request was received. Cuba considered that the Council had an obligation to agree to that request and to listen to what the representative of Haiti deemed appropriate to explain to it. Cuba shared the position of the Group of Latin American and Caribbean States. As President Aristide had said, it was not a question of anyone deciding for the Haitian people; rather, what was involved was support for the Haitian people and clear and firm solidarity with them so that they could soon restore their legitimately elected authorities and pursue a process which was the culmination of a 200-year struggle.¹⁶

The representative of Romania stated that it was the political and moral duty of the Security Council, which was officially and legally seized of the situation in Haiti, to voice its support for constitutional order in that country and for its democratic, freely chosen institutions and structures. His delegation believed that the regional efforts of OAS should be strengthened by the action of the Council "in the most appropriate form, given the prevailing circumstances". What was vital now in this regard was to pass on to those who had seized power in Haiti a very clear message: the Council was in favour of the restoration of democracy and the defence of basic human rights and freedom in Haiti. Such a message should be conveyed by the unanimous voice of the Council. It would be consonant with the specific, dramatic circumstances of the case, with the dignity of the Council and with the requirements of its unity which was its valuable asset in dealing with such complex matters. Romania fully supported any further effort of the Security Council to help the restoration of freedom and democracy in Haiti.¹⁷

¹⁵ Ibid., pp. 31-34.

¹⁶ Ibid., pp. 36-42.

¹⁷ Ibid., pp. 42-45.

The representative of Ecuador stated that, given the hemispheric duty to act, the Council had done what it could and must do. It had unanimously condemned the coup d'état and hoped that the rule of law would be restored and President Aristide reinstated. It had also expressed solidarity with the measures adopted by OAS. He thought that the Council would be ready to shoulder new responsibilities if necessary but hoped, in any case, that the action of the regional organization would be effective.¹⁸

The representative of Canada recalled the part played by his country in the establishment and conduct of ONUVEH. He stressed that all countries should act together to send a clear signal to those who sought to undermine democracy in Haiti. The United Nations, having played a crucial role in the process that had brought President Aristide to power, could not remain silent on the matter. That was why Canada had supported the convening of the Council meeting and the inclusion of an additional item on Haiti in the agenda of the General Assembly. Canada sincerely hoped that the United Nations would, both in word and deed, join in the efforts being made to reverse the unacceptable situation.¹⁹

B. Exchange of letters between the Secretary-General and the President of the Security Council concerning Haiti

Decision of 29 July 1992: letter from the President of the Security Council to the Secretary-General

By a letter dated 15 July 1992 addressed to the President of the Security Council,²⁰ the Secretary-General brought to his notice an exchange of correspondence regarding the situation in Haiti. He stated that on 18 June he had received a letter from President Aristide dated 3 June 1992, which he had brought to the attention of the Secretary-General of OAS, since that organization had, at the request of the Ministers for Foreign Affairs of its member States, taken a leading role in efforts to restore democracy to Haiti. The Secretary-General observed that his own mandate under General Assembly resolution 46/7 of 11 October 1991 was more limited and had as its

¹⁸ Ibid., pp. 46-47.

¹⁹ Ibid., pp. 51-54.

²⁰ S/24340.

general purpose to support the action of OAS. The Secretary-General of OAS had responded by letter dated 10 July 1992 to the Secretary-General's letter. He therefore enclosed copies of the relevant correspondence.

The Secretary-General also wished to inform the members of the Council that he had decided to accept the offer of the Secretary-General of OAS to include participation from the United Nations in his proposed mission to Haiti.

By a letter dated 29 July 1992,²¹ the President of the Council informed the Secretary-General:

I wish to acknowledge receipt of your letter dated 15 July 1992 regarding the situation in Haiti.

I have brought the letter to the attention of the members of the Council, who took note of it at the informal consultations held on 20 July 1992.

²¹ S/24361.

13. Items relating to the situation in Panama

Initial proceedings

A. Letter dated 25 April 1989 from the Permanent Representative of Panama to the United Nations addressed to the President of the Security Council

By a letter dated 25 April 1989 addressed to the President of the Security Council,¹ the representative of Panama requested the convening of a meeting of the Council as a matter of urgency to consider the grave situation faced by his country as a result of the flagrant intervention in its internal affairs by the United States; the policy of destabilization and coercion pursued by the United States against Panama; and the permanent threat of the use of force against his country. He stated that there had been a serious worsening of the situation created by United States activities against Panama's sovereignty, political independence, economic security and territorial integrity, in violation of the Charter of the United Nations and of the principles of international law, as a result of a further escalation of acts of aggression and subversion, constituting a threat to international peace and security.

At its 2861st meeting, on 28 April 1989, the Council included the letter from the representative of Panama in its agenda. Following the adoption of the agenda, the Council invited the representative of Panama, at his request, to participate in the discussion without the right to vote. The President (Union of Soviet Socialist Republics) then drew the attention of the Council members to a letter dated 26 April 1989 from the representative of Panama addressed to the

Secretary-General,² transmitting the text of a statement made on 24 April 1989 by the President of Panama concerning United States "meddling" in the electoral process in Panama.

At the same meeting, the representative of Panama thanked the Council for its promptness in convening the meeting, on the basis of Articles 34 and 35 of the Charter, to consider the grave situation brought about by the chain of actions in violation of international law committed by the United States against his country, which endangered international peace and security. He said that Panama had sought to resolve, through negotiation, the causes of conflict in United States-Panamanian relations stemming from the existence of the Panama Canal. However, when his Government had denounced the unilateral interpretation by the United States of the Panama Canal Treaties of 1977, aimed at extending its military presence in the country beyond the year 2000, Panama had been subjected to a series of acts of economic, political and financial aggression and an escalation of threats of military force. Moreover, the United States had abused the diplomatic privileges of its embassy in Panama to plan, organize, finance and carry out acts of interference in Panama's internal affairs and to participate in seditious activities. According to reports in the United States press, the United States had approved a covert plan which included the possibility of assassinating the Commander-in-Chief of the Panamanian defence forces and was providing financial assistance to an opposition candidate. The

¹ S/20606.

² S/20607.

speaker said his country had also had to contend with, inter alia, the movement of armed units of the United States army outside their defence sites, violation of its airspace, infiltration by United States intelligence units, overflights of Panamanian military installations and acts endangering civilian aviation in Panama. In addition, the United States had brought to Panama an offensive military team that had never before been part of the forces used to defend the Panama Canal. Troop and weapons movements had been continuous, as had military manoeuvres displaying a force in constant readiness to attack. The speaker added that, in spite of the foregoing, the Government of Panama intended to proceed with the forthcoming elections on 7 May. However, the electoral process had itself become a new area for United States intervention, which had entered upon a phase of direct participation in an effort to disrupt public order, sow chaos, promote widespread destabilization and thus create a pretext for direct military intervention. Such behaviour was not only unacceptable, but also extremely dangerous; it jeopardized the normal evolution of the election process as well as international peace and security in an area that was vital to world navigation and trade.³

The representative of the United States stated that his country had grave doubts about the fairness and freedom of the coming elections in Panama, which were shared by the Inter-American Commission on Human Rights of the Organization of American States (OAS). Evidence continued to mount that the military regime was continuing to subvert any expression of popular will through fraud, coercion and intimidation. However, the place where a free and open debate about Panama should be taking place was in the country itself, among the Panamanian people; the solution to Panama's lack of democracy did not lie in the Council, but in Panama. Panama's crisis was not the result of interference by his country in its internal affairs, but of the policies of General Noriega, who had arrogated to himself complete power over civic life and sponsored and countenanced widespread corruption, including drug trafficking and gun-running. He insisted that the international community should not become part of an effort by the Noriega regime to deflect attention from itself by bringing what was in essence a problem with its unfair and fraudulent elections to the Council. Instead, the regime should immediately restore the minimum conditions for free elections and permit full

³ S/PV.2861, pp. 6-18.

international and press monitoring of them. He stated that the United States, for its part, remained firmly committed to supporting the efforts of the Panamanian people to restore genuine civilian democracy and fully committed to the Panama Canal Treaties.⁴

In two further interventions, the representative of Panama said that the Council was not meeting to discuss the elections in his country, which were an internal matter, but rather the growing threat of the use of military force in Panama and the possibility that the deployment of such force could lead to violent actions there. The representative of the United States had not, he stated, addressed that issue. He accordingly invited him to state categorically that there would be no recourse to the use of force in Panama in connection with the forthcoming elections.⁵

Before closing the meeting, the President said that the time of the next meeting to continue consideration of the item would be fixed in consultation with the members of the Council.

By a letter dated 7 August 1989 addressed to the President of the Security Council,⁶ the representative of Panama requested that the Council meet as soon as possible, in public, to renew consideration of the situation in his country in view of the fact that the United States troops in Panamanian territory had continued the dangerous escalation of their acts of intimidation, provocation and aggression against Panama, in violation of its sovereignty and territorial integrity and of the Panama Canal Treaties.

At its 2874th meeting, on 11 August 1989, the Council resumed its consideration of the item. Following the adoption of the agenda, the President of the Council (Algeria) invited the representative of Panama to participate in the discussion without the right to vote, in accordance with the decision taken at its 2861st meeting on 28 April 1989. The President informed the members of the Council that the representative of Panama intended, during the course of his statement, to show video material relating to the item under consideration and that, in keeping with past practice and as agreed in the Council's prior consultations, he had requested the Secretariat to make the necessary technical arrangements.

⁴ Ibid., pp. 19-27.

⁵ Ibid., pp. 28-30.

⁶ S/20773.

The representative of Panama stated that the increased activities of the United States armed forces on Panamanian territory — in violation of the sovereignty and territorial integrity of Panama, the Panama Canal Treaties and the Charter of the United Nations — had forced his country to draw the Council's attention to the need to take specific measures to avert an armed conflict. He observed that the situation had worsened with the adoption by the United States of measures violating the Canal Treaties and other agreements. Among the more noteworthy violations, the armed forces of the United States had suddenly, without any explanation, decided to ignore the requirements regulating the United States military presence in Panama pursuant to which manoeuvres outside the authorized defence zones were planned and executed jointly by the two countries and flights by the United States Air Force were carried out in compliance with the rules of the Panamanian aviation authority. Hostile mobilizations had begun in April 1988 and had been brought to the attention of the Secretaries-General of the United Nations and OAS. Since then, such hostile acts had increased beyond all reasonable limits. He cited several incidents involving unilateral troop movements in Panamanian military and civilian areas, as well as overflight of cities, including the capital, by combat helicopters and Air Force planes. He added that he could document several hundred cases of Panamanian citizens having been detained, assaulted or humiliated by American troops. He asked the members of the Council to judge whether such acts amounted to acts of aggression, as defined in the annex to General Assembly resolution 3314 (XXIX), and suggested that their purpose was to fabricate an incident by taking provocation to the extreme, causing Panamanians to react in self-defence, or in such a way as to justify the launching of an operation to take Panama by force.

Continuing, the representative of Panama stressed that the case of Panama differed from any that the Council had so far considered in its role of preserving and restoring peace. The United States Army did not need to invade Panama because it was already deployed there. The same applied to its air and naval forces. There was another unusual aspect of the Panamanian situation. If it became a precedent, it would trample underfoot all the guarantees in the Charter for countries lacking military power, because the interpretation and application of the principles and provisions of the Charter would be subject to the unilateral whim of a nation having the force to impose

its will. He warned that, in the light of the new situation, Panama's armed forces were on permanent alert, which meant that "any mad adventure" mounted against his country would not be bloodless. There existed a state of imminent war which called for the Council's immediate attention. The military threat posed a serious threat to the very functioning of the Canal and to peace in this very sensitive part of Central America, the stability of which was vital to the users of the Canal. Panama had therefore decided to submit custody of the Canal Treaties to the Council, so that that body might see to their strict implementation and guarantee the normal and efficient functioning of the Panama Canal, which was now endangered by constant violations of the Treaties governing its administration. Panama also called for military observers to be sent to the area immediately. In addition, it requested a good offices mission of the Secretary-General to avoid an imminent breach of the peace in the region, observe the situation on the ground and advance urgent measures aimed at contributing to a decrease of tension between the two countries.⁷

The representative of the United States said he considered it unfortunate that the Council had to spend its valuable time and resources to listen to the groundless complaints of the representative of General Noriega's regime. The truth, in his view, was simple and had been laid out by OAS in three extraordinary meetings of Ministers for Foreign Affairs in May, June and July 1989. He recalled that, on 7 May 1989, the Panamanian people had gone to the polls and, despite intimidation, repression and massive efforts at fraud, the opposition candidates had won by a margin of over three to one, a fact that had been documented by a host of international observers and by the Catholic Church. Having failed to control the outcome of the elections, General Noriega had annulled them and violently suppressed the protests of the democratic opposition, actions that had been condemned by Governments throughout the western hemisphere and the rest of the world. OAS had recognized that the crisis in Panama centred on the person and the conduct of General Noriega in its resolution of 17 May calling for a democratic transfer of power in the country. An OAS mission,⁸ charged with promoting conciliation

⁷ S/PV.2874, pp. 3-26.

⁸ The mission comprised the Foreign Ministers of Ecuador, Guatemala and Trinidad and Tobago and the Secretary-General of OAS.

formulas for arriving at a national accord that could bring about a democratic transfer of power in the shortest possible time, had reaffirmed that fact in its 19 July report. The United States supported those regional efforts to find a peaceful solution to the crisis through multilateral diplomacy.

Continuing, the representative of the United States maintained that United States military activities in Panama there were conducted in complete accord with the Panama Canal Treaties. Panama's appeal to the principle of non-intervention was intended to divert the Council's attention from General Noriega's violent denial of his people's right to self-determination, through fair and free elections and peaceful protest. He accused the Noriega regime of having itself violated various provisions of the Panama Canal Treaties on numerous occasions since February 1988. Many of those violations had involved threats to, and the physical abuse of, members of the United States armed forces stationed in Panama; others had involved attempts to interfere with the operations of the Canal. The United States had augmented its military forces in Panama and increased their readiness in direct response to the hostile actions of the Noriega regime. In calling the present meeting, that regime had sought, among other things, to enhance its own legitimacy and to distract international attention from the OAS efforts to promote General Noriega's surrender of power and a transition to a legitimate, representative, democratic government. The only solution to Panama's current problems was that called for by OAS. False charges made in the Council could not hide this and the Council should waste no more of its time on them. In concluding, he confirmed his country's commitment under the Panama Canal Treaties to ensuring the efficient and safe operation of the Canal until it was turned over to the Panamanian people in the year 2000.⁹

In a further intervention, the representative of Panama showed an amateur videotape which, he stated, had been taken in Panama City, far away from the defence zones, and showed the occupation of a civilian area, the unauthorized search of civilians and the presence of United States tanks and military personnel aimed at intimidating the Panamanian civilian population. With regard to the OAS mission, he stressed that his Government had always facilitated its

⁹ Ibid., pp. 27-34.

work, especially when it had gone to Panama to assist the Panamanian political forces in reaching a national accord. He urged the United States not to prevent the dispatch of a United Nations mission to Panama to verify, on the ground, the alleged violations of the Treaties and the imminent danger of confrontation.¹⁰

In a further intervention, the representative of the United States reiterated that the Council was faced with an attempt to divert attention from the root cause of the problem — General Noriega's illegal persistence in hanging on to power against the wishes of his people. That was the issue that must be addressed.¹¹

In a final statement, the representative of Panama deplored the lack of any mention of a United Nations mission which could verify the situation.¹²

The President of the Council announced that the next meeting to continue consideration of the item would be fixed in consultation with the members of the Council.

B. The situation in Panama

Decision of 23 December 1989 (2902nd meeting): rejection of a draft resolution

By a letter dated 20 December 1989 addressed to the President of the Security Council,¹³ the representative of Nicaragua requested an urgent and immediate meeting of the Council to consider the situation following the invasion of Panama by the United States.

By a letter dated 20 December 1989 addressed to the President of the Security Council,¹⁴ the representative of the United States reported, in accordance with Article 51 of the Charter of the United Nations,¹⁵ that United States forces had "exercised their inherent right of self-defence under international law by taking action in Panama in response to armed attacks by forces under the direction of Manuel Noriega". He stated that the action was designed to protect American lives and the United States

¹⁰ Ibid., pp. 41-42.

¹¹ Ibid., p. 43.

¹² Ibid., p. 44.

¹³ S/21034.

¹⁴ S/21035.

¹⁵ For consideration of the provisions of Article 51, see chapter XI.

obligations to defend the integrity of the Panama Canal Treaties. It had been taken after consultations with the democratically elected leaders of Panama and with their support, and after the United States had exhausted every available diplomatic means to resolve peacefully the disputes with Mr. Noriega. It followed a declaration made on 15 December by Mr. Noriega, after assuming the role of Head of Government of Panama, that a state of war existed with the United States, and brutal attacks by his forces on American personnel lawfully present in Panama. The representative further stated that United States forces would use only the force necessary to assure the safety of Americans and the integrity of the Panama Canal Treaties, and that all feasible measures had been taken to minimize the risk of civilian damage or casualties.

At its 2899th meeting, on 20 December 1989, the Council included the letter from the representative of Nicaragua in its agenda. It considered the item at its 2899th to 2902nd meetings, from 20 to 23 December 1989. The Council invited, at their request, the following to participate in the discussion without the right to vote: the representative of Nicaragua (2899th meeting); the representatives of Cuba, El Salvador, the Libyan Arab Jamahiriya and Peru (2900th meeting); and the representative of Panama (2901st meeting).¹⁶

At the 2899th meeting, the President (Colombia) drew the attention of the members of the Council to the letter dated 20 December 1989 from the representative of the United States.

The representative of Nicaragua stated that the invasion of Panama earlier that day by American troops was in clear violation of the purposes and principles of the Charter of the United Nations and of international law. That flagrant violation of Panama's sovereignty and territorial integrity — which came six years after the invasion by the United States of another country in the region — was a threat not only to Central America but also to international peace and security. He invoked Articles 1 (2) and 2 (4) of the Charter, as well as the principle of non-intervention, noting that the latter had been reaffirmed in various United Nations instruments and by the International Court of Justice. He also recalled that, in the context of the inter-American system, the Charter of OAS, various regional treaties

¹⁶ Two contending requests were made to represent Panama, both of which were eventually withdrawn: see S/PV.2902, pp. 3-5. See also below.

and other instruments prohibited resort to the use of force and intervention in the affairs of other States and provided for the settlement of disputes by peaceful means. He contended that the United States action was in violation of its obligations under all those instruments. He maintained that international law could provide no justification for the invasion; no argument could possibly justify intervention against a sovereign State. He rejected the United States argument that its action had been taken for the protection of American citizens, claiming that that was simply a pretext which had been asserted time and again over the years by Governments of the United States in an attempt to justify aggression and to legitimize invasions. He stated that the crisis in relations between Panama and the United States had worsened as a result of the latter's adoption of various measures in violation of international law and the principles of peaceful coexistence. He recalled that, in recent months, Panama had twice called for a meeting of the Security Council to consider serious threats of the use of force against it by the United States and intervention by the latter in its internal affairs; and to request that action be taken to ensure that there would not be an armed conflict.¹⁷ He added that he had submitted to the Council the custodianship of the Panama Canal Treaties, so that the United Nations could ensure strict compliance. In conclusion, he appealed to the world community, and specifically the Council, to condemn the United States action and demand the immediate withdrawal of the invading troops from Panamanian soil. He urged the United States not to use its veto.¹⁸

The representative of the Union of Soviet Socialist Republics expressed his country's concern at the invasion of Panama by the United States. He contended that it was a flagrant violation of the norms of international law and the Charter of the United Nations, which must be condemned by the international community. He rejected the United States attempts to justify its action by invoking Article 51 of the Charter and its claims that Panama was threatening the national interests of the United States. Recalling that the course of events resulting from United States policy towards Panama had been drawn to the

¹⁷ See the preceding item in the present chapter entitled "Letter dated 25 April 1989 from the Permanent Representative of Panama to the United Nations addressed to the President of the Security Council".

¹⁸ S/PV.2899, pp. 3-17.

Council's attention on several occasions, he regretted that the Council had not taken the necessary steps to prevent the situation before it. The Soviet Union believed that the principles of non-intervention and non-use of force should have no exceptions and should be respected by all and for all. It considered that, whatever one's views of General Noriega's Government, the introduction of foreign troops into the territory of a sovereign State was intolerable. The choice could and must be made only by the Panamanian people, without outside interference. The Soviet Union believed that the United States should immediately halt its armed intervention in Panama and withdraw its troops. Any problems in United States-Panamanian relations should be resolved by peaceful means through negotiations.¹⁹

The representative of China also condemned the aggressive action of the United States in using force against Panama, a sovereign State. He observed that the invasion of Panama not only violated the purposes and principles of the Charter, which required States to resolve their disputes through peaceful means without resort to force; it also ran counter to the improving international situation. The United States action could only aggravate tension in the region and would have a serious negative impact on peace and stability in the world. The speaker reiterated China's opposition to interference in the internal affairs of other countries under whatever pretext — particularly by military means. He called on the United States to cease its aggressive action, withdraw its invading troops from Panama, hold talks with that country and seek to resolve its disputes through peaceful means.²⁰

The representative of France underlined the extreme seriousness of the situation in that country. Following the interruption in the democratic process in Panama, the tragic events of the past few days and the death of an American officer had led the United States to intervene directly in the crisis. The situation warranted a Security Council debate as outside intervention had occurred and was still occurring. For France, recourse to force was always deplorable and could not be approved per se, whatever the causes. The situation was largely the result of a sequence of regrettable events that had taken place since the annulment of the elections of 7 May, contrary to the

will of the people. France had supported the decisions of OAS and its mediation efforts aimed at securing a resumption of dialogue between Panamanians and regretted that those efforts had not been successful. He called upon the Council to take initiatives that could lead to the restoration of a normal situation. He suggested a declaration or statement by the President of the Council, expressing the Council's concern over events in Panama and their origins, affirming the right of the people of that country to express themselves in a sovereign manner as to whom they wished to be their leaders and appealing for a return to peace and democracy in Panama.²¹

The representative of the United Kingdom welcomed the establishment of a democratic government in Panama. He recalled that earlier in the year the international community had almost unanimously condemned the decision of the Panamanian authorities under General Noriega to declare null and void the elections of 7 May, which had resulted in an overwhelming victory for the opposition alliance. The United Kingdom had repeatedly called on General Noriega to respect the democratic will of the people of Panama and to step down, and had endorsed the efforts made in that regard by OAS. Regrettably, every attempt to give peaceful effect to the outcome of the elections had failed. The United Kingdom believed that force had been used only as a last resort and against a regime which had itself turned to force to subvert the democratic process. He reiterated that his Government fully supported the action taken by the United States, which had been undertaken with the agreement and support of the Panamanian leaders elected in May. The establishment of a legal and democratically elected Government in Panama could only be beneficial for Panama itself and for peace and security in the region. In the United Kingdom's view, the Council should do its utmost to encourage progress in that direction. While he regretted the loss of life incurred as a result of the United States operation, he noted that United States personnel in Panama had been subjected to attacks and threats. He welcomed the United States assurance, contained in the letter from its representative to the President of the Security Council,²² that its forces would only use the minimum force necessary and that all feasible measures had been

¹⁹ *Ibid.*, pp. 17-21.

²⁰ *Ibid.*, pp. 21-22.

²¹ *Ibid.*, pp. 22-25.

²² S/21035.

taken to minimize the risk of civilian damage or casualties.²³

The representative of Canada stated that intervention by force by a Member of the United Nations in the internal affairs of any State was against both the letter and the spirit of the Charter. His Government therefore regretted the use of force by the United States in Panama. However, he observed that Article 51 of the Charter recognized a basic exception to the prohibition of the use of force and affirmed the inherent right of self-defence which was vested in Member States. While intervention by force was a dangerous precedent, Canada was firmly of the view that, before condemning the United States in the present case, the Council should examine all the circumstances to determine whether or not compelling reasons justified the use of force. In the opinion of the Government of Canada, such compelling reasons did exist: the United States had relied on force as a last resort and only after the failure of numerous attempts to resolve the situation in Panama peacefully. The speaker recalled that for a period of almost two years, there had been a progressive and systematic betrayal in Panama of democratic values. Events, such as the statement by General Noriega that Panama was in a "state of war" with the United States and the harassment of American citizens, had clearly left the United States with few options. The efforts of OAS and of individual neighbouring States had regrettably been unsuccessful. Moreover, the representative of the United States, in his letter to the President of the Council,²⁴ had affirmed that his country had acted after consultation with the democratically elected leaders of Panama, who had supported its actions. In conclusion, he affirmed that his Government was of the opinion that the United States was justified in acting as it had. It looked forward to the consolidation of democracy and to a peaceful and stable future for the people of Panama.²⁵

The representative of the United States stated that, acting in accordance with Article 51 of the Charter, United States forces had exercised their inherent right of self-defence under international law by taking action in Panama in response to armed attacks by forces under the direction of General Noriega. The action was designed to protect American

lives as well as to defend the integrity of the Panama Canal Treaties. For nearly two years the United States and the countries of Latin America and the Caribbean had worked together to try to resolve the crisis in Panama through diplomatic means, but to no avail. The root cause of the crisis in Panama had been the struggle between General Noriega and his ruthless cabal and the people of Panama. The will of the Panamanian people, which had been expressed in free elections, had been repeatedly obstructed. As a result of the United States actions, that situation had been reversed: the freely elected leaders of Panama had assumed the rightful leadership of their country. They had been consulted beforehand and had approved of the American steps. Referring to the words of the President of the United States that morning, the speaker explained that his Government's military action had been precipitated by General Noriega's recent declaration of a state of war with the United States and his threats, and actual attacks, on the lives of Americans in Panama, which had created an imminent danger to the 35,000 United States citizens in that country. The armed forces had been directed to protect their lives and to bring General Noriega to justice in the United States. He recalled that the whole world, including OAS, had denounced the violation of human rights that had followed the annulment of the Panamanian elections and the brutality used against the opposition to the Noriega regime. The commitment of the United States to Panamanian sovereignty had never been at issue. He added that another issue in the debate over Panama was drug trafficking. Such activities threatened the survival of democratic countries: countries which provided a safe haven and support for the international drug trafficking cartels menaced peace and security just as surely as if they were using their own conventional military forces to attack democratic societies. General Noriega could not invoke Panamanian sovereignty while the drug cartels with which he was allied intervened throughout the hemisphere. That was aggression against all, and it was now being brought to an end. He also maintained that the United States had the right — and duty — to protect and defend the Panama Canal under article 4 of the Panama Canal Treaty. Harassment and intimidation of American and Panamanian employees of the Panama Canal Commission and the United States forces by the Noriega regime had threatened American and Panamanian lives as well as Canal operations.

²³ S/PV.2899, pp. 26-27.

²⁴ S/21035.

²⁵ S/PV.2899, pp. 27-30.

Continuing, the representative of the United States noted that Chapter VIII of the Charter called upon Member States to make every effort to use regional arrangements to solve regional problems. The language of Article 52 was striking in its use of the word “shall” in that context. It left little room for doubt that members of a regional arrangement were obliged to refer regional disputes to regional organizations and that the Council was obligated to encourage that recourse to regional arrangements. In the situation under consideration, OAS was currently engaged in that effort. Apart from the legal consequences that flowed from the use of “shall” in Chapter VIII, common sense dictated that where there was a regional organization and a regional problem, recourse should be to the regional organization. Although that need not and did not preclude United Nations involvement, the risk of wasteful duplication was obvious. Far more serious, however, was the possibility of reaching inconsistent conclusions. It was important that international organizations contribute to resolving problems, not further complicate them. In conclusion, he reiterated that his country had resorted to military action under Article 51 as a last resort, in consultation with, and with the approval of, the democratically elected leaders of Panama, and in a manner designed to minimize casualties and damage. He affirmed his Government’s intention to withdraw its troops from Panama as quickly as possible.²⁶

At its 2900th meeting, on 21 December 1989, the Council continued its consideration of the item. The representative of Yugoslavia, speaking also in his capacity as Chairman of the Coordinating Bureau of the Movement of the Non-Aligned Countries in the United Nations, stated that the non-aligned countries had always considered as unacceptable any foreign intervention — especially military intervention — under any pretext since it represented a gross violation of sovereignty. They therefore firmly objected to the action of United States forces in non-aligned Panama, which constituted a violation of the independence, sovereignty and territorial integrity of that country. Moreover, the intervention had been carried out at a time when the countries of the region were striving to find peaceful solutions to existing problems in Central America. The United States action would no doubt not only damage the stability of the region but also seriously affect the prevailing positive atmosphere in

²⁶ *Ibid.*, pp. 31-37.

international relations. He noted that the non-aligned countries had recently reaffirmed, at their ninth summit conference, in Belgrade, the inalienable right of the Panamanian people freely to decide on their own political, economic and social system without any form of external pressure, interference or intervention. That position had been reaffirmed in a communiqué adopted by the Coordinating Bureau the day before. He could not therefore but re-emphasize the non-aligned countries’ strong objection to military intervention and interference in the internal affairs of Panama. The use of force and the violation of the independence and territorial integrity of Panama could not resolve the dispute between the United States and that country. Moreover, the non-aligned countries seriously doubted that democracy could be promoted by foreign military means. Whatever one might think about General Noriega’s regime, it was up to the Panamanian people to decide what kind of government or internal development was most suitable for their country. The non-aligned countries therefore strongly believed that the only way to resolve the situation was through dialogue and negotiations in a broader regional context. The Coordinating Bureau had called on the United States to cease immediately all military operations and withdraw its troops. In its view, the continuation of the hostilities could only further aggravate tensions in the region, with dangerous consequences for regional stability and the ongoing efforts to restore peace and security in Central America.²⁷

The representatives of Nepal, Ethiopia, Algeria and Malaysia spoke along similar lines. They stressed that the United States military intervention created a disturbing precedent, fraught with a potential threat to the security of small States through what was considered to be an erroneous interpretation of the provisions of the Charter. Their concern was all the greater in the circumstances because the action involved a major Power and a permanent member of the Council, which bore special responsibility as regards international peace and security.²⁸

The representative of Finland recognized the right of self-defence under international law. In his view, however, the military intervention undertaken by the United States in Panama, with considerable loss of

²⁷ S/PV.2900, pp. 5-7.

²⁸ *Ibid.*, pp. 8-10 (Nepal); pp. 11-13 (Ethiopia); pp. 17-20 (Algeria); and pp. 22-23 (Malaysia).

life, was a disproportionate response to the recent incidents in that country, reprehensible as they were. He hoped that the Council could express its grave concern about the events in Panama and immediately call for a ceasefire and the withdrawal of those United States forces that were not legitimately in the country under existing arrangements. He also hoped that it could affirm the right of the Panamanian people freely to elect their legitimate authorities.²⁹

The representative of Brazil quoted from a declaration that had been issued by his Government on the United States military intervention in Panama. He noted that an OAS Meeting of Consultation on the subject remained open, and appealed for a prompt and peaceful solution to the crisis, based on respect for the principles of self-determination and non-intervention.³⁰

The representative of Cuba condemned the United States action as an act of armed aggression against the people of Panama contrary to international principles and norms, which had no justification. He quoted from a letter dated 22 December 1989 from the President of Cuba addressed to the Secretary-General, in which the President had denounced the attempt by the United States to pose as the country that had been attacked and to justify its action by invoking Article 51 of the Charter. What was really at stake in Panama, he maintained, was an attempt by the United States to avoid its obligations under the Panama Canal Treaties and not to yield authority over the Canal to the legitimate Government of Panama. He called on the international community to support the people of Panama in upholding its sovereign right to decide its own destiny and to defend itself by all means against the aggression. He urged the Council to condemn the invasion; demand the withdrawal of the United States forces that had invaded Panama; and denounce the establishment by force by the United States of a puppet government.³¹

The representative of Peru condemned the invasion of Panama by United States military forces as a flagrant violation of Panama's sovereignty and of the principle of non-intervention enshrined in the Charter of the United Nations and the Charter of OAS. He stressed, however, that his Government's condemnation of the invasion should not be construed

as support for General Noriega's dictatorial regime, which it had repeatedly denounced. He recalled, in this regard, that Peru had initiated, in OAS and other multilateral forums, actions aimed at ensuring the sovereign will of the people of Panama. He concluded by drawing attention to a communiqué issued the day before by his Government on its response to the invasion, which had been circulated to members of the Council.³²

The representative of the Libyan Arab Jamahiriya said that the Council was once again faced with the problem of an act of aggression and intervention by one of its permanent members against a small Member State. He rejected the United States attempt to justify the intervention by invoking Article 51 of the Charter as a fallacious legal pretext: there could be no justification for such acts of aggression and intervention. He stated that small countries without the means to defend themselves, which had believed that the Charter protected them, were losing faith in the system of international security and in the Council, where law was interpreted so as to support the strong and allow the small and weak to be violated. He urged the Council to adopt an unequivocal resolution denouncing aggression and calling for the withdrawal of the forces of aggression. He asked this not because the Libyan Arab Jamahiriya supported General Noriega or his regime, but to defend the principles involved, including the right of peoples to self-determination.³³

The representative of El Salvador affirmed his Government's support for the sovereign right of the people of Panama freely and democratically to choose their leaders — a right of which they had been deprived by General Noriega, who had forcibly prevented the newly elected Government from exercising its mandate. El Salvador also advocated complete respect for the principles of self-determination and of non-intervention in the internal affairs of other States. He concluded by stating his country's firm support for the legitimate Government of Panama presided over by Mr. Guillermo Endara, who had been elected as the constitutional President of Panama during the elections of 7 May 1989.³⁴

At the 2901st meeting, on 21 December 1989, following the adoption of the agenda, the President

²⁹ Ibid., pp. 14-16.

³⁰ Ibid., p. 21, citing S/21036, annex.

³¹ Ibid., pp. 23-33, citing S/21038, annex.

³² Ibid., pp. 34-37, citing S/21044, annex.

³³ Ibid., pp. 38-46.

³⁴ Ibid., pp. 46-47.

(Colombia) stated that, on the basis of prior consultations among members of the Council, it was his understanding that they wished to invite the representative of Panama to participate in the discussion without the right to vote. At the request of the representative of the United States, the proposal was put to the vote and was adopted by 14 votes to none, with 1 abstention.³⁵ At the same meeting, following the announcement by the President that he had received two requests to participate on behalf of Panama, the Council decided, without a vote, to ask the Secretary-General to prepare a report on credentials under rules 14 and 15 of its provisional rules of procedure.³⁶ At its 2902nd meeting, on 23 December 1989, the Council, on the basis of its prior consultations, took note of the Secretary-General's report on credentials.³⁷ The President then informed the Council that the two contending requests to participate had been withdrawn.

At the 2902nd meeting, the President drew the attention of the members of the Council to a draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia,³⁸ as well as to several other documents.³⁹

By the preambular part of the draft resolution, the Council, *inter alia*, would have reaffirmed the sovereign and inalienable right of Panama to determine freely its social, economic and political system and to develop its international relations without any foreign intervention; and would have recalled the obligation of all Member States, under Article 2, paragraph 4, of the Charter, to refrain from the threat or use of force against any State. In the operative part of the draft resolution, the Council would have: (1) strongly deplored the military intervention in Panama as a flagrant violation of international law; (2) demanded the immediate cessation of the intervention and the withdrawal of the United States armed forces from

Panama; (3) called upon all States to respect the sovereignty, independence and territorial integrity of Panama; and (4) requested the Secretary-General to monitor the developments in Panama and to report to the Council within 24 hours after the adoption of the resolution.

At the same meeting, the representative of the United States emphasized that he was not claiming a right on behalf of his country to intervene in favour of democracy where it was not welcomed. His country had acted in Panama for legitimate reasons of self-defence and to protect the integrity of the Panama Canal Treaties. Its actions were in conformity with Article 51 of the Charter of the United Nations, article 21 of the OAS Charter and the provisions of the Panama Canal Treaties. He asked members, before pronouncing on the United States action, to pause and reflect and to remember that that action had been welcomed by a democratically elected Government of Panama and, overwhelmingly, by the people of Panama themselves. He contended that, although General Noriega had formally declared war on the United States a few days earlier, he had in fact done so a long time before. Through their drug trafficking activities, General Noriega and his cohorts were guilty of intervention and aggression against the United States. He pointed out that during the previous eight months, his Government had expressed its willingness to work through the United Nations to reinvigorate OAS, and to work with the organizations in an attempt to deal collectively with the challenge to democracy represented by General Noriega. However, OAS had been unable to do anything about General Noriega's annulment of the Panamanian elections or to secure a peaceful transition to democracy in Panama. When General Noriega had declared a state of war against the United States and had begun to implement it, there had been no other recourse but to deal directly with him. He stressed that the use of force in self-defence under Article 51 of the Charter was a right granted to all States under the Charter and could not be read out of it. The use of force contrary to the Charter was impermissible and contrary to international law. But the Charter rightly provided, in those cases where all else failed, that States had the right to defend themselves where force was being used against them and their citizens, in particular. Noting that some had questioned the proportionality of the United States response to General Noriega's armed actions, he pointed out that the preservation of the Panama Canal

³⁵ For the vote and discussion on the proposal to invite Panama to participate in the debate, see S/PV.2901, pp. 2-6; see also chapter III, case 1.

³⁶ *Ibid.*, p. 7. On the issue of credentials, see also chapter I, case 8.

³⁷ *Ibid.*

³⁸ S/21048.

³⁹ Letters addressed to the President of the Security Council from the representatives of Cuba (S/21038); the Soviet Union (S/21041); Argentina (S/21042); Cuba (S/21043); Peru (S/21044); Mexico (S/21045); and the United Republic of Tanzania (S/21049).

and the Panama Canal Treaties, the presence of 35,000 Americans and the special responsibilities of the United States under the Canal Treaties made for a particular and difficult series of problems, which had to be taken into account in judging proportionality. He reiterated that the United States action in Panama had been approved — and applauded — by the democratically elected Government of Panama and by the overwhelming majority of the people of Panama. In his view, the Council should now welcome the restoration of democracy in Panama, as had the United States, which would do all it could to promote it, including through the withdrawal of its forces when their mission had been accomplished. He concluded that for all those reasons, the United States would vote against the draft resolution.⁴⁰

The President of the Council, speaking in his capacity as representative of Colombia, stressed that there could not be any motive — even a temporary motive — for a State to be subjected to military occupation or other forms of force by another State. Any solution of the Panamanian crisis required respect for the self-determination of the Panamanian people. Colombia would continue to promote initiatives leading to the restoration of democracy in their country. As one of the sponsors of the draft resolution, Colombia urged its adoption.⁴¹

The President then put the draft resolution to the vote. It received 10 votes in favour and 4 against (Canada, France, United Kingdom, United States), with 1 abstention (Finland), and was not adopted owing to the negative votes of three permanent members of the Council.

Speaking after the vote, the representative of Finland explained that he had abstained in the vote on the draft resolution because its wording did not come sufficiently close to his Government's own view. Although Finland agreed with a large part of the text, in particular the call for a withdrawal, it would have wished, in the preambular part, for a more specific reference to the right of the Panamanian people to establish a democratic and legitimate regime, respecting human rights, and, in the second operative paragraph, for a clear distinction to be drawn between the forces used for intervention and other forces.⁴²

The representative of France explained that his delegation had voted against the draft resolution because it was unbalanced and might be interpreted as implying support for a regime that France had declared illegitimate. The text categorically denounced the United States intervention in Panama without mentioning either the circumstances surrounding it or the grave events which had preceded it and which to a large extent explained the current situation. A balanced text would have included, in its operative part, an essential paragraph expressing regret at the interruption of the process which had allowed the Panamanian people to express themselves freely and to choose their leaders democratically and calling for the establishment of a legitimate, democratically elected regime.⁴³

The representative of the United Kingdom explained that his delegation, too, had cast a negative vote because of the unbalanced nature of the draft resolution. He observed that the draft failed to welcome the establishment of a legal and democratically elected Government in Panama; that it failed to address the illegal and arbitrary nature of General Noriega's regime, which for months had imposed itself on the Panamanian people, in disregard of their right to self-determination and of the legitimate electoral process in that country; that it made no mention of the long history of violence and intimidation conducted by the Noriega regime against United States personnel in Panama and against its own people; and that it failed to acknowledge the fact that the United States had used force only as a last resort after lengthy diplomatic efforts.⁴⁴

The representative of the Union of Soviet Socialist Republics, on the other hand, stated that his delegation had voted in favour of the draft resolution submitted by the non-aligned members of the Council for several reasons: it reaffirmed the right of Panama to determine freely its social, economic, and political system and to develop its international relations without foreign intervention; it denounced the United States action as a "flagrant violation of international law and of the independence, sovereignty and territorial integrity of States"; and it demanded the immediate cessation of the intervention and the withdrawal of the United States armed forces from

⁴⁰ S/PV.2902, pp. 7-16.

⁴¹ *Ibid.*, pp. 16-20.

⁴² *Ibid.*, p. 21.

⁴³ *Ibid.*, pp. 21-22.

⁴⁴ *Ibid.*, pp. 22-23.

Panama. He regretted the casting of the triple veto, which undermined the efforts of the Council to halt the interventionist acts of the United States. He hoped that the Council would, nevertheless, monitor events in Panama very closely so that a prompt halt to the intervention could be achieved and United States troops could be removed from Panama.⁴⁵

C. Letter dated 3 January 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Nicaragua to the United Nations addressed to the President of the Security Council

Decision of 17 January 1990 (2905th meeting): rejection of a draft resolution

By a letter dated 3 January 1990 addressed to the President of the Security Council,⁴⁶ the representative of Nicaragua requested the convening of a meeting of the Council to consider “the temporary occupation by force of the residence of [its] Ambassador in Panama ... on 29 December 1989” and “the forced entry by troops of the occupying Power into the apartment of [two] Nicaraguan diplomats ... on 31 December 1989”, in the aftermath of the “invasion” of the Republic of Panama by United States forces. The letter stated that Nicaragua considered the “invasion and current occupation” of Panama by United States troops to constitute not only a violation of the purposes and objectives of the Charter of the United Nations, but also a serious threat to peace and security in the region.

At its 2905th meeting, on 17 January 1990, the Council included the letter from the representative of Nicaragua in its agenda and considered the question at the same meeting. Following the adoption of the agenda, the President (Côte d'Ivoire) invited the representative of Nicaragua, at his request, to participate in the discussion without the right to vote. The President drew the attention of the members of the Council to a draft resolution submitted by Colombia, Côte d'Ivoire, Cuba, Democratic Yemen, Ethiopia, Malaysia and Zaire.⁴⁷

In the preambular part of the draft resolution, the Council would have, *inter alia*, recalled that the 1928

Havana Convention regarding Diplomatic Officers provided that “diplomatic officers should be inviolate as to their persons, their residence, private or official and their property”; reaffirmed the need for States to comply with their obligations under the Vienna Conventions on diplomatic and consular relations, and other international legal instruments; and taken note of two letters, from the Permanent Mission of the United States to the President of the Council, regretting the incident and indicating that the United States had taken steps to prevent the recurrence of such actions. In the operative part of the draft resolution, the Council would have: (1) declared that the serious events that took place at the residence of the Ambassador of Nicaragua in Panama were a violation of the privileges and immunities recognized under international law; (2) expressed deep concern at any measure or action that restricted free communication and prevented the functioning of diplomatic missions in Panama, and called upon those concerned to take the appropriate steps to avoid the recurrence of such measures or actions; and (3) demanded full respect for the rules of international law that guaranteed the immunity of diplomatic officers and the inviolability of the premises of diplomatic missions.

At the same meeting, the representative of Nicaragua explained that his country had called for a meeting of the Council to denounce the United States for its forced entry into the residence of the Nicaraguan Ambassador to Panama and for a series of actions violating the Vienna Conventions on diplomatic and consular relations in particular, and international law in general. He then yielded the floor to the Ambassador of Nicaragua to Panama, who gave a detailed account of the incident, which had included the unauthorized entry, search and sacking of his diplomatic residence by United States troops. The Nicaraguan Ambassador to Panama also denounced a similar, subsequent, attack by United States troops on the apartment of two Nicaraguan diplomats in Panama. He alleged that the latter action demonstrated that the first, very serious, incident was not an accident but part of a specific plan of provocation against Nicaragua aimed at increasing the tension between the two countries “in order to justify a warlike escalation against the Nicaraguan people”.⁴⁸

⁴⁵ *Ibid.*, pp. 23-26.

⁴⁶ S/21066.

⁴⁷ S/21084.

⁴⁸ S/PV.2905, pp. 3-9.

Resuming his own statement, the representative of Nicaragua contended that the United States had violated numerous international agreements, including the Vienna Convention on Diplomatic Relations, the Havana Convention regarding Diplomatic Officers of 1928, and the 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents. He stated that the United States had also failed to respect the judgment of the International Court of Justice of 27 June 1986 in the case *Military and Paramilitary Activities in and against Nicaragua*, in which the Court had found that the United States had attacked Nicaragua in violation of customary international law and the principles of non-intervention, and had held that the United States was under a duty immediately to cease and to refrain from all such acts as might constitute breaches of its legal obligations. He acknowledged that some kind of explanation and assurances had been given by the United States in respect of the incident under consideration. However, he questioned their reliability in the light of subsequent events. Nicaragua therefore demanded that an investigation be carried out and that appropriate penalties be imposed on those responsible for the attacks.

Continuing, the representative of Nicaragua added that his country had also come before the Council because it was concerned that the United States action was a provocation designed to elicit an equivalent response, which would result in the unleashing of even broader actions against Nicaragua, threatening international peace and security. He contended that, so long as the occupation troops remained in Panama, the latent threat of further acts of aggression, such as the one currently under consideration by the Council, would persist, and demanded once again the immediate withdrawal of the invading forces. He stated that the international community had the right and duty to require of the United States conduct consistent with law and the system of international relations; and that the United States, in turn, was obliged to act in accordance with its serious responsibilities as a world Power and a permanent member of the Council. He concluded by recalling that, in 1979, when the United States suffered the invasion of its diplomatic mission in Tehran, its then Secretary of State had called on the Council to “move together, in a manner that is clear and convincing, to demonstrate that the rule of law has

meaning and that our machinery of peace has practical relevance”. Those words, he contended, were appropriate on the present occasion.⁴⁹

The representative of the United States stated that the issue at hand was an allegation of an action inconsistent with diplomatic privileges and immunities, which had been fully acknowledged and fully dealt with. There was no threat to international peace and security that required a formal Council meeting or even Council consideration of the issue. Nor was the incident a potential threat to peace and security. Clear remedies for dealing with it already existed: in normal diplomatic practice, if such an issue could not be resolved bilaterally, then the dean of the local diplomatic corps mediated the incident. He recalled that he had told the members of the Council in informal session that the United States had no intention of deliberately entering a diplomatic residence, let alone one claimed to be occupied by the Ambassador of Nicaragua to Panama. His Government had expressed regret for the incident in a formal note to the Government of Nicaragua and had publicly affirmed its continuing commitment to abide by the Vienna Convention on Diplomatic Relations. The Council had been informed of that note and of the follow-up by the United States to the incident in documents⁵⁰ which had been circulated to the members of the Council. The United States regretted the incident, even though Nicaragua had violated Article 41 of the Vienna Convention by using the premises of its embassy as a large weapons cache. The actions that the United States had taken did not then or now pose any threat to international peace and security. There was no valid reason to insist that the Council debate the issue in the first place and, consequently, no reason for the Council to adopt a resolution in response to the Nicaraguan complaint.⁵¹

Speaking before the vote on the draft resolution, the representative of the United Kingdom said that his delegation would abstain in the voting because the draft resolution related to an incident that was not appropriate for action by the Council. His country viewed with concern any breach of the inviolability of

⁴⁹ Ibid., pp. 9-20.

⁵⁰ Letters dated 4 and 5 January 1990 from the representative of the United States addressed to the President of the Security Council (not reproduced as a document of the Council).

⁵¹ S/PV.2905, pp. 21-33.

diplomatic premises; but, in this case, the United States Government had already formally and at the highest level expressed its regret to the Government of Nicaragua. He recalled, moreover, that under Article 52 (2) in Chapter VIII of the Charter, Member States were urged “to make every effort to achieve pacific settlement of local disputes through ... regional arrangements or by ... regional agencies before referring them to the Security Council”. He noted that that was precisely what had happened with the present incident: the question it raised had been dealt with in a resolution adopted by the appropriate regional agency — OAS — on 8 January 1990. The matter was therefore closed. The United Kingdom saw no reason to re-open it in the Council. The incident did not pose any threat to international peace and security; nor did it provide any basis for a Council resolution under Chapter VI of the Charter.⁵²

The President then put the draft resolution to the vote. It received 13 votes in favour, 1 against (United States) and 1 abstention (United Kingdom), and was

⁵² Ibid., pp. 34-35.

not adopted owing to the negative vote of a permanent member of the Council.

Speaking after the vote, the representative of Canada stated that he had voted for the draft resolution because it reaffirmed certain basic and important principles guiding the conduct of international relations. By adopting the draft resolution, the Council would have appropriately added its voice to the voices of other international bodies that had addressed the issue of inviolability of diplomatic missions.⁵³

The representative of Finland said that she had voted in favour of the draft resolution out of respect for the norms of international law. However, her Government wished to register its concern over the submission of the draft resolution to the Council. Finland had difficulty in accepting that the subject matter fell within the competence of the Council, as defined in the Charter of the United Nations since the events described were not of such a character as to present a threat to international peace and security.⁵⁴

⁵³ Ibid., pp. 36-37.

⁵⁴ Ibid., p. 38.

Asia

14. The situation relating to Afghanistan

Decision of 26 April 1989 (2860th meeting): adjournment

On 15 February 1989, pursuant to resolution 622 (1988) of 31 October 1988, the Secretary-General submitted to the Council a report on the activities of the United Nations Good Offices Mission in Afghanistan and Pakistan (UNGOMAP).¹ Since 15 May 1988, UNGOMAP had been monitoring the implementation of the Agreements on the Settlement of the Situation Relating to Afghanistan, concluded under United Nations auspices, and signed at Geneva on 14 April 1988 by Afghanistan and Pakistan, and by the Union of Soviet Socialist Republics and the United States of America as guarantors (the “Geneva Agreements”).² The Secretary-General confirmed the

complete withdrawal of foreign troops from Afghanistan in compliance with the Geneva Agreements. He added that it was imperative to move forward to ensure the implementation of all the obligations under the Agreements, whose provisions were to be implemented in an integrated manner. He observed that the external aspects of the situation needed to be fully resolved, in conformity with the Agreements, to enable the Afghan people to decide their own future and to achieve peace and stability in their homeland. He stressed that it was for them to

Relations, in particular on Non-Interference and Non-Intervention; (ii) Declaration on International Guarantees, signed by the Union of Soviet Socialist Republics and the United States; (iii) Bilateral Agreement between Afghanistan and Pakistan on the Voluntary Return of Refugees; and (iv) Agreement between Afghanistan and Pakistan on the Interrelationships for the Settlement of the Situation relating to Afghanistan.

¹ S/20465.

² S/19835, annex I. The Agreements consisted of four instruments: (i) Bilateral Agreement between Afghanistan and Pakistan on the Principles of Mutual

decide upon the next steps, in their efforts towards the establishment of a broad-based government.

By a letter dated 3 April 1989 addressed to the President of the Security Council,³ the representative of Afghanistan transmitted a letter of the same date from the Minister for Foreign Affairs of Afghanistan, requesting the convening of an emergency meeting of the Council, in accordance with Articles 34 and 35 (1) of the Charter of the United Nations, in view of the “intensification of aggressions and interferences of Pakistan in the internal affairs of Afghanistan”.

At its 2852nd meeting, on 11 April 1989, the Council included the letter from the representative of Afghanistan in its agenda. The President (Union of Soviet Socialist Republics) also drew the attention of Council members to a letter dated 7 April 1989 from the representative of Pakistan,⁴ transmitting a message from the Minister for Foreign Affairs of his country. The latter questioned the appropriateness of an emergency session of the Security Council. He contended that Articles 34 and 35 (1) of the Charter had no bearing on the situation inside Afghanistan. He described the situation as a purely internal one, in which the Afghan people were resisting the rule of an illegal and unrepresentative regime that had been imposed on them by external military intervention and which was responsible for massive and brutal violations of human rights. He stated that the request of the “Kabul regime” for a Security Council debate was therefore untenable. He also rejected the allegations that Pakistan had conducted military aggression against Afghanistan and interference in its internal affairs.

The Council considered the item at its 2852nd, 2853rd, 2855th to 2857th, 2859th and 2860th meetings, from 11 to 26 April 1989.

Following the adoption of the agenda, the Council invited the following, at their request, to participate in the discussion without the right to vote: at the 2852nd meeting, the representatives of Afghanistan, Pakistan and the Syrian Arab Republic; at the 2853rd meeting, the representatives of Cuba, Democratic Yemen, the German Democratic Republic, Japan, Mongolia, Saudi Arabia and Turkey; at the 2855th meeting, the representatives of India, the Lao People’s Democratic Republic, Madagascar, Nicaragua,

the United Republic of Tanzania and Viet Nam; at the 2856th meeting, the representatives of Angola, Bulgaria, the Comoros and Iraq; at the 2857th meeting, the representatives of Bangladesh, Burkina Faso, the Congo, Czechoslovakia, Hungary, Poland, Somalia and the Ukrainian Soviet Socialist Republic; and at the 2859th meeting, the representatives of the Byelorussian Soviet Socialist Republic and the Libyan Arab Jamahiriya. At the 2853rd meeting, the Council also decided, at the request of the representative of Saudi Arabia, to extend an invitation to Mr. A. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference (OIC) to the United Nations, under rule 39 of its provisional rules of procedure. At the invitation of the President, the representatives of Afghanistan and Pakistan took seats at the Council table.

At the 2852nd meeting, the representative of Afghanistan stated that his Government wished to draw the Council’s attention to the serious threat posed to the independence, sovereignty and territorial integrity of Afghanistan by the blatant acts of aggression and interference in its internal affairs committed by Pakistan. The recent intensification of Pakistan’s armed aggression and its overt and covert interference in the internal affairs of Afghanistan had acquired ever-wider dimensions, threatening peace, stability and security in south-west Asia. Pakistan’s actions had prompted Afghanistan to turn to the Council under Chapter VI of the Charter, on the peaceful settlement of disputes, and on the basis of the Council’s obligations under Articles 34 and 35. The speaker contended that Pakistan’s aggression and interference in Afghanistan’s internal affairs constituted a violation of various international instruments, including the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.⁵ He claimed that they were also in breach of the principles agreed upon in the Geneva Agreements on the normalization of relations between Afghanistan and Pakistan. He maintained that Pakistan’s acts of aggression and interference had changed “from the imposed undeclared war of the past 10 years into a full-fledged war” against Afghanistan. Those acts included the following: extensive deployment of its armed forces along the eastern and southern borders with Afghanistan, in particular around the city of Jalalabad; the establishment of military

³ S/20561.

⁴ S/20577.

⁵ Annex to General Assembly resolution 2625 (XXV) of 24 October 1970.

training centres in Pakistan for training extremists to carry out destructive activities in Afghanistan; the transfer of arms and ammunition to extremist forces in Afghanistan; the participation of Pakistani militiamen in military operations in Afghanistan; and violations by the Pakistan air force of Afghan airspace. The speaker stated that those violations of the Geneva Agreements had been duly reported to UNGOMAP in some 390 notes, but none of the complaints had yet been investigated. He asked that a list of those notes be circulated as a document of the Council.⁶ He questioned whether any principle of international law allowed States to resort to the use of force and to conduct acts of aggression against the territory of another State in an effort to change that State's system. He claimed, further, that Pakistan's support for the creation by the "Alliance of Seven" of an "interim government" on its territory amounted to an interference in the internal affairs of Afghanistan and a violation of the Afghan people's right to self-determination. Pakistan evidently planned, he stated, to annex Afghanistan under the guise of forming a confederation.

The representative of Afghanistan added that the current leadership of his country was intent on achieving a peaceful solution to the country's problems, as evidenced by its signing of the Geneva Agreements. It was committed, moreover, to the establishment of a broad-based Government, as called for in the resolution adopted by the General Assembly at its forty-third session.⁷ However, his Government wished to reiterate that only by ensuring the ceasefire and its respect by all other forces concerned would it be possible to hold a free and democratic election with the participation of all political parties. He called for the establishment by UNGOMAP of additional outposts in strategic areas, which could play an important role in reducing tensions, implementing the Geneva Agreements, and promoting a cessation of Pakistan's military aggression and interference in the internal affairs of Afghanistan. Politically, he called for the convening of an international conference to establish Afghanistan's permanent neutrality and

demilitarization. He proposed that the Soviet Union and the United States — as co-guarantors of the Geneva Agreements — and the other members of the Council should participate, adding that the participation of other States would also be welcomed. In conclusion, the speaker stated that, in view of the present grave situation, the continuation of which would result in a serious regional conflict, Afghanistan, in accordance with Articles 33 and 34 of the Charter, requested the Council to take the following actions: (a) to take all urgent measures within its competence under the Charter to stop Pakistani aggression and intervention against Afghanistan; (b) to send a fact-finding mission made up of members of the Security Council to Afghanistan and Pakistan; and (c) to request the Soviet Union and the United States, as co-guarantors of the Geneva Agreements, to play a further active role in persuading Pakistan to meet its obligations under those Agreements.⁸

The representative of Pakistan expressed regret that the Council's time should be taken up by the request for the convening of an emergency session, under cover of Articles 34 and 35 of the Charter. He stated that those articles had no bearing on the situation within Afghanistan. What was happening there was a continuation of the struggle of the Afghan people to overthrow an illegal and unrepresentative regime that had been imposed on them by external military intervention. That struggle was a purely internal matter, which in no way endangered peace and security within the meaning of Article 34. The speaker dismissed the allegations made against his country by the "Kabul representative" as baseless and untenable. He observed that the UNGOMAP teams had found no evidence of Pakistan's alleged massing of troops along its border with Afghanistan, of the alleged training camps, of arms and ammunition being transported from Pakistan to Afghanistan, or of any violation by Pakistan of Afghan airspace or territory. The charge that Pakistani troops were fighting alongside the Mujahideen inside Afghanistan was preposterous; the latter had no need of such assistance. The UNGOMAP reports clearly stated, moreover, that there was no evidence that Pakistan had prevented any refugees from returning to Afghanistan. As for the interim Government of Afghanistan, the speaker stated that it had been elected through a secret ballot by a representative Consultative Shura, an independent

⁶ The President of the Council subsequently drew the attention of Council members to a letter dated 12 April 1989 from the representative of Afghanistan containing a list of the instances of Pakistan's aggression and interference in the internal affairs of Afghanistan notified to UNGOMAP as at 2 April 1989 (S/20585).

⁷ General Assembly resolution 43/20 of 3 November 1988.

⁸ S/PV.2852, pp. 5-25.

body representing a wide spectrum of Afghan opinion. The interim Government included eminent Afghans representing different points of view. Its admission into the Organization of the Islamic Conference showed that it was supported by a very important group of countries. It also showed that the Islamic countries continued to view the “Kabul regime” as illegal and unrepresentative of Afghanistan. The speaker stressed that peace and security in Afghanistan could be restored only if power were transferred from the “illegal Kabul-based regime” to a broad-based government acceptable to the Afghan people as a whole. The establishment of such a government was the exclusive prerogative of the Afghan people themselves. That was acknowledged by the Geneva Agreements and General Assembly resolution 43/20 of 3 November 1988, which, *inter alia*, mandated the Secretary-General of the United Nations to facilitate the establishment of a broad-based government. The creation of the interim government was a major step towards the achievement of that objective. The speaker recalled that Pakistan’s aim, in requesting the establishment of UNGOMAP, had been to ensure a neutral machinery to investigate complaints regarding the implementation of the Geneva Agreements. The Kabul regime had now chosen to ignore that established mechanism for redress of complaints and had instead approached the Security Council in an attempt to malign Pakistan. Pakistan, for its part, remained ready to continue its cooperation with UNGOMAP and to discuss with the Secretary-General any relevant proposals that would enable the Mission to continue to discharge its responsibilities effectively. The speaker concluded by assuring the members of the Council that Pakistan remained committed to promoting a comprehensive settlement of the Afghanistan issue on the basis of the Geneva Agreements and General Assembly resolutions.⁹

At the 2853rd meeting, on 17 April 1989, Mr. Ansary, Permanent Observer of OIC, stated that while the Islamic Conference welcomed the withdrawal of the Soviet forces from Afghanistan, it was concerned that they had installed an “illegal regime” which did not enjoy the support of the people. The Afghan people continued, therefore, in their struggle to eliminate the last vestiges of foreign occupation. OIC believed that the transfer of power to a broad-based interim government acceptable to the Afghan people

was a *sine qua non* for the restoration of peace in Afghanistan, the creation of conditions conducive to the voluntary return of the Afghan refugees, and the exercise of the right to self-determination by the people of Afghanistan, free from outside intervention or coercion. It had welcomed, therefore, the establishment by the people of Afghanistan of an interim Government, through the convening of a Consultative Shura, in exercise of their right to self-determination. Indeed, it had invited the representatives of that Government to occupy the vacant seat of Afghanistan in the Organization, and now wished to invite other intergovernmental organizations to follow suit. He added that, in the view of OIC, the various aspects of the problem that remained to be solved should be dealt with by the Afghans themselves, since it was an internal matter of that country — especially after the withdrawal of the foreign troops. Any attempt to “internationalize” the question by bringing it before the Security Council would only delay its resolution.¹⁰

The representative of the United States stressed that his Government’s policy towards Afghanistan was designed to uphold the principle that the Afghan people themselves must be allowed to determine their own future, without outside interference or coercion. The conditions must be created for them to be able to carry out a true act of self-determination. The “illegitimate Kabul regime” was impeding that process as it tried to retain its waning grip on Afghanistan. Unfortunately, the present process in the Council appeared to be being used by that same regime as part of such an effort. There was, of course, a proper role for the international community to play. It was to continue to support the Afghan people’s desire to choose their own government, to provide assistance to the refugees to return home in safety and to help rebuild the country once stability and peace were achieved. The speaker noted that there were several United Nations mechanisms in place to deal with the problems created by the conflict. His country fully supported them. However, it would oppose any attempt to use those mechanisms to perpetuate the “illegitimate regime in Kabul” or to impose a political settlement on the Afghan people. He dismissed as “spurious allegations” the charges made against Pakistan, a country that had sacrificed so much to care for millions of Afghan refugees, the world’s largest refugee population. With regard to a ceasefire, his Government believed that that

⁹ *Ibid.*, pp. 26-39.

¹⁰ S/PV.2853, pp. 6-11.

issue could only be decided by the Afghan people themselves. The United States did not believe that the Security Council could or should at this time take a more prominent role in Afghanistan unless the Afghan people themselves and all the Afghan parties actively sought greater Council involvement. Now that the Soviet troops had withdrawn, the Afghan people should be permitted to achieve full self-determination, with the support and assistance of the United Nations.¹¹

Several speakers echoed the views expressed by the representative of Pakistan and the Permanent Observer of OIC. For them, the struggle between the people of Afghanistan and the “Kabul regime” was an internal problem which did not fall within the competence of the Security Council under Articles 34 and 35 (1). They called for recognition of the right of the Afghan people to persist in their determination to stand on their own feet and welcomed the creation of the interim government as a step in that direction. Stressing that the interim government of Afghanistan had been recognized by the Islamic Conference, they urged the Council not to buttress the “Kabul regime”, which did not enjoy the support of the Afghan people and would have to make way sooner or later for a truly representative government.¹²

A number of other speakers also questioned the appropriateness and value of a Council debate on the current situation in Afghanistan.¹³ Some stressed that, with the withdrawal of the Soviet forces from the country, the external aspects of the situation had been addressed; it was now a purely internal matter, which concerned the right of the Afghan people to self-determination. Others observed that the Geneva Agreements provided a mechanism — the United Nations Good Offices Mission in Afghanistan and Pakistan — for handling the complaints under consideration; they were not a matter for the Council. They noted, moreover, that the General Assembly, in its resolution 43/20, had asked the Secretary-General to encourage and facilitate an early comprehensive political settlement of the Afghan question, through the

establishment of a broad-based government. They encouraged those efforts and urged the parties concerned to do the same with concrete actions, by implementing in earnest the Geneva Agreements.

Several other speakers similarly maintained that the Geneva Agreements and General Assembly resolution 43/20, which were complementary, formed the basis for the settlement of the Afghan issue.¹⁴ They called for strict implementation of the Agreements by all parties. They reaffirmed moreover that a political solution should be based on full respect for the sovereignty, territorial integrity, political independence and non-aligned character of Afghanistan and the right of the Afghan people freely to determine their form of government and to choose their economic, political and social system. They stressed that the Afghan people should engage in a process of dialogue and reconciliation leading to the formation of a broad-based government, with many expressing support for the good offices of the Secretary-General and UNGOMAP.

Other speakers, on the other hand, shared the views expressed by the representative of Afghanistan.¹⁵ They stressed that the situation in Afghanistan was not an internal matter, but a threat to regional peace and security; commended the compliance with the Geneva Agreements by Afghanistan and the Soviet Union, but regretted the lack of compliance by the other parties, particularly Pakistan; favoured a weightier role for the United Nations in the implementation of the Geneva Agreements; and endorsed various proposals made by the representative of Afghanistan — concerning a ceasefire, a strengthening of UNGOMAP by setting up

¹¹ *Ibid.*, pp. 51-53.

¹² *Ibid.*, pp. 11-16 (Saudi Arabia); pp. 17-20 (Malaysia); pp. 38-41 (Turkey).

¹³ *Ibid.*, pp. 42-43 (Japan); S/PV.2855, pp. 12-13 (China); pp. 13-18 (United Kingdom); pp. 28-31 (Finland); S/PV.2856, pp. 27-30 (Comoros); S/PV.2857, pp. 11-12 (Bangladesh); pp. 12-15 (Nepal); pp. 16-18 (Yugoslavia); and S/PV.2859, pp. 13-20 (Somalia).

¹⁴ S/PV.2853, pp. 21-22 (Syrian Arab Republic). See also S/PV.2855, pp. 7-11 (United Republic of Tanzania); pp. 23-28 (Madagascar); S/PV.2856, pp. 31-33 (Iraq); pp. 38-42 (Angola); S/PV.2857, pp. 12-15 (Nepal); pp. 16-18 (Yugoslavia); pp. 28-32 (Congo); and S/PV.2859, pp. 3-7 (Burkina Faso); pp. 27-31 (Libyan Arab Jamahiriya).

¹⁵ S/PV.2853, pp. 22-27 (German Democratic Republic); pp. 28-32 (Cuba); pp. 33-38 (Mongolia); pp. 43-50 (Democratic Yemen). See also S/PV.2855, pp. 3-7 (India); S/PV.2856, pp. 6-11 (Lao People's Democratic Republic); pp. 11-16 (Nicaragua); pp. 17-21 (Ethiopia); pp. 21-26 (Viet Nam); pp. 33-37 (Bulgaria); S/PV.2857, pp. 3-10 (Czechoslovakia); pp. 18-28 (Ukrainian Soviet Socialist Republic); and S/PV.2859, pp. 8-11 (Algeria); pp. 11-12 (Hungary); pp. 20-25 (Poland); and pp. 31-38 (Byelorussian Soviet Socialist Republic).

observer posts along the Afghan-Pakistan border and the convening of an international conference under United Nations auspices to discuss questions relating to the neutrality and demilitarization of Afghanistan. Several of those speakers rejected the formation of a “so-called interim government” on foreign territory, which did not represent the Afghan people, and was undemocratic and illegal.

At the 2855th meeting, on 19 April 1989, the representative of the United Kingdom echoed previous speakers in stressing the need for the restoration of peace, which could only be achieved if the Afghans could establish a representative government accepted by the overwhelming majority of the population. The common interest of the international community had been set out in the consensus resolution adopted by the General Assembly in November 1988, calling for the restoration of Afghanistan’s independent and non-aligned status and for the return of refugees in safety; and reaffirming “the right of the Afghan people to determine their own form of government and to choose their economic, political and social system free from outside intervention, subversion, coercion or constraint of any kind whatsoever”. The withdrawal of the Soviet Union from Afghanistan was a welcome step towards the achievement of those aims. The priority now must be for the Afghans themselves to exercise their right to self-determination. The speaker observed that the present regime had failed to win back politically through its national reconciliation policy what it had lost militarily. There was no prospect of its winning over the hearts and minds of the Afghan people or of evolving into a representative government. It had already been rejected by the Afghan people, as evidenced by the decision by over 5 million Afghans to leave their country since the Soviet occupation. With regard to the requests made by the representative of Afghanistan, the speaker stated that the future of UNGOMAP was primarily a matter for the parties to the Geneva Agreements. More active forms of political assistance, such as United Nations-supervised elections, the dispatch of a United Nations peacekeeping force or the holding of an international conference would be appropriate only if they were wanted by a broad majority of Afghans. In conclusion, the speaker remarked that there was no reason why those who had fought for nine years to liberate their country would or should give up a struggle in which they enjoyed the overwhelming support of the Afghan

people; the Council would do ill to suggest that they should.¹⁶

The representative of France welcomed the signing of the Geneva Agreements as an important step towards the settlement of the Afghan conflict. However, he stressed that a comprehensive political solution depended on efforts at national reconciliation. In France’s view, such reconciliation would not be possible unless those who, in the eyes of the overwhelming majority of the Afghan people, represented a “painful past” stood aside to allow for the start of a genuine dialogue between all the components of that people. Only such a dialogue would make it possible for all Afghans to exercise their right to self-determination. France stood ready to promote such a dialogue as well as the implementation of an overall solution.¹⁷

The representative of Canada stated that, with the Soviet withdrawal completed, the Afghan people should determine their common future and choose their own form of government without outside interference. Canada supported the early establishment of a representative government in Afghanistan. Only in that way could there be a lasting solution to the conflict. The Afghans themselves must be permitted to establish the conditions that would allow the millions of refugees in Pakistan and the Islamic Republic of Iran to return to their homes and their country to be rebuilt. The Council could not make a meaningful contribution to that process in the absence of a request from the entire Afghan people. What the United Nations could do it was now doing. Canada supported the efforts of the Secretary-General to promote a political solution to the Afghanistan dispute, recognized the important contribution made by UNGOMAP in overseeing the implementation of the Geneva Agreements, and urged the international community to continue its support for the United Nations programme for humanitarian assistance and mine-clearance.¹⁸

On the other hand, the President of the Council, speaking in his capacity as the representative of the Union of Soviet Socialist Republics and noting that his country was a guarantor of the Geneva Agreements, echoed or endorsed the views expressed by the representative of Afghanistan. He stressed that the

¹⁶ S/PV.2855, pp. 13-18.

¹⁷ *Ibid.*, pp. 18-21.

¹⁸ *Ibid.*, pp. 21-23.

Soviet Union strongly supported the recourse by the Government of Afghanistan to the Security Council in connection with the threat to that country's territorial integrity, independence and national sovereignty stemming from Pakistan's escalation of its aggressive activities and intervention in Afghanistan's internal affairs. Afghanistan's recourse to the Council was right, proper and timely. Current events in Afghanistan were by no means the strictly internal affair of the Afghan people, as had been argued by certain speakers. On the contrary, as demonstrated by the evidence adduced by the Minister for Foreign Affairs of Afghanistan, outside activities posed an ever-greater threat to the sovereignty and independence of Afghanistan, creating a threat to the peace and stability of South-West Asia. The Soviet Union's decision to withdraw its troops from Afghanistan had been based on the understanding that outside intervention in Afghan affairs from Pakistani territory would be completely stopped. Indeed, the two obligations were balanced in the Geneva Agreements. The speaker stressed that the obligation of non-interference and non-intervention on the part of Pakistan was not simply contractual; it was a confirmation of universally acknowledged principles of international law enshrined in the Charter of the United Nations and in the definition of aggression adopted by the United Nations. In referring therefore to violations by Pakistan of the Geneva Agreements, the Soviet Union was speaking in shorthand; it wished to make clear that these were also violations of the principles of international law and provisions of the Charter. That was what made it so necessary, indeed urgent, for the Council to consider the present item. The speaker detailed a number of alleged violations by Pakistan of the Geneva Agreements, which he contended amounted to aggression against Afghanistan. Because of Pakistani intervention in the internal conflict in Afghanistan, moreover, a new dangerous dimension had been added: military confrontation between Pakistan and Afghanistan. He dismissed the new alternative "government" formed by the Alliance of Seven in Jalalabad: the emergence of such a narrow unrepresentative "government" — whose goal was to seize power in the country — by no means constituted a step towards forming a broad-based coalition government that could bring peace to the Afghan people. On the contrary, it was a step away from that goal.

With regard to the way forward, the representative of the Soviet Union reiterated his country's appeal for a complete ceasefire. He did not preclude the possibility, at a later stage, of dispatching a United Nations peacekeeping force to strategic centres in Afghanistan or of otherwise broadening the stabilizing effect of a United Nations presence there. Meanwhile, he endorsed the proposal for the convening of an international conference on the neutrality and demilitarization of Afghanistan. A first step towards such a conference would be the establishment, under United Nations auspices, of a working group of experts for the exchange of views on an Afghan settlement: the major Afghan groups could participate, together with Afghanistan's direct neighbours and the guarantors of the Geneva Agreements. What the people of Afghanistan desperately needed was not weapons but economic and humanitarian assistance. The Soviet Union regretted, however, that in some quarters the provision of such assistance was being deliberately and openly politicized, thus distorting its humanitarian nature. Noting the important role played by the United Nations military observers, but their small number (only 20) in Pakistan, the speaker called for the effectiveness of UNGOMAP to be enhanced in response to the dangerous development of the situation. In particular, he endorsed the call by the Government of Afghanistan for an increase in the number of observer points on the Pakistan-Afghanistan border. He hoped, moreover, that the Secretary-General would continue in his efforts to promote the implementation of the Geneva Agreements, in accordance with the mandate entrusted to him under General Assembly resolution 43/20. Turning to the role of the Security Council, he stressed that it must deal earnestly with this matter, bringing its authority to bear in order to extinguish the military conflagration in Afghanistan. The Soviet Union supported the specific proposals put forward by the Foreign Minister of Afghanistan in his statement. He concluded that it was the duty of the Security Council to make a genuine effort to put an end to foreign intervention and bloodshed in Afghanistan and to work for a ceasefire, the holding of an intra-Afghan dialogue and the creation of a broad-based coalition Government.¹⁹

At the 2857th meeting, on 24 April 1989, the representative of Afghanistan reiterated that the Council's discussion, at his country's request, of the

¹⁹ Ibid., pp. 32-63.

question of Pakistan's aggression and interference in the internal affairs of Afghanistan was fully in accord with Articles 34 and 35 (1) of the Charter: Pakistan's actions had been posing a grave threat to regional peace and security. He again detailed the nature of Pakistan's alleged intervention, including its support for the "so-called interim government". He added that Saudi Arabia, too, had played a role, claiming that it had funded participation in the "so-called Consultative Shura" and was backing certain Afghan guerrilla groups — in an effort to increase its influence in the establishment of the future government in Afghanistan. The speaker reaffirmed his Government's readiness to hold a national democratic election throughout the country, provided that a ceasefire was observed by all sides. He concluded by warning that, if the Council failed to adopt measures necessary for defusing the present tense situation and if Pakistani aggression and intervention against Afghanistan continued, his Government would have no choice but to use its legitimate right of self-defence.²⁰

At the 2859th meeting, on 26 April 1989, the representative of Saudi Arabia disputed the allegations made against it by the representative of the "Kabul regime". He added that that regime had no legitimate standing either in Afghanistan or before the Council.²¹

The representative of the United States considered that the debate had been unnecessary and needlessly prolonged. It had not furthered either the cause of peace or self-determination for the Afghan people, both of which goals were widely supported in the Council and closely intertwined. The Afghan people had been denied their right to self-determination during nine years of military occupation and were still being denied it by a regime clinging to power by force of arms against the will of the vast majority of its own people. The international community would continue to insist that they be provided with the opportunity to choose their own government. It should not and would not give its approval to an illegally installed regime. The United States agreed with the many speakers who had pointed out that Afghanistan had been the victim of foreign aggression. However, it wished to set the record straight: Pakistan was not and had never been the aggressor. On the contrary, it had supported and continued to support the terms and objectives of the

Geneva Agreements. Moreover, none of the allegations made by Afghanistan had been verified by the United Nations teams. The speaker hoped that the Council might now move on to more "constructive tasks".²²

The representative of Pakistan reiterated his country's view that the request to hold the current debate lacked validity. There was no threat to regional or international peace and security, as alleged. The complaints lodged by the "Kabul side" against Pakistan had been thoroughly investigated by UNGOMAP and had been found to be baseless. Pakistan rejected them categorically. The speaker claimed that the accusations against his country were designed to divert attention from the real obstacle to a peaceful settlement: namely, the military support by the Soviet Union for the "Kabul regime", which prevented an early and peaceful transfer of power to a broadly acceptable interim government. His Government was accordingly formally requesting the Secretary-General to establish additional UNGOMAP posts in various Afghan towns and airports, to monitor Soviet compliance with the Geneva Agreements. As to the call by some speakers for an immediate ceasefire, since Pakistan was not a party to the internal conflict in Afghanistan, it could not pronounce on a matter entirely within the competence of the Afghan people. The proposal for an international conference on the neutrality and demilitarization of Afghanistan was premature: it was something for a representative and legitimate government to consider, if it so wished, after a comprehensive settlement had been achieved. Similarly, the idea of a United Nations peacekeeping force, which was contingent upon a ceasefire, could be considered only if all the parties concerned agreed. That was not the case at present. The speaker drew the Council members' attention to recent remarks by the Prime Minister of Pakistan concerning the possible spillover of war into Pakistan: he had said that Pakistan had no intention of becoming a party to the Afghan conflict, but that if the "Kabul regime" resorted to committing an act of aggression against Pakistan, the latter would "respond accordingly". The speaker concluded by recalling that, after the first day of the current debate, the President of the Council had suggested that if Pakistan were agreeable the debate could be abandoned in favour of a statement by the President. Although Pakistan had responded positively, the debate had continued, to his delegation's surprise.

²⁰ S/PV.2857, pp. 32-25.

²¹ S/PV.2859, pp. 24-27.

²² *Ibid.*, pp. 38-42.

It had yielded nothing but further opportunities for indulging in “propaganda” against Pakistan and had effectively foreclosed the option of a statement by the President.²³

At the 2860th meeting, on 26 April 1989, the representative of Afghanistan reiterated that the root cause of the grave situation prevailing in the region lay in Pakistan’s continued interference and intervention in his country’s internal affairs. He stressed that other Islamic countries, including Saudi Arabia, should play a constructive role in bringing the Afghans together, instead of assisting and participating in the Pakistani aggression and intervention. He reaffirmed his Government’s support for an immediate ceasefire to facilitate the beginning of an intra-Afghan dialogue and for an end to the “senseless fratricidal war” to be able to rebuild the country.²⁴

The President, speaking in his capacity as the representative of the Union of Soviet Socialist Republics, said that the Council would have failed to meet its obligations under the Charter if it had not discussed the question of Afghanistan. Pakistan’s aggressive actions and interference in the internal affairs of Afghanistan posed a threat to the territorial integrity, independence and sovereignty of that country, as well as a threat to regional peace and security. Attempts to deny Pakistan’s interference had been unconvincing. Claims that Pakistan’s innocence was attested to by the lack of confirmation of the violations of the Geneva Agreements in the reports of the UNGOMAP observers were absurd: it was well known that the Pakistan authorities had isolated UNGOMAP from the real situation and had shown the observers nothing that might cast aspersions on the conduct of the Government of Pakistan. During the debate, particular emphasis had been placed on the need for all parties fully to carry out their obligations under the Agreements and on the responsibility of the guarantor States to ensure their implementation. What was at stake in the implementation of the Agreements was the authority and interests not only of the countries directly involved in the conflict, but also of the entire international community. For this was a test of the will of States to seek peaceful ways to resolve conflicts. It was also a test of the political will of two permanent members of the Council. The speaker added that, as

²³ Ibid., pp. 42-63.

²⁴ S/PV.2860, pp. 3-22.

President of the Council, he had given serious consideration to the possibility that, after the initial statements of the representatives of Afghanistan and Pakistan, the work of the Council should be steered towards the preparation of a presidential statement on the substance of the problem. In that connection, he had taken into account the views that had been expressed to him by various members of the Council. He had put this proposal to the representatives of Afghanistan and Pakistan. While the representative of Afghanistan had responded positively, his Pakistani counterpart had agreed only that the President of the Council should state to the press that the Council had listened to the statements by the sides and had completed its consideration of the question. The speaker expressed disappointment with the uncooperative attitude of the representative of Pakistan. In conclusion, he appealed once again to the Council to discharge its responsibility for the maintenance of international peace and security and to do its utmost to ensure a prompt settlement of the Afghan problem in accordance with the purposes and principles of the Charter.²⁵

The representative of Pakistan maintained that his delegation had agreed to the issuance of a presidential statement in lieu of a prolonged debate. He had not expressed a view about the contents of such a statement, on the understanding that that would be subject to negotiation among the members of the Council and the parties concerned. Thereafter, he had heard nothing from the presidency, but had learned to his surprise that the debate had been scheduled to continue.²⁶

The President, speaking in his capacity as the representative of the Union of Soviet Socialist Republics, regretted that the Council would end the debate without adopting any statement.²⁷

The meeting was then adjourned.

Decision of 11 January 1990: resolution 647 (1990)

By a letter dated 9 January 1990 addressed to the President of the Security Council,²⁸ the Secretary-General recalled that, in his report of 20 October 1989

²⁵ Ibid., pp. 22-53.

²⁶ Ibid., pp. 56-62.

²⁷ Ibid., p. 63.

²⁸ S/21071.

to the Council,²⁹ he had indicated that more still needed to be done for the implementation of the Geneva Agreements, and had drawn the attention of the parties and the guarantors to the need to ensure strict implementation of their obligations. Having consulted the parties to the Agreements, he therefore proposed to the Council that the temporary detachment of military officers to Afghanistan and Pakistan be extended. He stated that the concurrence of the countries supplying the military personnel had already been secured.

At its 2904th meeting, on 11 January 1990, the Council included the Secretary-General's letter in its agenda.

The President (Côte d'Ivoire) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.³⁰ He also drew their attention to a note by the Secretary-General dated 15 February 1989,³¹ and to his above-mentioned report of 20 October 1989.

The draft resolution was then voted upon and adopted unanimously as resolution 647 (1990), which reads:

The Security Council,

Recalling the letters dated 14 and 22 April 1988 from the Secretary-General to the President of the Security Council concerning the Agreements on the Settlement of the Situation Relating to Afghanistan, signed at Geneva on 14 April 1988,

Recalling also the note by the Secretary-General of 15 February 1989 and his report of 20 October 1989,

Recalling further its resolution 622 (1988) of 31 October 1988,

Taking note of the letter dated 9 January 1990 from the Secretary-General to the President of the Security Council,

1. *Confirms* its agreement to the measures envisaged in the Secretary-General's letter of 9 January 1990 concerning the arrangements for the temporary deployment in Afghanistan and Pakistan of military officers from existing United Nations operations to assist in the mission of good offices for a further period of two months;

2. *Requests* the Secretary-General to keep the Security Council informed of further developments in accordance with the Agreements on the Settlement of the Situation Relating to Afghanistan, signed at Geneva on 14 April 1988.

Decision of 28 March 1990: letter from the President of the Security Council to the Secretary-General

By a letter dated 12 March 1990 addressed to the President of the Council,³² the Secretary-General stated that the arrangements for the temporary deployment in Afghanistan and Pakistan of military officers from existing United Nations operations to assist in the mission of good offices would come to an end on 15 March. He added that his consultations with the signatories to the Geneva Agreements had indicated that another extension of the existing arrangements would "not meet with the necessary consensus". He therefore intended to redeploy a limited number of military officers from existing United Nations operations, by assigning them as military advisers to his Personal Representative in Afghanistan and Pakistan, to assist in the further implementation of a comprehensive political settlement.

By a letter dated 28 March 1990,³³ the President informed the Secretary-General that the members of the Council had no objection to the action he proposed.

Decision of 16 April 1992: statement by the President

On 10 April 1992, the Secretary-General issued a statement on the situation in Afghanistan,³⁴ in which he announced that an agreement in principle had been reached to have a pre-transitional council of 15 members in Kabul, which would take power immediately. That was the first step of the reconciliation. Secondly, they had agreed to the holding, as soon as possible, of an international conference within the framework of the United Nations.

On 16 April 1992, the Secretary-General made a further statement,³⁵ in which he said that he was deeply disturbed by the news he had received from his Personal Representative in Kabul concerning the developments that had occurred in the night of 15 to 16 April. He expected that the safety of all United Nations personnel would be respected and that they would be allowed freedom of movement in and out of

²⁹ S/20911.

³⁰ S/21073.

³¹ S/20465.

³² S/21188.

³³ S/21218.

³⁴ SG/SM/4727/Rev.1.

³⁵ SG/SM/4731.

the country as their responsibilities required. He added that there was no alternative to a political solution.

Later on 16 April 1992, following consultations among the Council members, the President of the Security Council made the following statement on behalf of the Council:³⁶

The members of the Security Council strongly endorse the statement on the situation in Afghanistan issued by the Secretary-General on 10 April 1992 and share the Secretary-General's concern about the recent events there expressed in his statement of 16 April 1992. In this regard, it is imperative that all concerned display restraint and support the efforts of the Personal Representative of the Secretary-General for Afghanistan and Pakistan towards a political solution to the Afghanistan crisis, to which there is no viable alternative. Such a solution has been proposed by the Secretary-General with the objective of bringing an end to bloodshed and violence, promoting national reconciliation, and safeguarding the unity and territorial integrity of Afghanistan. Failure to do so could only perpetuate the suffering of the Afghan people. The members of the Council urge all parties in Afghanistan to assure the safety of all, especially United Nations personnel and their

³⁶ S/23818.

complete freedom of movement and the safety of the personnel of all diplomatic missions, as well as the safe departure of those who have chosen to leave.

Decision of 12 August 1992: statement by the President

On 12 August 1992, following consultations among the members of the Council, the President issued the following statement to the media on behalf of the Council:³⁷

The members of the Council express their utmost concern over the wide-scale fighting which has broken out in Kabul and which has already resulted in heavy loss of life and property, including to foreign missions and their personnel.

The members of the Council urge that the Government of Afghanistan take every measure to ensure the safety and security of all diplomatic and international missions, as well as their personnel in Kabul, and call upon all those involved in the hostilities to cease them and establish the necessary conditions for the safe evacuation of foreign personnel.

³⁷ S/24425; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, p. 98.

15. Items relating to the situation in Cambodia

A. Exchange of letters between the Secretary-General and the President of the Security Council concerning the dispatch of a fact-finding mission to Cambodia

Decision of 3 August 1989: letter from the President of the Security Council to the Secretary-General

By a letter dated 2 August 1989 addressed to the President of the Security Council,¹ the Secretary-General informed the Council members that he had attended the Conference on Peace in Cambodia convened in Paris at the initiative of the Government of France. He said that, at the opening of the Conference on 30 July 1989, he had made a statement expressing the view that peace in Cambodia could only be achieved in the framework of a comprehensive political settlement. In that context, he had noted that

¹ S/20768.

the Conference would be discussing the establishment of an international control mechanism, and had stated, inter alia, that: (a) no international control mechanism could function without the full cooperation of the parties concerned nor could one be imposed on them; (b) the establishment of a credible international control mechanism was dependent upon the identification of a clear and realistic mandate, the adoption of an effective decision-making process and the provision of the necessary human, logistical and financial resources, which could be evaluated only by a fact-finding mission; and (c) the international control mechanism could only be deployed in stages, on the understanding that all its functions should be agreed by the parties beforehand. He had given the assurance that, as Secretary-General of the United Nations, he stood ready, in keeping with established procedures, to offer any assistance the Conference might deem useful.

The Secretary-General reported further that the first ministerial session of the Conference had concluded, on 1 August 1989, with the adoption of a number of organizational measures, including a

decision to establish four working committees. He noted that the First Committee had been entrusted with defining the modalities of a ceasefire, and the mandate and guiding principles of an international control mechanism which would supervise and control the comprehensive implementation of the settlement. The Secretary-General said that the Conference had decided to accept his proposal to send, without prejudice to the positions of the parties and States participating in the Conference, a fact-finding mission to gather technical information relevant to the work of the First Committee from all areas of Cambodia. Noting that the Conference had called upon the four Cambodian parties and the States concerned to extend to the mission the cooperation and assistance that would enable it to carry out its tasks effectively in conditions of security, the Secretary-General informed the members of the Council that it was his intention to proceed with the arrangements for the dispatch of the mission as soon as possible.

By a letter dated 3 August 1989,² the President of the Council informed the Secretary-General that the members of the Council had agreed to the proposal concerning the dispatch of a fact-finding mission to Cambodia, as contained in his letter dated 2 August 1989.

B. The situation in Cambodia

Decision of 20 September 1990 (2941st meeting): resolution 668 (1990)

By a letter dated 30 August 1990,³ the representatives of the five permanent members of the Security Council transmitted to the Secretary-General the joint statement which, together with the appended framework document, had been adopted in New York on 27 and 28 August 1990 at the sixth meeting of the five members held at the Vice-Ministerial level in 1990 to define the key elements of a comprehensive political settlement of the Cambodia conflict based on an enhanced United Nations role. In their statement, the five permanent members said that they had reached final agreement on a framework for a settlement composed of five sections: (1) transitional arrangements regarding the administration of Cambodia during the pre-election period; (2) military

arrangements during the transitional period; (3) elections under United Nations auspices; (4) human rights protection; and (5) international guarantees. The basic principle behind their approach was “to enable the Cambodian people to determine their own political future through free and fair elections organized and conducted by the United Nations in a neutral political environment with full respect for the national sovereignty of Cambodia”.

By a letter dated 11 September 1990 addressed to the Secretary-General,⁴ the representatives of France and Indonesia, in their capacity as representatives of the Co-Chairmen of the Paris Conference on Cambodia, transmitted the joint statement of the informal meeting on Cambodia issued at Jakarta, on 10 September 1990. The joint statement declared that the Cambodian parties had accepted the framework document formulated by the five permanent members as the basis for settling the Cambodia conflict, and had committed themselves to elaborating that framework into a comprehensive political settlement through the processes of the Paris Conference. They had also agreed to form a Supreme National Council, having the nature and functions stipulated in the framework document. Specifically, they had agreed, *inter alia*, that the Supreme National Council would be the unique legitimate body and source of authority in Cambodia during the transitional period and that it would delegate to the United Nations all powers necessary to implement the comprehensive agreement at the time of its signature.

At its 2941st meeting, held on 20 September 1990, in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled “The situation in Cambodia” and considered the question at the same meeting. The President (Union of Soviet Socialist Republics) drew the attention of the members of the Council to the two above-mentioned letters⁵ and to a draft resolution that had been prepared in the course of the Council’s prior consultations.⁶ He noted that members had agreed not to hold a debate on the question or make statements before or after the vote. The draft resolution was then put to the vote and adopted unanimously as resolution 668 (1990), which reads:

² S/20769.

³ S/21689, annex and appendix.

⁴ S/21732.

⁵ S/21689 and S/21732.

⁶ S/21800.

The Security Council,

Convinced of the need to find an early, just and lasting peaceful solution of the Cambodia conflict,

Noting that the Paris Conference on Cambodia, which met from 30 July to 30 August 1989, made progress in elaborating a wide variety of elements necessary for reaching a comprehensive political settlement,

Taking note with appreciation of the continuing efforts of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America, which have resulted in the framework for a comprehensive political settlement of the Cambodia conflict,

Also taking note with appreciation of the efforts of the countries of the Association of South-East Asian Nations and other countries involved in promoting the search for a comprehensive political settlement,

Further taking note with appreciation of the efforts of Indonesia and France as Co-Presidents of the Paris Conference on Cambodia and of all participants in the Conference to facilitate the restoration of peace to Cambodia,

Noting that these efforts are aimed at enabling the Cambodian people to exercise their inalienable right to self-determination through free and fair elections organized and conducted by the United Nations in a neutral political environment with full respect for the national sovereignty of Cambodia,

1. *Endorses* the framework for a comprehensive political settlement of the Cambodia conflict and encourages the continuing efforts of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America in this regard;

2. *Welcomes* the acceptance of this framework in its entirety by all the Cambodian parties, as the basis for settling the Cambodia conflict, at the informal meeting of the Cambodian parties at Jakarta on 10 September 1990 and their commitment to it;

3. *Also welcomes* the commitment of the Cambodian parties, in full cooperation with all other participants in the Paris Conference on Cambodia, to elaborating this framework into a comprehensive political settlement through the processes of the Conference;

4. *Welcomes*, in particular, the agreement reached by all Cambodian parties at Jakarta to form a Supreme National Council as the unique legitimate body and source of authority in which, throughout the transitional period, the independence, national sovereignty and unity of Cambodia is embodied;

5. *Urges* the members of the Supreme National Council, in full accord with the framework document, to elect

the Chairman of the Council as soon as possible, so as to implement the agreement referred to in paragraph 4 above;

6. *Notes* that the Supreme National Council will therefore represent Cambodia externally and it is to designate its representatives to occupy the seat of Cambodia at the United Nations, in the United Nations specialized agencies and in other international institutions and international conferences;

7. *Urges* all parties to the conflict to exercise maximum self-restraint so as to create the peaceful climate required to facilitate the achievement and the implementation of a comprehensive political settlement;

8. *Calls upon* the Co-Presidents of the Paris Conference to intensify their consultations with a view to reconvening the Conference, whose task will be to elaborate and adopt the comprehensive political settlement and to draw up a detailed plan of implementation in accord with the above-mentioned framework;

9. *Urges* the Supreme National Council, all Cambodians and all parties to the conflict to cooperate fully in this process;

10. *Encourages* the Secretary-General to continue, within the context of preparations for reconvening the Paris Conference and on the basis of the present resolution, preparatory studies to assess the resource implications, timing and other considerations relevant to the United Nations role;

11. *Calls upon* all States to support the achievement of a comprehensive political settlement as outlined in the above-mentioned framework.

Decision of 14 August 1991: letter from the President of the Security Council to the Secretary-General

By a letter dated 8 August 1991 addressed to the President of the Security Council,⁷ the Secretary-General drew the attention of the Council members to recent developments relating to the situation in Cambodia. He noted, inter alia, a number of important decisions taken unanimously by the Supreme National Council: in particular, its agreement to an immediate and unlimited ceasefire, and to undertake to stop receiving outside military assistance; its election of Prince Sihanouk as its President; and its decision to request the United Nations to dispatch a survey team to Cambodia. The Secretary-General reported that he had received a request for a survey mission by a letter dated 16 July 1991 from Prince Sihanouk on behalf of the Supreme National Council. He added that in a

⁷ S/22945.

communiqué issued on 18 July 1991,⁸ the Co-Chairmen of the Paris Conference on Cambodia and the five permanent members had, inter alia, reiterated that the withdrawal of foreign military forces, the ceasefire and the cessation of outside military assistance must be effectively verified and supervised by the United Nations. They had also recommended the dispatch of a survey mission, as proposed by the Supreme National Council. The mission would begin the process of preparing for the military aspects of the United Nations Transitional Authority in Cambodia (UNTAC), and could consider how the good offices of the Secretary-General could be used to help maintain the ceasefire. The Secretary-General accordingly informed the Council of his intention to proceed with the necessary arrangements for the dispatch of a survey mission to Cambodia as soon as possible.

By a letter dated 14 August 1991,⁹ the President of the Council informed the Secretary-General that his letter had been brought to the attention of the members of the Council, who agreed with his proposal.

**Decision of 16 October 1991 (3014th meeting):
resolution 717 (1991)**

On 30 September 1991, the Secretary-General submitted to the Security Council a report¹⁰ recommending, in the light of the report of the survey mission, that the Council authorize the establishment of a United Nations Advance Mission in Cambodia (UNAMIC). He recalled that he had informed the Co-Chairmen of the Paris Conference on Cambodia and the permanent members of the Security Council that, initially, the United Nations could assist the Cambodian parties to maintain the present ceasefire by deploying in Cambodia a small advance mission consisting mainly of military liaison officers in order to help them to address and resolve any violations or alleged violations of the ceasefire. Such an advance mission could be envisaged as the first stage of the good offices mechanism foreseen in the draft Agreement on a Comprehensive Political Settlement of the Cambodia Conflict. This information had been welcomed. The Secretary-General accordingly recommended that the Council decide to authorize the establishment of UNAMIC under the command of the

United Nations, vested in the Secretary-General under the authority of the Security Council. UNAMIC would consist of civilian liaison staff, military liaison officers, a military mine-awareness unit and the necessary support personnel. The Mission would become operational immediately after the signature of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, but would be deployed in phases. Its mandate would extend from the signature of the Agreement until the establishment of UNTAC by the Security Council and the adoption of its budget by the General Assembly. At that time, UNAMIC would be absorbed into UNTAC, and the good offices functions being carried out by UNAMIC would be continued and expanded by UNTAC during the first phase of the ceasefire.

At its 3014th meeting, on 16 October 1991, the Council included the report of the Secretary-General in its agenda. The President (India) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations,¹¹ as well as to three other documents: (a) a letter dated 8 January 1991 from the representatives of France and Indonesia addressed to the Secretary-General,¹² enclosing, inter alia, the final statement issued at the end of a meeting held in Paris from 21 to 23 December 1990 between the two Co-Chairmen of the Paris Conference on Cambodia, the 12 members of the Supreme National Council and the representative of the United Nations Secretary-General, and the draft agreements of 26 November on a comprehensive political settlement prepared by the two Co-Chairmen and the permanent members of the Security Council, which had been formally presented to the members of the Supreme National Council at that meeting; (b) a letter dated 23 September 1991 from the President of the Supreme National Council addressed to the Secretary-General,¹³ enclosing the final communiqué of a meeting of the Supreme National Council, held at Pattaya from 26 to 29 August 1991, at which it had unanimously agreed, inter alia, on the request by Prince Sihanouk, Chairman of the Supreme National Council, for United Nations personnel to be sent to Cambodia as "observers" to assist the Supreme National Council in controlling the ceasefire and the cessation of foreign military

⁸ S/22889.

⁹ S/22946.

¹⁰ S/23097 and Add.1.

¹¹ S/23145.

¹² S/22059.

¹³ S/23066.

assistance; and (c) a letter dated 30 September 1991 from the representatives of the five permanent members of the Security Council addressed to the Secretary-General,¹⁴ enclosing the text of the statement issued on 27 September by their Ministers for Foreign Affairs following a meeting with the Secretary-General. The Ministers, *inter alia*, welcomed the intention to reconvene the Paris Conference for the signature, at the end of October or early in November, of agreements on a comprehensive political settlement of the Cambodian conflict, which would involve an important role for the United Nations.

The draft resolution was then put to the vote and adopted unanimously as resolution 717 (1991), which reads:

The Security Council,

Recalling its resolution 668 (1990) of 20 September 1990, by which it endorsed the framework for a comprehensive political settlement of the Cambodia conflict of 28 August 1990,

Taking note of the draft agreements for a comprehensive political settlement of the Cambodia conflict,

Welcoming the very significant progress made, on the basis of those draft agreements, towards a comprehensive political settlement which would enable the Cambodian people to exercise its inalienable right to self-determination through free and fair elections organized and conducted by the United Nations,

Welcoming in particular the election of His Royal Highness Prince Norodom Sihanouk as the Chairman of the Supreme National Council of Cambodia,

Noting with satisfaction the other decisions taken by the Supreme National Council of Cambodia, concerning in particular the implementation of a voluntary ceasefire and the renunciation of foreign military assistance, and underlining the need for the full cooperation of the Cambodian parties,

Considering that such progress has opened the way to an early reconvening of the Paris Conference on Cambodia at the ministerial level and the signing of the agreements for a comprehensive political settlement based on the framework document of 28 August 1990, and welcoming the preparations being made by the Co-Chairmen of the Conference in that regard,

Convinced that such a comprehensive political settlement can offer at last a peaceful, just and durable solution to the Cambodian conflict,

Taking note of the request by His Royal Highness Prince Norodom Sihanouk for United Nations personnel to be sent to Cambodia at the earliest possible moment,

Underlining the necessity of a United Nations presence in Cambodia immediately after the signing of the agreements for a comprehensive political settlement of the Cambodia conflict, pending the implementation of the arrangements set out in those agreements,

Having considered, to this end, the report of the Secretary-General of 30 September 1991 proposing the establishment of a United Nations Advance Mission in Cambodia,

1. *Approves* the report of the Secretary-General of 30 September 1991;

2. *Decides* to establish, under its authority, a United Nations Advance Mission in Cambodia immediately after the signing of the agreements for a comprehensive political settlement of the Cambodia conflict and in accordance with the report of the Secretary-General, with members of the Mission to be sent to Cambodia immediately after the signing;

3. *Calls upon* the Supreme National Council of Cambodia, and the Cambodian parties for their part, to cooperate fully with the Mission and with the preparations for the implementation of the arrangements set out in the agreements for a comprehensive political settlement;

4. *Welcomes* the proposal of the co-chairmen of the Paris Conference on Cambodia to reconvene the Conference at an early date at the ministerial level to sign the agreements for a comprehensive political settlement of the Cambodia conflict;

5. *Requests* the Secretary-General to report to the Security Council by 15 November 1991 on the implementation of the present resolution and to keep the Council fully informed of further developments.

Decision of 31 October 1991 (3015th meeting): resolution 718 (1991)

By a letter dated 30 October 1991 addressed to the Secretary-General,¹⁵ the representatives of France and Indonesia, in their capacity as representatives of the Co-Chairmen of the Paris Conference on Cambodia, transmitted the texts of the agreements signed in Paris on 23 October 1991 by the States participating in the Conference. These included the following instruments: (a) Final Act of the Conference; (b) Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, with annexes on the mandate for a United Nations Transitional Authority in Cambodia, military matters, elections,

¹⁴ S/23104.

¹⁵ S/23177.

repatriation of Cambodian refugees and displaced persons, and the principles for a new Cambodian constitution; (c) Agreement Concerning the Sovereignty, Independence, Territorial Integrity and Inviolability, Neutrality and National Unity of Cambodia; and (d) Declaration on the Rehabilitation and Reconstruction of Cambodia. Paragraph 10 of the Final Act stated that the three other instruments represented an elaboration of the Framework for a Comprehensive Political Settlement of the Cambodia Conflict adopted by the five permanent members of the Security Council on 28 August 1990 and of elements of the work accomplished at the first session of the Conference. They entailed a continuing process of national reconciliation and an enhanced role for the United Nations, thus enabling the Cambodian people to determine their own political future through free and fair elections organized and conducted by the United Nations in a neutral political environment with full respect for the national sovereignty of Cambodia. As noted in paragraph 11 of the Final Act, they together formed the comprehensive settlement which the Paris Conference had aimed to achieve. Under paragraph 12 of the Final Act, the States participating in the Conference requested the Secretary-General to take the appropriate steps to enable consideration of the comprehensive settlement by the Security Council at the earliest opportunity. Under the Agreement on a Comprehensive Political Settlement, the signatories invited the Security Council to establish a United Nations Transitional Authority in Cambodia and to provide it with the mandate set out in the Agreement.

By a note dated 30 October 1991,¹⁶ the Secretary-General, in accordance with the request in paragraph 12 of the Final Act of the Paris Conference, drew the attention of the Security Council to the instruments adopted at the Paris Conference, in order to enable it to consider the comprehensive political settlement of the Cambodia conflict at the earliest opportunity.

At its 3015th meeting, on 31 October 1991, the Council included in its agenda the letter from the representatives of France and Indonesia and the note by the Secretary-General. Following the adoption of the agenda, the President (India) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior

consultations.¹⁷ The draft resolution was put to the vote and adopted unanimously as resolution 718 (1991), which reads:

The Security Council,

Recalling its resolutions 668 (1990) of 20 September 1990 and 717 (1991) of 16 October 1991,

Welcoming the meeting in Paris, from 21 to 23 October 1991, of the Paris Conference on Cambodia at the ministerial level, at which the agreements for a comprehensive political settlement of the Cambodia conflict were signed,

Having considered the agreements for a comprehensive political settlement of the Cambodia conflict, signed in Paris on 23 October 1991,

Noting that those agreements provide, inter alia, for the designation of a special representative of the Secretary-General and the establishment of a United Nations Transitional Authority in Cambodia,

Noting also that it is the intention of the Secretary-General to send a survey mission to Cambodia as soon as possible to prepare a plan for implementing the mandate envisaged in the agreements, for submission to the Security Council,

Underlining the necessity for the full cooperation of the Supreme National Council of Cambodia, and all Cambodians for their part, in the implementation of the agreements,

1. *Expresses its full support* for the agreements for a comprehensive political settlement of the Cambodia conflict, signed in Paris on 23 October 1991;

2. *Authorizes* the Secretary-General to designate a special representative for Cambodia to act on his behalf;

3. *Welcomes* the intention of the Secretary-General to send a survey mission to Cambodia as soon as possible to prepare a plan for implementing the mandate envisaged in the agreements;

4. *Requests* the Secretary-General to submit to the Security Council at the earliest possible date a report containing his implementation plan, including in particular a detailed estimate of the cost of the United Nations Transitional Authority in Cambodia, on the understanding that this report would be the basis on which the Council would authorize the establishment of the Authority, the budget of which is to be subsequently considered and approved in accordance with the provisions of Article 17 of the Charter of the United Nations;

5. *Calls upon* all Cambodian parties to comply fully with the ceasefire that entered into force at the time of the signature of the agreements;

¹⁶ S/23179.

¹⁷ S/23180.

6. *Calls upon* the Supreme National Council of Cambodia, and all Cambodians for their part, to cooperate fully with the United Nations in the implementation of the agreements for a comprehensive political settlement of the Cambodia conflict.

**Decision of 8 January 1992 (3029th meeting):
resolution 728 (1992)**

On 14 November 1991, pursuant to resolution 717 (1991), the Secretary-General submitted to the Council a report on the United Nations Advance Mission in Cambodia.¹⁸ He informed the Council that, following the signing on 23 October 1991 of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, the arrangements for the establishment of UNAMIC had entered into force and the Mission was now operational. Deployment of all civilian and military personnel was expected to be completed on schedule by mid-December 1991.

On 30 December 1991, the Secretary-General submitted to the Council a report on Cambodia,¹⁹ in which, *inter alia*, he recommended the expansion of the UNAMIC mandate to include training in mine clearance and the initiation of a demining programme. The Secretary-General noted that it was generally recognized that a major mine clearance effort was needed in Cambodia. While the total eradication of mines would necessarily be a long-term endeavour, the initial programme recommended in the report would enable UNAMIC to reduce the threat posed by mines to the civilian population and to prepare the ground for a safe and orderly repatriation of the refugees and displaced persons under United Nations auspices. It would also facilitate the timely deployment of UNTAC and the discharge of its responsibilities throughout Cambodia.

At its 3029th meeting, held on 8 January 1992, in accordance with the understanding reached in its prior consultations, the Council included in its agenda the report of the Secretary-General on Cambodia. Following the adoption of the agenda, the President (United Kingdom) drew the attention of the members of the Council to the Secretary-General's report on UNAMIC and to a draft resolution that had been prepared in the course of the Council's prior

consultations.²⁰ The draft resolution was then put to the vote and adopted unanimously as resolution 728 (1992), which reads:

The Security Council,

Recalling its resolutions 668 (1990) of 20 September 1990, 717 (1991) of 16 October 1991 and 718 (1991) of 31 October 1991,

Welcoming the fact that the United Nations Advance Mission in Cambodia has become operational as reported by the Secretary-General in his report of 14 November 1991,

Welcoming also the progress that has been made in implementing the provisions of the agreements on a comprehensive political settlement of the Cambodia conflict signed in Paris on 23 October 1991 relating to the functioning of the Supreme National Council of Cambodia under the chairmanship of His Royal Highness Prince Norodom Sihanouk and the maintenance of the ceasefire,

Concerned that the existence of mines and minefields in Cambodia poses a serious hazard to the safety of people in Cambodia, as well as an obstacle to the smooth and timely implementation of the agreements, including the early return of Cambodian refugees and displaced persons,

Noting that the Mission's mandate as approved by the Security Council in its resolution 717 (1991) provides, *inter alia*, for the establishment of a mine-awareness programme, and that the agreements provide for the United Nations Transitional Authority in Cambodia to undertake, *inter alia*, a programme of assisting with clearing mines and undertaking training programmes in mine clearance and a mine-awareness programme among the Cambodian people,

Considering that the establishment of training programmes in mine clearance, in addition to the existing mine-awareness programme undertaken by the Mission, and the early initiation of mine clearance are required for the effective implementation of the agreements,

Having considered the report of the Secretary-General on Cambodia of 30 December 1991 and 6 January 1992 proposing that the mandate of the Mission be expanded to include training in mine clearance and the initiation of a mine-clearance programme,

1. *Approves* the report of the Secretary-General of 30 December 1991 and 6 January 1992, especially the provision of assistance in mine clearing by Cambodians;

2. *Calls upon* the Supreme National Council of Cambodia, and all the Cambodian parties, to continue to cooperate fully with the United Nations Advance Mission in Cambodia, including in the discharge of its expanded mandate;

¹⁸ S/23218. For details on the composition and operations of UNAMIC, see chapter V.

¹⁹ S/23331; see also S/23331/Add.1 of 6 January 1992.

²⁰ S/23383.

3. *Reiterates its call* to all the Cambodian parties to comply scrupulously with the ceasefire and to lend all necessary assistance to the Mission;

4. *Requests* the Secretary-General to keep the Security Council informed of further developments.

**Decision of 28 February 1992 (3057th meeting):
resolution 745 (1992)**

On 19 February 1992, pursuant to resolution 718 (1991) of 31 October 1991, the Secretary-General submitted to the Council a report containing his plan for implementing the mandate of the United Nations Transitional Authority in Cambodia.²¹ He stated that, in formulating his proposals, he had been guided by information gathered by a number of United Nations survey missions, in particular those that had visited the country at the end of 1991. He cautioned, however, that the information could not be regarded as complete and that the recommendations might need to be re-examined in the light of experience, once UNTAC was in place. He recalled that the mandate envisaged in the Paris Agreements included aspects relating to human rights, the organization and conduct of free and fair elections, military arrangements, civil administration, the maintenance of law and order, the repatriation and resettlement of the Cambodian refugees and displaced persons, and the rehabilitation of essential Cambodian infrastructures during the transitional period.²² The Secretary-General accordingly proposed that UNTAC consist of seven distinct components: human rights, electoral, military, civil administration, police, repatriation and rehabilitation. The level of the activities of the different components would vary during the course of the transitional period and would be coordinated, as necessary, in order to allow for the most efficient and cost-effective use of resources. Noting that the elections were the focal point of the comprehensive settlement, the Secretary-General recommended that they should be scheduled for late April or early May

1993.²³ With regard to the military component of the Mission, he recalled that its main functions would include the following: verification of the withdrawal of foreign forces; supervision of the ceasefire and related measures, including regroupment, cantonment, disarmament and demobilization of the military forces of the Cambodian parties; weapons control; and assistance with mine clearance. Its objectives were to stabilize the security situation and build confidence among the parties to the conflict — objectives whose achievement was a necessary precursor to the successful conduct of the functions of the other components of the Mission. The Secretary-General accordingly recommended that full deployment of the military component be accomplished by the end of May 1992. He also proposed that the regroupment and cantonment processes, as well as the demobilization of at least 70 per cent of the cantoned forces, should be completed by the end of September 1992. In this respect, he strongly urged the Cambodian parties to agree to the complete demobilization of their military forces prior to the end of the election registration process and called on the Security Council to join him in so doing. In conclusion, the Secretary-General stressed that four essential conditions had to be met if UNTAC were to be able to discharge its responsibilities effectively and with complete impartiality: (a) it must at all times have the full support of the Security Council; (b) it must operate with the full cooperation, at all times, of the Cambodian parties and all other parties concerned; (c) it must enjoy full freedom of movement and communications; and (d) the necessary financial resources must be provided by Member States in full and in a timely manner.

At its 3057th meeting, held on 28 February 1992, in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the President (United States) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.²⁴ The draft resolution was put to the vote and adopted unanimously as resolution 745 (1992), which reads:

²¹ S/23613; see also S/23613/Add.1 of 26 February 1992.

²² The transitional period was defined as the period beginning with the entry into force of the Paris Agreements (on 23 October 1991) and terminating when the constituent assembly elected in conformity with the Agreements had approved the new Cambodian Constitution and transformed itself into a legislative assembly, and thereafter a new Cambodian Government had been created.

²³ S/23613, para. 38.

²⁴ S/23651.

The Security Council,

Reaffirming its resolutions 668 (1990) of 20 September 1990, 717 (1991) of 16 October 1991, 718 (1991) of 31 October 1991 and 728 (1992) of 8 January 1992,

Reaffirming also its full support for the agreements on a comprehensive political settlement to the Cambodia conflict signed in Paris on 23 October 1991,

Taking note of the report of the Secretary-General on Cambodia of 19 and 26 February 1992 submitted pursuant to resolution 718 (1991),

Desiring to contribute to the restoration and maintenance of peace in Cambodia, to the promotion of national reconciliation, to the protection of human rights and to the assurance of the right to self-determination of the Cambodian people through free and fair elections,

Convinced that free and fair elections are essential to produce a just and durable settlement to the Cambodia conflict, thereby contributing to regional and international peace and security,

Mindful of Cambodia's recent tragic history and determined that the policies and practices of the past will not be repeated,

Expressing appreciation for the work of the United Nations Advance Mission in Cambodia in the maintenance of the ceasefire, in mine awareness and mine clearance, and in preparation for the deployment of a United Nations Transitional Authority in Cambodia,

Noting with appreciation the efforts of His Royal Highness Prince Norodom Sihanouk and the Supreme National Council of Cambodia under his chairmanship in regard to the implementation of the provisions of the agreements,

Welcoming the appointment by the Secretary-General of a Special Representative for Cambodia to act on his behalf,

1. *Approves* the report of the Secretary-General of 19 and 26 February 1992 containing his plan, which is subject to re-examination in the light of experience, for implementing the mandate envisaged in the agreements on a comprehensive political settlement to the Cambodia conflict signed in Paris on 23 October 1991;

2. *Decides* that the United Nations Transitional Authority in Cambodia shall be established under its authority in accordance with the above-mentioned report for a period not to exceed eighteen months;

3. *Decides* that it is vital that elections be held in Cambodia by May 1993 at the latest as recommended by the Secretary-General in paragraph 38 of his report;

4. *Requests* the Secretary-General to deploy the Authority as rapidly as possible to implement the above decision, urges that both the deployment and the further implementation of his plan be done in the most efficient and

cost-effective way possible, and invites him to that end to keep the operation under continuous review, bearing in mind the fundamental objectives of the agreements;

5. *Calls upon* the Supreme National Council of Cambodia to fulfil its special responsibilities set out in the agreements;

6. *Also calls upon* all parties concerned to comply scrupulously with the terms of the agreements, to cooperate fully with the Authority in the implementation of its mandate, and to take all necessary measures to ensure the safety and security of all United Nations personnel;

7. *Further calls upon* the Supreme National Council of Cambodia and all Cambodians on behalf of the host country to provide all necessary assistance and facilities to the Authority;

8. *Strongly urges* the Cambodian parties to agree to the complete demobilization of their military forces prior to the end of the process of registration for the elections as well as to the destruction of the weapons and ammunition deposited into the Authority's custody in excess of those, if any, which may be deemed necessary by the Authority for the maintenance of civil order and national defence, or which may be required by the new Cambodian Government;

9. *Appeals* to all States to provide all voluntary assistance and support necessary to the United Nations and its programmes and specialized agencies for the preparations and operations to implement the agreements, including for rehabilitation and for the repatriation of refugees and displaced persons;

10. *Requests* the Secretary-General to report to the Security Council by 1 June 1992 and subsequently to report to the Council in September 1992, January 1993 and April 1993 on progress to date in the implementation of the present resolution and on tasks still to be performed in the operation, with particular regard to the most effective and efficient use of resources;

11. *Decides* to remain seized of the matter.

Speaking after the adoption of the resolution, the Secretary-General stated that the implementation plan might appear ambitious and its cost rather worrying; however it merely translated into operational terms the many-faceted and, in some ways, unprecedented mandate conceived by the authors of the Paris Agreements and unanimously endorsed by both the Security Council and the General Assembly. He assured members of the Council that everything would be done to hold to the proposed timetable for the rapid deployment of UNTAC and the holding of elections in the latter part of April or early May 1993. The operation gave the United Nations a historic opportunity to restore peace to Cambodia and to

contribute to the advent of a new era in South-East Asia and in international relations.²⁵

The representative of France noted that the Paris Agreements had given the United Nations a major and unprecedented role. For the first time, the Organization had been at once entrusted with organizing and carrying out the election of a constituent assembly, monitoring military aspects of a settlement, ensuring repatriation of refugees and displaced persons, promoting human rights and initiating reconstruction of a country. In adopting resolution 745 (1992), the Security Council had officially decided to create UNTAC to carry out that mandate. It had thereby initiated “the most important and complete operation ever undertaken by the United Nations in the maintenance of peace”. The speaker drew attention to paragraph 4 of the resolution, requesting the Secretary-General to deploy UNTAC as rapidly as possible. Any delay would be very harmful. It was vital that elections be held by May 1993 at the latest. He also emphasized two of the conditions which the Secretary-General had said must be met for the operation to succeed. First, UNTAC must have the full cooperation of all the parties concerned — above all, of the Cambodians as a whole. That was indispensable for the security of the members of UNTAC and for the success of the United Nations operation. Secondly, UNTAC should be given adequate financial resources. Recognizing that the needs would be great and that Member States would face difficulties in providing resources on that scale at a time when peacekeeping operations were multiplying, the French delegation put particular emphasis on the need to achieve the best possible cost-effectiveness.²⁶

The representative of the United Kingdom welcomed UNTAC as one of the keys to the successful implementation of the Paris Agreements. He described its task as “the most ambitious” the United Nations had ever undertaken, its goal being to permit the Cambodian people to exercise their right to self-determination and to elect, freely and in peace, a democratic government. Peace in Cambodia would benefit not only the Cambodians but also the peoples of Indochina and of South-East Asia generally. He stressed that the other key to success was the leadership and cooperation of the Cambodian people

and their leaders: no external force could on its own bring peace, prosperity and democracy to Cambodia. In that context, the leadership already being given by Prince Sihanouk was of fundamental importance. He also welcomed the Secretary-General’s reiteration in his statement of the need to adhere to the target date of April or May 1993 for the holding of elections in Cambodia, supported his view that full demobilization of military forces before the elections would be greatly preferable to the 70 per cent demobilization to which the parties were already committed, and endorsed the four conditions he had set out for the success of UNTAC. He concluded by observing that all Members of the United Nations had an interest in ensuring that this largest-ever United Nations operation was carried out not only successfully but also cost-effectively.²⁷

The representative of China stated that the Council, as the primary organ for the maintenance of world peace and security, must ensure strict observance of the Paris Agreements by the various Cambodian parties and the countries concerned and support the efforts for national reconciliation made by the Supreme National Council. He hoped that, with the adoption of the resolution, UNTAC would be deployed in Cambodia as soon as possible, and that the international community would see an early return in its midst of an independent, peaceful, neutral and non-aligned Cambodia. That would contribute to peace and stability in South-East Asia and in the world as a whole. Noting that many countries had expressed deep concern over the rapid increase of United Nations expenditure on peacekeeping operations, he underlined the need for UNTAC to fulfil its tasks in the most economical and effective way. He also expressed the hope that in the implementation of the resolution the Secretariat would maintain close consultations with the permanent members of the Council and all countries concerned.²⁸

The representative of the Russian Federation observed that the decision to establish UNTAC marked the beginning of one of the largest peacekeeping operations in the history of the Organization. He fully shared the Secretary-General’s view that the success of the operation would depend primarily on the degree of cooperation by the Cambodian parties, and stressed the importance of strict compliance with the spirit and

²⁵ S/PV.3057, pp. 6-11.

²⁶ *Ibid.*, pp. 12-15.

²⁷ *Ibid.*, pp. 16-18.

²⁸ *Ibid.*, pp. 19-21.

letter of the Paris Agreements by all the parties involved. He believed that the Cambodian parties would abide by their commitments and respond to the appeal of the Secretary-General and the Security Council for the full demobilization of their armed forces. Like previous speakers, he stressed the need to carry out the operations of UNTAC in the most effective and economical manner. The provisions of the resolution concerning the Secretary-General's periodic reports to the Council and review of the UNTAC plan in the light of experience were aimed at achieving that goal. He underlined the importance of the speedy deployment of UNTAC to focus on holding elections in Cambodia no later than May 1993, as called for by the resolution. He expressed his country's conviction that, with the Council's support, the operation in Cambodia would provide further proof that the United Nations was a unique instrument for the maintenance of international peace and that, with its assistance, even long-standing conflicts could be settled on the basis of national reconciliation and responsibility by all parties concerned, and by ensuring that the will of the people was expressed through free, democratic elections.²⁹

The President of the Council, speaking in his capacity as the representative of the United States, welcomed the establishment of UNTAC as a landmark in the arduous efforts over many years to secure a comprehensive political settlement of the Cambodian conflict. He hoped that the deployment of UNTAC would proceed rapidly in order to preserve the settlement and to ensure that the operation would achieve the administration of free and fair elections within the timeframe indicated in the Secretary-General's report. He stressed the importance to the political settlement, as well as to the implementation of the United Nations plan, of the spirit of cooperation among the Cambodians, made possible by the leadership of Prince Sihanouk. The generous support and constant attention of the international community would also be required to fulfil the objectives of the settlement. He welcomed the Secretary-General's intention to continually review and refine the operation of UNTAC in the light of actual experience and new information, with a view to achieving maximum effectiveness and the most efficient use of resources. He concluded by observing that his country had watched with satisfaction the increasing development of global cooperation, which in turn had given rise to

²⁹ Ibid., 23-26.

expectations that the United Nations would at last assume responsibilities commensurate with the vision of its founders. Nowhere was the full scope and impact of that vision more evident than in the mandate just approved for a United Nations presence in Cambodia — an enterprise of extraordinary size, scope and expense. The Organization's experience in Cambodia would probably help to shape for years to come perceptions of the United Nations as an effective instrument for addressing regional conflict and of the viability of its principle of collective security.³⁰

The other speakers also expressed their satisfaction at the envisaged implementation of the Cambodian settlement on the basis of the Paris Agreements of October 1991 and the establishment of UNTAC.³¹ They emphasized the need for all Cambodian parties to cooperate with UNTAC in the plan's implementation. Several speakers urged that the Mission be as cost-effective and economical as possible.³²

**Decision of 12 June 1992 (3085th meeting):
statement by the President**

On 1 May 1992, pursuant to resolution 745 (1992), the Secretary-General submitted to the Council a first progress report on UNTAC,³³ in which he stated that the mission had made a "generally good start". His Special Representative for Cambodia had arrived in the country on 15 March 1992, marking the initial deployment of UNTAC, which had thereupon absorbed UNAMIC. Work on all aspects of the mission's activities was proceeding at varying rates and some successes had been recorded by each component. Every effort was being made to discharge the complex tasks of UNTAC within the timeframes envisaged in the implementation plan.

On 12 June 1992, the Secretary-General submitted to the Council a special report on UNTAC.³⁴

³⁰ Ibid., pp. 44-45.

³¹ For the relevant statements, see S/PV.3057, pp. 21-23 (Japan); pp. 27-28 (Austria); pp. 28-29 (Venezuela); pp. 29-31 (Hungary), pp. 31-33 (India); pp. 34-37 (Belgium); pp. 37-39 (Ecuador); and pp. 39-41 (Zimbabwe).

³² S/PV.3057, p. 22 (Japan); p. 33 (India); pp. 35-36 (Belgium); p. 39 (Ecuador); and p. 41 (Zimbabwe).

³³ S/23870 and Corr.1 and 2. For details on the composition and operations of UNTAC, see chapter V.

³⁴ S/24090.

He noted that the Commander of the military component of the mission had announced — following consultation with, and assurances from, the four Cambodian parties — that phase I of the ceasefire, in effect since the signing of the Paris Agreements, would be followed on 13 June by phase II (the cantonment, disarming and demobilization phase). However, following that announcement, it had become clear that one party, the Party of Democratic Kampuchea (PDK), was not cooperating. It was not taking the steps necessary to enable it to honour the assurances it had given. It had failed to provide information on its troops, arms, ammunition and equipment to be cantoned; denied full access and freedom of movement to UNTAC; and failed to mark minefields in areas under its control and re-mined some areas. In addition, UNTAC believed that it had been responsible for many ceasefire violations. The question had thus arisen whether the scheduled date for implementation of phase II of the ceasefire should be maintained, given that it depended critically on the cooperation of all the parties. After careful consideration, the Secretary-General had concluded that, despite the lack of cooperation by PDK, phase II should commence on 13 June as scheduled, since any significant delay in the implementation of the military aspects of the plan would result in a loss of momentum and would jeopardize the ability of UNTAC to organize and conduct the elections by April or May 1993. He emphasized, however, that this could only be a short-term solution and that all efforts should be made to persuade PDK to join the other parties in implementing the comprehensive political settlement. He suggested that the Security Council itself might wish to consider what action it could take to achieve that objective.

At its 3085th meeting, held on 12 June 1992, in accordance with the understanding reached in its prior consultations, the Council included the special report of the Secretary-General in its agenda. Following the adoption of the agenda, the President (Belgium) said that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:³⁵

Having read the special report of the Secretary-General of 12 June 1992 on the United Nations Transitional Authority in Cambodia, the Security Council is deeply concerned by the difficulties that the Authority is encountering in the implementation of the agreements on a comprehensive political

³⁵ S/24091.

settlement of the Cambodia conflict signed in Paris on 23 October 1991, on the eve of moving to phase II of the ceasefire. In particular, the Council notes that, during the meeting of the Supreme National Council of Cambodia on 10 June 1992, one party was not able to allow the necessary deployment of the Authority in areas under its control. The Council believes that any delay could jeopardize the whole peace process to which all Cambodian parties have agreed under the auspices of the United Nations and the Paris Conference on Cambodia.

The Council reaffirms the importance of the full and timely implementation of the Paris agreements. The Council commends the efforts of the Special Representative of the Secretary-General for Cambodia and the Authority in this regard. It reaffirms that the Supreme National Council of Cambodia, under the chairmanship of Prince Norodom Sihanouk, is the sole legitimate body and source of authority in which, throughout the transitional period, the sovereignty, independence and unity of Cambodia are enshrined. In this regard, section III of part I of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict should be implemented as soon as possible.

The Council stresses the need that phase II of the military arrangements should begin on 13 June 1992, as determined in accordance with the Paris agreements. In this connection, the Council urges the Secretary-General to accelerate the deployment to Cambodia and within the country of the full Authority peacekeeping force.

The Council calls upon all parties to comply strictly with the commitments they have accepted, including cooperation with the Authority. It specifically calls upon all parties to respond affirmatively to the latest demands for cooperation in implementation of the Paris agreements put to them by the Authority.

**Decision of 21 July 1992 (3099th meeting):
resolution 766 (1992)**

On 14 July 1992, the Secretary-General submitted to the Council a second special report, on the difficulties UNTAC was facing in implementing the Paris Agreements.³⁶ He stated that phase II of the ceasefire had begun, as planned, on 13 June 1992. Three of the parties had shown themselves willing to participate in the regroupment and cantonment process, but the Party of Democratic Kampuchea continued to refuse to canton any of its forces. PDK had also failed to take a number of other measures required for the implementation of the Paris Agreements, including granting free access to UNTAC, marking minefields in the zones controlled by them, and refraining from further violations of the ceasefire. To address the

³⁶ S/24286.

concerns of PDK, an informal “proposal for discussion” had been put forward by the participants at the Ministerial Conference on the Rehabilitation and Reconstruction of Cambodia, held in Tokyo on 22 June 1992. Moreover, a number of steps had been taken by UNTAC. The Secretary-General’s Special Representative had met with the PDK leaders on several occasions. However, the party had failed to respond to those initiatives. As a result, the ability of UNTAC to adhere to the timetable set by the Security Council had been seriously compromised. In those circumstances, the Secretary-General saw two possible courses of action: to suspend the operation until all parties could be persuaded to fulfil their obligations under the Paris Agreements; or to pursue the process, thus demonstrating the international community’s determination to assist the Cambodian people in their quest for peace and stability, despite the lack of cooperation of one party. Convinced that the latter approach was the most appropriate, he had requested his Special Representative to press forward with the regrouping and cantonment process wherever possible, albeit cautiously and selectively, taking great care to maintain security in the countryside and concentrating on areas where there was no military confrontation. The Secretary-General warned, however, that the process could not continue indefinitely with the cooperation of only three of the parties. He concluded by noting the need to address the following main questions: how to persuade PDK to comply with its obligations under the Paris Agreements; how to emphasize the determination of the international community to implement the Agreements, in accordance with the timetable set forth in the implementation plan; and how to obtain the full and active support of the signatories to the Paris Agreements for UNTAC efforts to carry out its mandate.

At its 3099th meeting, held on 21 July 1992 in accordance with the understanding reached in its prior consultations, the Council included the second special report of the Secretary-General in its agenda. Following the adoption of the agenda, the President (Cape Verde) drew the attention of the members of the Council to the text of a draft resolution that had been prepared in the course of its prior consultations,³⁷ as

³⁷ S/24320.

well as to two oral revisions to the text in its provisional form.³⁸

Speaking before the vote, the representative of France condemned the obstructive attitude of PDK, which endangered not only phase II of the ceasefire but also the overall political settlement of the Cambodian conflict. He recalled that that settlement had developed through a process which had taken into account the views of all the parties, resulting in a final compromise in the form of the Paris Agreements. In signing the Agreements, all the parties had committed themselves to applying them without reservation. No party could arrogate to itself the right to interrupt their implementation midway through. Difficulties in addressing well-founded grievances of any of the parties could be overcome through dialogue between the Supreme National Council and UNTAC. The Security Council had before it a firm and well-balanced draft resolution which clearly expressed the Council’s condemnation of the obstructive attitude of PDK. The speaker hoped that the Council would adopt it unanimously, and that the message it conveyed would be promptly heard. If that did not prove the case, France believed that the Council should once again be seized of the issue by the Secretary-General and should take the measures necessary to proceed with the implementation of the Paris Agreements.³⁹

The representative of China stressed that all the signatory parties to the Paris Agreements had an obligation to carry out their provisions strictly and in a comprehensive and balanced manner. In the course of implementing those Agreements, differences of opinion were inevitable and should be properly resolved by the Supreme National Council and UNTAC through consultations and dialogue.⁴⁰

The representative of the United States said that his country would vote in favour of the draft resolution, as it continued to be gravely concerned over the failure of PDK to meet its obligations under the Paris Agreements. He underlined the importance of efforts, particularly by countries in the region, to persuade PDK to move promptly into phase II. The party’s leaders had nothing to gain — and much to lose — by continuing to obstruct the peace process.

³⁸ For the oral amendments to the draft resolution, see S/PV.3099, p. 2.

³⁹ S/PV.3099, pp. 3-6.

⁴⁰ *Ibid.*, pp. 7-8.

The international community could not wait for them indefinitely and should be prepared to implement the Paris Agreements with or without them. As noted in the draft resolution, development assistance for Cambodia would benefit only those parties cooperating with UNTAC. Free and fair elections among parties committed to the entire process would be held on schedule and all necessary steps would be taken to ensure the viability of a new national government.⁴¹

The representative of the United Kingdom hoped that the process begun by UNTAC, of assuming control of the administrative structures in Cambodia to ensure a neutral political environment conducive to free and fair elections, could be accelerated — as called for by the draft resolution — and that this process would persuade PDK to apply the totality of the Paris Agreements. He called on the international community to ensure the successful implementation of the comprehensive political settlement and, in particular, urged those States bordering on Cambodia to fulfil their obligations under the Agreements. He pointed out that no party which obstructed the peace process could reasonably expect to benefit from the flow of international funds pledged for the rehabilitation of Cambodia. In conclusion, he stated that UNTAC must maintain its efforts to ensure that the settlement plan was implemented and, above all, that free and fair elections were held as planned, in April or May 1993.⁴²

The representative of the Russian Federation insisted that the UNTAC operation, being carried out in the interests of the entire Cambodian people, should continue to be implemented strictly within the context of the Paris Agreements. Any problems or concerns that might arise for any of the parties involved should also be dealt with in accordance with the established plan and the Paris Agreements, by further strengthening cooperation between the Supreme National Council and UNTAC. The draft resolution rightly confirmed that there was no alternative to a political settlement and national reconciliation on the basis of those Agreements, and that the Council was fully resolved to seeing the operation through and to pursuing the task of holding elections no later than May 1993. None of the Cambodian parties was entitled to block the peace process. The Russian Federation, accordingly, supported the Secretary-General's

expressed intention of continuing to carry out the operation, in conjunction with persistent efforts to persuade PDK to join the second phase of the ceasefire and to cooperate with UNTAC and the other three parties.⁴³

The other speakers expressed concern at the uncooperative attitude of one party; called on all parties to fulfil their obligations under the Paris Agreements and to cooperate with UNTAC in carrying out its mandate; and supported the Secretary-General's expressed intention to pursue the implementation process despite the difficulties.⁴⁴

The President then put the draft resolution, as orally revised in its provisional form, to the vote. It was adopted unanimously as resolution 766 (1992), which reads:

The Security Council,

Reaffirming its resolutions 668 (1990) of 20 September 1990, 717 (1991) of 16 October 1991, 718 (1991) of 31 October 1991, 728 (1992) of 8 January 1992, and 745 (1992) of 28 February 1992,

Recalling the statement made by the President of the Security Council on 12 June 1992,

Recalling also that any difficulty arising in the implementation of the agreements on a comprehensive political settlement of the Cambodia conflict signed in Paris on 23 October 1991 should be settled through close consultation between the Supreme National Council of Cambodia and the United Nations Transitional Authority in Cambodia and must not be allowed to undermine the principles of these agreements, or to delay the timetable for their implementation,

Taking note of the second special report of the Secretary-General of 14 July 1992 on the United Nations Transitional Authority in Cambodia, and in particular of the fact that the Cambodian People's Party, the Front uni national pour un Cambodge indépendant, neutre, pacifique et coopératif and the Khmer People's National Liberation Front have agreed to proceed with phase II of the ceasefire as laid down in annex 2 of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict and that the Party of Democratic Kampuchea has so far refused to do so,

Taking note also of the Tokyo Declaration on the Cambodia Peace Process issued on 22 June 1992, and the other

⁴¹ Ibid., pp. 12-13.

⁴² Ibid., pp. 13-15.

⁴³ Ibid., pp. 16-17.

⁴⁴ For the relevant statements, see S/PV.3099, pp. 9-10 (Austria); p. 11 (Japan); p. 18 (Belgium); pp. 19-20 (Hungary); pp. 21-23 (India); pp. 23-24 (Venezuela); and p. 24 (Cape Verde).

efforts made at Tokyo by the countries and parties concerned for the implementation of the Paris agreements,

1. *Expresses its deep concern* at the difficulties met by the United Nations Transitional Authority in Cambodia in the implementation of the agreements on a comprehensive political settlement of the Cambodia conflict signed in Paris on 23 October 1991;

2. *Underlines* that all signatories of the Paris agreements are bound by all their obligations thereunder;

3. *Deplores* the continuing violations of the ceasefire and urges all parties to cease all hostilities forthwith, to cooperate fully with the Authority in the marking of all minefields and to refrain from any deployment, movement, or other action intended to extend the territory they control or which might lead to renewed fighting;

4. *Reaffirms* the international community's firm commitment to a process under which the Authority, operating freely throughout all of Cambodia as authorized by the Paris agreements, can verify the departure of all foreign forces and ensure full implementation of the agreements;

5. *Demands* that all parties respect the peaceful nature of the Authority's mission and take all necessary measures to ensure the safety and security of all United Nations personnel;

6. *Urges* all parties to cooperate with the Authority in broadcasting information helpful to implementation of the Paris agreements;

7. *Strongly deplores* the continuing refusal by one of the parties to permit the necessary deployment of all components of the Authority to the areas under its control to enable the Authority to carry out its full functions in the implementation of the Paris agreements;

8. *Urges* all States, in particular neighbouring States, to provide assistance to the Authority to ensure the effective implementation of the Paris agreements;

9. *Approves* the efforts of the Secretary-General and his Special Representative for Cambodia to continue to implement the Paris agreements despite the difficulties;

10. *Invites* in particular the Secretary-General and his Special Representative to accelerate the deployment of the Authority's civilian components, especially the component mandated to supervise or control the existing administrative structures;

11. *Demands* that the party that has failed so far to do so permit without delay the deployment of the Authority in the areas under its control, and implement fully phase II of the plan as well as the other aspects of the Paris agreements;

12. *Requests* the Secretary-General and his Special Representative to ensure that international assistance to the rehabilitation and reconstruction of Cambodia from now on benefits only the parties which are fulfilling their obligations

under the Paris agreements and cooperating fully with the Authority;

13. *Decides* to remain actively seized of the matter.

**Decision of 13 October 1992 (3124th meeting):
resolution 783 (1992)**

On 21 September 1992, pursuant to resolution 745 (1992), the Secretary-General submitted to the Security Council his second progress report on UNTAC.⁴⁵ He reported that UNTAC was now close to full deployment throughout most of the territory of Cambodia, and that the mission had made substantial strides towards its goals in the six months since its inception despite constraints imposed by the continued refusal of PDK to participate fully in the peace process. He therefore remained determined that the electoral process should be carried out in accordance with the timetable laid down in the implementation plan.⁴⁶ The Secretary-General considered that an increase in the number of checkpoints within the country and along its borders with neighbouring countries might be necessary for the purpose of verifying the withdrawal of foreign forces and the cessation of outside military assistance to the Cambodian parties, in accordance with the Paris Agreements.⁴⁷ He stressed, however, that the persistent failure of PDK to meet its obligations under the Agreements continued to obstruct their full implementation and he suggested that the Council might wish to take further action to impress upon the parties the international community's firm determination to press ahead with the implementation of the settlement. He also indicated his intention,⁴⁸ subject to the Council's approval, to request the Co-Chairmen of the Paris Conference to undertake, within a definite time frame, consultations under article 29 of the Paris Agreements, with the aim of finding a way out of the impasse or, if that should prove impossible, exploring appropriate steps to ensure the realization of the fundamental objectives of the Paris Agreements.

At its 3124th meeting, held on 13 October 1992 in accordance with the understanding reached in its prior consultations, the Council included the second progress report of the Secretary-General in its agenda. Following the adoption of the agenda, the President

⁴⁵ S/24578.

⁴⁶ *Ibid.*, para. 66.

⁴⁷ *Ibid.*, para. 67.

⁴⁸ *Ibid.*, para. 70.

drew the attention of the members of the Council to a draft resolution that had been prepared in the course of its prior consultations.⁴⁹ The draft resolution was then put to the vote and adopted unanimously as resolution 783 (1992), which reads:

The Security Council,

Reaffirming its resolutions 668 (1990) of 20 September 1990, 717 (1991) of 16 October 1991, 718 (1991) of 31 October 1991, 728 (1992) of 8 January 1992, 745 (1992) of 28 February 1992 and 766 (1992) of 21 July 1992,

Recalling the statement made by the President of the Security Council on 12 June 1992,

Recalling also the Tokyo Declaration on the Rehabilitation and Reconstruction of Cambodia, issued on 22 June 1992,

Paying a tribute to His Royal Highness Prince Norodom Sihanouk, President of the Supreme National Council of Cambodia, for his efforts to restore peace and national unity in Cambodia,

Taking note of the cooperation extended to the United Nations Transitional Authority in Cambodia, by the Party of the State of Cambodia, the Front uni national pour un Cambodge indépendant, neutre, pacifique et coopératif and the Khmer People's National Liberation Front, and of the fact that the Party of Democratic Kampuchea still fails to meet obligations it assumed when it signed the agreements on a comprehensive political settlement of the Cambodia conflict signed in Paris on 23 October 1991, as reflected in the second progress report of the Secretary-General dated 21 September 1992,

Reaffirming that the Authority must have full and unrestricted access to the areas controlled by each of the parties,

Welcoming with appreciation the achievements of the Authority in the implementation of the Paris agreements, concerning, inter alia, military deployment throughout almost the whole country, the promulgation of the electoral law, the provisional registration of political parties, the beginning of voter registration, safe repatriation of over one hundred and fifty thousand refugees, progress in rehabilitation programmes and projects and the campaign in favour of respect for human rights,

Welcoming the accession of the Supreme National Council of Cambodia to a number of international human rights conventions,

Welcoming also the progress made by the Authority in strengthening supervision and control over administrative structures as set out in the Paris agreements, and recognizing the importance of this part of its mandate,

Welcoming further the fact that the Supreme National Council of Cambodia functions in accordance with the Paris agreements,

Expressing appreciation to the States and international financial institutions which announced, during the Tokyo Ministerial Conference on the Reconstruction and Rehabilitation of Cambodia, held on 20 and 22 June 1992, financial contributions to the reconstruction and rehabilitation of the country,

Expressing its gratitude to the Governments of Thailand and Japan for their efforts to find solutions to the current problems relating to the implementation of the Paris agreements,

Deeply concerned by difficulties faced by the Authority caused in particular by security and economic conditions in Cambodia,

1. *Approves* the second progress report of the Secretary-General of 21 September 1992 on the United Nations Transitional Authority in Cambodia;

2. *Confirms* that, in conformity with paragraph 66 of the report, the electoral process shall be carried out in accordance with the timetable laid down in the implementation plan and thus that the election for a constituent assembly will be held no later than May 1993;

3. *Supports* the intention of the Secretary-General, expressed in paragraph 67 of his report, concerning the checkpoints in the country and along its borders with neighbouring countries;

4. *Expresses its gratitude* to the Secretary-General and his Special Representative for Cambodia for their efforts as well as to Member States which have cooperated with the Authority in order to solve the difficulties it has met and urges all States, in particular neighbouring States, to provide assistance to the Authority to ensure the effective implementation of the Paris agreements;

5. *Deplores* the fact that the Party of Democratic Kampuchea, ignoring the requests and demands contained in its resolution 766 (1992), has not yet complied with its obligations;

6. *Demands* that the party mentioned in paragraph 5 above fulfil immediately its obligations under the Paris agreements; that it facilitate without delay full deployment of the Authority in the areas under its control; and that it implement fully phase II of the plan, particularly cantonment and demobilization, as well as all other aspects of the Paris agreements, taking into account that all parties in Cambodia have the same obligations to implement the agreements;

7. *Demands* full respect for the ceasefire, calls upon all parties in Cambodia to cooperate fully with the Authority to identify minefields and to refrain from any activity aimed at enlarging the territory under their control, and further demands that these parties facilitate Authority investigations of reports of foreign forces, foreign assistance and ceasefire violations within the territory under their control;

⁴⁹ S/24652.

8. *Reiterates* its demands that all parties take all necessary measures to ensure the safety and security of all United Nations personnel and refrain from any threat or violent act against them;

9. *Emphasizes*, in accordance with article 12 of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, the importance of the elections being held in a neutral political environment, encourages the Secretary-General and his Special Representative to continue their efforts to create such an environment, and in that context requests, in particular, that the Authority radio broadcast facility be established without delay and with access to the whole territory of Cambodia;

10. *Encourages* the Secretary-General and his Special Representative to make use fully of all possibilities offered by the Authority's mandate, including annex 1, section B, paragraph 5 (b), of the Paris agreements to enhance the effectiveness of existing civil police in resolving the growing problems relating to the maintenance of law and order in Cambodia;

11. *Invites* States and international financial institutions to make available as soon as possible the contributions they had already announced during the Ministerial Conference on the Rehabilitation and Reconstruction of Cambodia, held at Tokyo on 20 and 22 June 1992, giving priority to those which produce quick impact;

12. *Invites* the Governments of Thailand and Japan, in cooperation with the Co-Chairmen of the Paris Conference on Cambodia and in consultation with any other Government as appropriate, to continue their efforts to find solutions to the current problems relating to the implementation of the Paris agreements and to report to the Secretary-General and the Co-Chairmen of the Conference by 31 October 1992 on the outcome of their efforts;

13. *Invites* the Secretary-General, in accordance with the intention expressed in paragraph 70 of his report, to ask the Co-Chairmen of the Paris Conference on Cambodia, immediately on receipt of the report referred to in paragraph 12 above, to undertake appropriate consultations with a view to implementing fully the peace process;

14. *Requests* the Secretary-General to report to the Security Council as soon as possible, and no later than 15 November 1992, on the implementation of the present resolution and, if the current difficulties have not been overcome, undertakes to consider what further steps are necessary and appropriate to ensure the realization of the fundamental objectives of the Paris agreements;

15. *Decides* to remain actively seized of the matter.

Decision of 30 November 1992 (3143rd meeting): resolution 792 (1992)

On 15 November 1992, the Secretary-General submitted to the Council his report on the implementation of resolution 783 (1992) of 13 October 1992.⁵⁰ He regretted that the efforts undertaken successively by Japan and Thailand and by the Co-Chairmen of the Paris Conference had not convinced PDK to fulfil its obligations under the Paris Agreements. He reported that the difficulties encountered in implementing phase II of the ceasefire had led to the effective suspension of the cantonment, disarmament and demobilization process, but that UNTAC had continued to make steady progress in the discharge of the other aspects of its mandate. The Secretary-General remained concerned, however, about the military situation in the country: ceasefire violations had increased as had attacks on UNTAC personnel and helicopters. He shared the Co-Chairmen's assessment that the holding of a presidential election would contribute to the process of national reconciliation and help to reinforce the climate of stability. He had therefore asked his Special Representative to make contingency plans for the organization and conduct of such an election by UNTAC — on the understanding that it would require the authorization of the Security Council and the provision of additional resources. The Secretary-General noted that the situation presented the Council with two difficult decisions. The first concerned what further action should be taken to persuade PDK to comply with its obligations under the Paris Agreements. At that stage, he did not recommend the adoption of specific measures to get PDK to honour its commitments and continued to believe in patient diplomacy. The second decision concerned whether to press on with implementation of as much as possible of the Paris Agreements, within the agreed timetable which called for elections by May 1993, notwithstanding the non-cooperation of PDK. After considering the alternatives, the Secretary-General concurred with the Co-Chairmen that the implementation of the peace process should continue and that the timetable for elections should be maintained. He underlined, however, the implications of a continued lack of cooperation by PDK: the elections would be held while a substantial part of the armed forces of the Cambodian parties remained

⁵⁰ S/24800.

mobilized and the people living in PDK-controlled areas were likely to be deprived of the opportunity to exercise their right to register and vote. He reported that, given the suspension of the cantonment and demobilization process, he had approved his Special Representative's recommendation that UNTAC should adjust the deployment of its military component, with a view to fostering a general sense of security among the Cambodian people and enhancing its ability to protect the voter registration and polling process, particularly in remote or insecure areas. He therefore proposed that the present level of deployment be maintained until the elections. In conclusion, the Secretary-General expressed the hope that the Council would consider the adoption of measures that would facilitate the UNTAC mission and impress upon the parties concerned the firm determination of the international community to ensure the realization of the fundamental objectives of the Paris Agreements.

At its 3143rd meeting, held on 30 November 1992 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the President (Hungary) drew the attention of the Council members to a draft resolution submitted by Belgium, France, Japan, the Russian Federation, the United Kingdom and the United States.⁵¹

Speaking before the vote, the representative of China affirmed his Government's consistent position that problems encountered in implementing the Paris Agreements should be settled with determination and patience through dialogue and consultation. Explaining his country's intended abstention, he said that, while agreeing with some of the elements contained in the draft resolution, his delegation considered that those relating to sanctions and to an election in which only three parties would take part were at variance with the Paris Agreements. It was not in favour of sanctions which would further increase differences and could lead to new, complicated problems in the Cambodian situation. Moreover, in accordance with the Paris Agreements, the sovereignty of the neighbouring States which might be affected by such measures should be respected and their opinions heeded. China was also deeply anxious about the possible adverse

consequences that could result from a three-party election.⁵²

The draft resolution was then put to the vote and adopted by 14 votes in favour, none against, and 1 abstention (China), as resolution 792 (1992), which reads:

The Security Council,

Reaffirming its resolutions 668 (1990) of 20 September 1990, 717 (1991) of 16 October 1991, 718 (1991) of 31 October 1991, 728 (1992) of 8 January 1992, 745 (1992) of 28 February 1992, 766 (1992) of 21 July 1992 and 783 (1992) of 13 October 1992,

Taking note of the report of the Secretary-General dated 15 November 1992 on the implementation of resolution 783 (1992),

Paying a tribute to His Royal Highness Prince Norodom Sihanouk, President of the Supreme National Council of Cambodia, for his continuing efforts to restore peace and national unity in Cambodia,

Reaffirming its commitment to implement the agreements on a comprehensive political settlement of the Cambodia conflict signed at Paris on 23 October 1991 and its determination to maintain the implementation timetable of the peace process, leading to elections for a constituent assembly in April/May 1993, the adoption of a constitution and the formation of a new Cambodian government thereafter,

Recognizing the need for all Cambodian parties, the States concerned and the Secretary-General to maintain close dialogue in order to implement the peace process effectively,

Recalling that all Cambodians have, in accordance with article 12 of the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict, the right to determine their own political future through the free and fair election of a constituent assembly and that political parties wishing to participate in the election can be formed in accordance with paragraph 5 of annex 3 to the Agreement,

Noting the discussion during the consultations held in Beijing on 7 and 8 November 1992 by the Co-Chairmen of the Paris Conference on Cambodia regarding a presidential election, and the views of the Co-Chairmen shared by the Secretary-General that such an election could contribute to the process of national reconciliation and help to reinforce the climate of stability in Cambodia,

Welcoming the achievements of the Special Representative of the Secretary-General and of the United Nations Transitional Authority in Cambodia in the implementation of the Paris agreements,

⁵¹ S/24865.

⁵² S/PV.3143, p. 4.

Welcoming in particular the progress made in voter registration,

Welcoming also the efforts of the Authority to strengthen its relationship with the Supreme National Council of Cambodia and its supervision and control over the existing administrative structures, inter alia, to ensure the widest possible agreement on essential regulations for elections, natural resources, rehabilitation, national heritage and human rights, on relations with the international financial institutions, and on the question of foreign residents and immigrants,

Noting the efforts of the Authority to address the concerns raised by the Party of Democratic Kampuchea, including steps to verify the withdrawal of all foreign forces, advisers and military personnel from Cambodia, close cooperation between the Authority and the Supreme National Council as the embodiment of Cambodian sovereignty, the creation of technical advisory committees to advise the Supreme National Council and the Authority, the extension of Authority supervision and control over the five key administrative areas mandated in the Paris agreements in the areas to which the Authority has access, and the creation of working groups in these areas to enable the parties to be involved in and informed about the Authority's activities in these five key areas,

Expressing its appreciation to Japan and Thailand for their efforts to find solutions to current problems relating to the implementation of the Paris agreements,

Expressing also its appreciation for the efforts of the Co-Chairmen of the Paris Conference on Cambodia, in consultation with all parties, pursuant to resolution 783 (1992) to find a way to implement fully the Paris agreements,

Deploring the failure of the Party of Democratic Kampuchea to meet its obligations under the Paris agreements, notably as regards unrestricted access by the Authority to the areas under the control of the Party of Democratic Kampuchea for voter registration and other purposes of the agreements and as regards the application of phase II of the ceasefire concerning cantonment and demobilization of its forces,

Deploring recent violations of the ceasefire and their implications for the security situation in Cambodia, emphasizing the importance of maintaining the ceasefire and calling on all parties to comply with their obligations in this regard,

Condemning attacks against the Authority, in particular the recent firings upon Authority helicopters and on electoral registration personnel,

Concerned by the economic situation in Cambodia and its impact on the implementation of the Paris agreements,

1. *Endorses* the report of the Secretary-General of 15 November 1992 on the implementation of Security Council resolution 783 (1992);

2. *Confirms* that the election for a constituent assembly in Cambodia will be held not later than May 1993;

3. *Notes* the decision of the Secretary-General to instruct his Special Representative for Cambodia to make contingency plans for the organization and conduct by the United Nations Transitional Authority in Cambodia of a presidential election, and moreover, noting that such an election must be held in conjunction with the planned election for a constituent assembly, requests the Secretary-General to submit any recommendations for the holding of such an election to the Council for decision;

4. *Calls upon* all Cambodian parties to cooperate fully with the Authority to create a neutral political environment for the conduct of free and fair elections and prevent acts of harassment, intimidation and political violence;

5. *Determines* that the Authority shall proceed with preparations for free and fair elections to be held in April/May 1993 in all areas of Cambodia to which it has full and free access as at 31 January 1993;

6. *Calls on* the Supreme National Council of Cambodia to continue to meet regularly under the chairmanship of His Royal Highness Prince Norodom Sihanouk;

7. *Condemns* the failure by the Party of Democratic Kampuchea to comply with its obligations;

8. *Demands* that the Party of Democratic Kampuchea fulfil immediately its obligations under the agreements on a comprehensive political settlement to the Cambodia conflict, signed in Paris on 23 October 1991, that it facilitate without delay full deployment of the Authority in the areas under its control, that it not impede voter registration in those areas; that it not impede the activities of other political parties in those areas, and that it implement fully phase II of the ceasefire, particularly cantonment and demobilization, as well as all other aspects of the Paris agreements, taking into account that all parties in Cambodia have the same obligations to implement the Paris agreements;

9. *Urges* the Party of Democratic Kampuchea to join fully in the implementation of the Paris agreements, including the electoral provisions, and requests the Secretary-General and States concerned to remain ready to continue dialogue with the Party of Democratic Kampuchea for this purpose;

10. *Calls on* those concerned to ensure that measures are taken, consistent with the provisions of Article VII of annex 2 to the Agreement on a Comprehensive Political Settlement of the Cambodia Conflict to prevent the supply of petroleum products to the areas occupied by any Cambodian party not complying with the military provisions of this Agreement and requests the Secretary-General to examine the modalities of such measures;

11. *Undertakes* to consider appropriate measures to be implemented should the Party of Democratic Kampuchea obstruct the implementation of the peace plan, such as the freezing of the assets it holds outside Cambodia;

12. *Invites* the Authority to establish all necessary border checkpoints, requests neighbouring States to cooperate fully in the establishment and maintenance of those checkpoints and requests the Secretary-General to undertake immediate consultations with States concerned regarding their establishment and operation;

13. *Supports* the decision of the Supreme National Council dated 22 September 1992 to set a moratorium on the export of logs from Cambodia in order to protect Cambodia's natural resources, requests States, especially neighbouring States, to respect this moratorium by not importing such logs, and requests the Authority to take appropriate measures to secure the implementation of such moratorium;

14. *Requests* the Supreme National Council to consider the adoption of a similar moratorium on the export of minerals and gems in order to protect Cambodia's natural resources;

15. *Demands* that all parties comply with their obligations to observe the ceasefire and calls upon them to exercise restraint;

16. *Requests* the Authority to continue to monitor the ceasefire and to take effective measures to prevent the recurrence or escalation of fighting in Cambodia, as well as incidents of banditry and arms smuggling;

17. *Demands also* that all parties take all action necessary to safeguard the lives and the security of Authority personnel throughout Cambodia including by issuing immediate instructions to this effect to their commanders forthwith and reporting their action to the Special Representative of the Secretary-General;

18. *Requests* the Secretary-General to consider the implications for the electoral process of the failure by the Party of Democratic Kampuchea to canton and demobilize its forces and, in response to this situation, to take all appropriate steps to ensure the successful implementation of the electoral process;

19. *Also requests* the Secretary-General to investigate and report upon the implications for security in post-election Cambodia of the possible incomplete implementation of the disarmament and demobilization provisions of the Paris agreements;

20. *Invites* the States and international organizations providing economic assistance to Cambodia to convene a meeting to review the current state of economic assistance to Cambodia in the wake of the Ministerial Conference on Reconstruction and Rehabilitation of Cambodia held at Tokyo on 20 and 22 June 1992;

21. *Further invites* the Secretary-General to report to the Security Council as soon as possible and no later than 15 February 1993 on the implementation of the present resolution, and on any further measures that may be necessary and appropriate to ensure the realization of the fundamental objectives of the Paris agreements;

22. *Decides* to remain actively seized of the matter.

Speaking after the adoption of the resolution, the representatives of the United States, the Russian Federation, France, Japan, the United Kingdom and Hungary welcomed the resolution as reflecting their concern about the situation in Cambodia and the failure of PDK to carry out the provisions of relevant Security Council resolutions and to meet its obligations under the Paris Agreements.⁵³ In their view, the resolution attested to the Council's determination to take the peace process to its conclusion and to adhere to the established timetable. Moreover, it was a balanced text, which sent a clear and firm message to PDK, but kept the door open for it to join in the peace process. The representatives of the United States, the Russian Federation and France also underlined the importance for stability in Cambodia of the holding of the presidential election, in conjunction with the planned constituent assembly election.⁵⁴

Decision of 2 December 1992: statement by the President

Following consultations among the members of the Council held on 2 December 1992, the President (India) made a statement to the media on behalf of the Council concerning the safety and security of United Nations peacekeeping personnel.⁵⁵ It reads in the relevant part as follows:

The members of the Security Council wish to express their deep concern and outrage about the increasing number of attacks against United Nations personnel serving in various peacekeeping operations.

A number of serious incidents affecting military and civilian personnel serving with the United Nations Angola Verification Mission II, the United Nations Transitional Authority in Cambodia and the United Nations Protection Force have occurred during the last few days.

...

...

On 1 December, two British military observers and four naval observers of the United Nations Transitional Authority in

⁵³ For the relevant statements, see S/PV.3143, pp. 6-7 (United States); pp. 7-8 (Russian Federation); pp. 8-11 (France); pp. 11-12 (Japan); pp. 12-13 (United Kingdom); and pp. 13-15 (Hungary).

⁵⁴ *Ibid.*, pp. 6-7 (United States); p. 8 (Russian Federation); and p. 10 (France).

⁵⁵ S/24884; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, pp. 46-47.

Cambodia, two from the Philippines, one from New Zealand and one from the United Kingdom, on patrol in Kompong Thom province, were illegally detained by forces belonging to the National Army of Democratic Kampuchea. An Authority helicopter, sent to assist in the discussions for their release, was fired upon, and a French military observer on board was injured. Moreover, today, six Authority civilian police monitors, three Indonesians, two Tunisians and one Nepalese, were injured in two land mine incidents in Siem Reap province.

The members of the Council condemn these attacks on the safety and security of United Nations personnel and demand that all parties concerned take all necessary measures to prevent their recurrence. The members of the Council consider the abduction and detention of United Nations peacekeeping personnel as totally unacceptable and demand the immediate and unconditional release of the United Nations Transitional Authority in Cambodia ... personnel concerned.

Decision of 22 December 1992 (3153rd meeting): statement by the President

At the Council's 3153rd meeting, held on 22 December 1992 in accordance with the understanding reached in its prior consultations, the

President (India) said that, following consultations among members of the Council, he had been authorized to make the following statement on behalf of the Council:⁵⁶

The Security Council strongly condemns the illegal detention of United Nations Transitional Authority in Cambodia personnel by elements of the Party of Democratic Kampuchea and acts of threat and intimidation against these personnel. It demands that such actions and any other hostile acts against the Authority cease immediately, and that all parties take all action necessary to safeguard the lives and the security of Authority personnel.

The Council urges all the parties to abide scrupulously by their obligations under the agreements on a comprehensive political settlement of the Cambodia conflict signed in Paris on 23 October 1991, to cooperate fully with the Authority and to respect all the relevant resolutions of the Council.

⁵⁶ S/25003.

16. The situation in Tajikistan

Initial proceedings

By a letter dated 19 October 1992 addressed to the Secretary-General,¹ the representative of Kyrgyzstan transmitted a letter dated 15 October, addressed to the Secretary-General, from the Chairman of the Supreme Council of the Republic of Kyrgyzstan, expressing deep concern about the situation in the neighbouring Republic of Tajikistan. Noting that the measures taken by Tajikistan and the peacemaking efforts of Kyrgyzstan had not yet produced the desired results, the Chairman requested the United Nations to provide effective help to settle the conflict; asked the Security Council urgently to consider the issue; and asked the Secretary-General to take personal charge of the settlement of the conflict.

By a letter dated 21 October 1992 addressed to the President of the Security Council,² the representative of Tajikistan stated that, despite the efforts of his country's political leadership, armed conflict among local factions continued in two regions of the country, with consequent loss of life, displacement of population and serious material damage. His Government requested therefore that a peacemaking mission be sent, and humanitarian aid provided, to Tajikistan urgently.

By a letter dated 28 October 1992 addressed to the President of the Security Council,³ the representative of the Russian Federation transmitted a statement issued on 24 October by the Ministry of Foreign Affairs of the Russian Federation concerning the events in Tajikistan. The statement noted that there was a real threat of further escalation of the conflict and expansion of the civil war which could have "catastrophic" consequences for the territorial integrity of Tajikistan and the security of the whole Central Asian region. The Russian leadership was particularly concerned about the fate of the Russian nationals and Russian-speaking population in Tajikistan. It called on the opposing groups to end the fighting and the "fratricidal civil war", and appealed to the Commonwealth of Independent States, the United Nations and other international organizations to promote the normalization of the situation in Tajikistan. The Russian Federation stressed that all States, particularly Tajikistan's neighbours, should direct their efforts towards ending the conflict rather than inflaming it.

By a letter dated 29 October 1992 addressed to the Secretary-General,⁴ the representative of Tajikistan transmitted the text of a letter sent to the Secretary-General by the Acting President of Tajikistan on 15 October. The latter advised that the armed conflict in the south of the country was escalating and that several officers of the Russian army in the country had been won over by one of the local factions. The situation threatened to degenerate into a civil war, which could result in the disintegration of Tajikistan as a sovereign State and could have unpredictable consequences for neighbouring countries and for the international community as a whole. Tajikistan was relying on the support and assistance of the international community in settling the conflict and stabilizing the situation.

¹ S/24692.

² S/24699.

³ S/24725.

⁴ S/24741.

By a letter dated 29 October 1992 addressed to the President of the Security Council,⁵ the Secretary-General informed him of his decision to send a United Nations good-offices mission to Tajikistan and Central Asia. He had decided to send the mission in response to two communications, of 29 September and 15 October 1992, from the Acting President of Tajikistan, and with reference to the report of the United Nations fact-finding mission which had visited Uzbekistan and Tajikistan from 13 to 23 September 1992.

Decision of 30 October 1992 (3131st meeting): statement by the President

At its 3131st meeting, held on 30 October 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the letter from the Secretary-General, as well as the letters from the representatives of Kyrgyzstan and Tajikistan, dated 19 and 21 October 1992, respectively. Following the adoption of the agenda, the President (France) drew the attention of the members of the Council to the two other above-mentioned documents.⁶ At the same meeting, following consultations held earlier among the members of the Council, the President made the following statement on behalf of the Council:⁷

The Council has considered the communications received from the Government of Tajikistan.

The Council expresses its very grave concern about the continuing deterioration in the situation in Tajikistan, which is causing considerable loss of human life and serious material damage. It notes with concern the consequences for peace and security in the region that this crisis might entail.

The Council calls on all parties to the conflict to end the fighting. It urges the Government of Tajikistan, local authorities, party leaders and other groups concerned to enter into a political dialogue with a view to reaching an overall settlement of the conflict by peaceful means. It calls on parties in neighbouring countries to refrain from any action which might contribute to increasing tension and to impeding a settlement.

The Council welcomes the efforts made by the member countries of the Commonwealth of Independent States, on the initiative of the Republic of Kyrgyzstan, and those undertaken by other States to help Tajikistan to resolve the crisis. It invites the Government of Tajikistan and all other parties to the conflict to cooperate actively with all these efforts.

The Council welcomes the Secretary-General's decision to send a goodwill mission, including a humanitarian assistance mission, to Tajikistan and Central Asia, in response to the requests of the Governments of the region, within the next few days as a contribution by the United Nations to resolving the conflict.

The Council calls on all parties to the conflict and the neighbouring countries to facilitate the work of the Secretary-General's mission and to ensure the safety of its personnel.

⁵ S/24739.

⁶ S/24725 and S/24741.

⁷ S/24742.

Europe

17. The situation in Cyprus

Decisions of 9 June 1989 (2868th meeting): resolution 634 (1989) and statement by the President

On 31 May 1989, pursuant to resolution 625 (1988), the Secretary-General submitted to the Council a report on the United Nations operation in Cyprus for the period from 1 December 1988 to 31 May 1989.¹ The report covered developments with regard to the United Nations Peacekeeping Force in Cyprus (UNFICYP) and the Secretary-General's mission of good offices pursuant to resolution 186 (1964) and subsequent Council resolutions concerning Cyprus. The Secretary-General emphasized that UNFICYP continued to play an indispensable role in Cyprus and was in a unique position to help preserve the conditions on the ground that were vital for his good offices. He noted in particular the success of UNFICYP in working out agreements with both sides in Cyprus for the unmanning of positions in three of the areas in Nicosia where troops of both sides were in dangerous proximity. He hoped that that first step would soon be followed by further measures to reduce confrontation along the Green Line in Nicosia. In the light of that assessment, he recommended that the Council extend the Force's mandate for a further period of six months.² He added that, in accordance with the established practice, he had undertaken consultations on that matter with the parties concerned. Reiterating his deep concern about the serious financial situation of UNFICYP, he hoped that the Council would in due course reform the financing of the Force so that the United Nations share of the costs was paid for from assessed, instead of voluntary, contributions.

¹ S/20663.

² On 8 June 1989, the Secretary-General informed the Council that the Government of Cyprus as well as the Governments of Greece and the United Kingdom had indicated their concurrence with the proposed extension of the UNFICYP mandate (S/20663/Add.1). He added that the Government of Turkey had indicated that it concurred with and supported the position of the Turkish Cypriot side, which was that draft resolution S/20679 was unacceptable as a basis for extending the mandate of UNFICYP, and that its stand would be expounded at the next meeting of the Security Council.

With regard to his mission of good offices, the Secretary-General stated that the two rounds of direct talks in which the leaders of the two sides in Cyprus had been engaged since August 1988 had progressed to the point where the contours of an overall agreement were discernible. The two leaders had agreed to develop, on a non-committal basis, a wide range of options for each of the issues making up the Cyprus problem. They had also agreed to devote a third round of talks, from May to June 1989, to the preparation of a draft outline of an overall agreement in which the solutions to be achieved for each of the elements of the outline would be described. Those discussions were in progress and he intended to report to Council on the results after meeting with the two leaders during the last week of June 1989.

At its 2868th meeting, on 9 June 1989, the Council included the report of the Secretary-General in its agenda, under the item entitled "The situation in Cyprus". The Council invited the representatives of Cyprus, Greece and Turkey, at their request, to participate in the discussion without the right to vote. As agreed during its prior consultations, the Council also extended an invitation to Mr. Özer Koray under rule 39 of its provisional rules of procedure.

The President (United States) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.³ He also drew their attention to two letters relating to the item on the agenda: a letter dated 22 May 1989 from the representatives of Australia, Austria, Canada, Denmark, Finland, Ireland, Sweden and the United Kingdom addressed to the Secretary-General,⁴ expressing grave concern about the growing deficit in the UNFICYP Special Account; and a letter dated 1 June 1989 from the representative of Austria addressed to the President of the Council,⁵ expressing a similar concern on behalf of the troop-contributing countries.

³ S/20679.

⁴ S/20650.

⁵ S/20666.

The draft resolution was then put to the vote and adopted unanimously as resolution 634 (1989), which reads:

The Security Council,

Taking note of the report of the Secretary-General on the United Nations operation in Cyprus of 31 May 1989 and 8 June 1989,

Taking note also of the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 June 1989,

Reaffirming the provisions of resolution 186 (1964) of 4 March 1964 and other relevant resolutions,

1. *Extends once more* the stationing in Cyprus of the United Nations Peacekeeping Force established under resolution 186 (1964) for a further period ending on 15 December 1989;

2. *Requests* the Secretary-General to continue his mission of good offices, to keep the Security Council informed of the progress made and to submit a report on the implementation of the present resolution by 30 November 1989;

3. *Calls upon* all the parties concerned to continue to cooperate with the Force on the basis of the present mandate.

After the vote, the President of the Council stated that he had been authorized to make the following statement on behalf of the Council following consultations among the members of the Council:⁶

The members of the Security Council welcome and reaffirm their support for the direct talks launched in August 1988 under the auspices of the Secretary-General in the context of his mission of good offices in Cyprus. They express appreciation to the Secretary-General and his Special Representative for their untiring efforts to achieve progress.

The members of the Council note that 25 years have elapsed since the establishment of the United Nations Peacekeeping Force in Cyprus. They regret that, in that time, it has not been possible to achieve a negotiated settlement of all aspects of the Cyprus problem.

The members of the Council, taking into account the importance of the current stage of the talks, urge both parties to redouble their efforts, be flexible and lend the fullest support and cooperation to the efforts of the Special Representative of the Secretary-General in Cyprus towards achieving a negotiated, just and lasting settlement.

⁶ S/20682.

The members of the Council also warmly welcome the unmanning of military positions which has recently taken place, and urge the two parties to consider further steps in cooperation with United Nations authorities aimed at reducing tension, avoiding incidents and creating a climate of goodwill, as well as maintaining an atmosphere conducive to a settlement.

The members of the Council take note of the Secretary-General's intention to meet with the two parties at the end of June, and share the Secretary-General's hope that the meeting will bear positive results. They appeal to the parties concerned to cooperate with the Secretary-General in order to achieve substantial progress in the direction of an overall settlement.

The representative of Cyprus welcomed the decision of the Council to extend the mandate of UNFICYP and pledged his Government's full cooperation with it. He observed that his Government had responded positively to the Secretary-General's initiative for high-level negotiations to settle "all aspects of the Cyprus problem" and had accepted the methodology and the agreed basis for the negotiations. He stressed that his Government was seeking a viable solution to the problem based on the following essential points: withdrawal of the Turkish armed forces; establishment of a balanced system of international guarantees ensuring the territorial integrity and security of Cyprus; return of the "settlers implanted by Turkey in the occupied areas of Cyprus"; full respect for human rights and fundamental freedoms; functionality of a future federal constitution; and the conformity of any future solution with the resolutions of the United Nations on Cyprus. The proposals put forward by the President of Cyprus in January 1989 were, he said, consistent with those principles.⁷

The representative of Greece stated that his Government had concurred in the extension of the stationing of UNFICYP in Cyprus for another six months and supported the mission of good offices of the Secretary-General, as well as the ongoing intercommunal talks. Greece supported the proposal of the Secretary-General that the method of financing UNFICYP should be changed from voluntary to assessed contributions, as was the case with all other United Nations peacekeeping operations. He shared the view of the eight troop-contributing countries, in their letter of 1 June 1989 to the President of the Security Council,⁸ that the Council and its permanent members,

⁷ S/PV.2868, pp. 7-13.

⁸ S/20666, annex.

in particular, had a special responsibility to ensure the proper financing of the United Nations share of the cost of UNFICYP. He expressed support for the comprehensive scheme of proposals presented by the President of Cyprus in January 1989, stating that they were based on the rules of democracy, respect for human rights and the principles of the Charter of the United Nations. Stressing that the external aspect of the Cyprus problem was of particular concern to his own country, he noted that a serious security problem had been created in the Eastern Mediterranean by the continuing presence of Turkish troops in Cyprus. He supported, in that regard, the proposal of the President of Cyprus for the full demilitarization of the Republic.⁹

Mr. Koray stated that the ongoing comprehensive talks, for the establishment of a federation between the two States in the island, constituted the longest phase of talks ever held in Cyprus between the leaders of the Turkish Cypriot and the Greek Cypriot peoples. The talks had provided the two sides with an opportunity to discuss all aspects of a bizonal federal republic based on equal political status and participation of the two peoples. He recalled that the Turkish Cypriot side had emphasized the security aspect of a final settlement, with indispensable Turkish guarantees, as well as the political equality of the two sides in the federation. The kind of solution envisaged by the Greek Cypriot side could not, he stated, be accepted so long as it did not recognize such basic concepts as equality, bizonality and power-sharing. Various developments in southern Cyprus had also marred the prospects of an early settlement in Cyprus. In short, the Greek Cypriot administration was, he claimed, trying to undermine the existence of the “Turkish Republic of Northern Cyprus”, for instance by its declared intention to apply, unilaterally, for membership in the European Community. He affirmed, however, that the Turkish Cypriot side would continue to play a constructive role in the negotiations and to address the basic issues and principles central to a feasible and desirable federal solution. On the question of the extension of the mandate of UNFICYP, he reiterated that the resolution just adopted was unacceptable to the Turkish Cypriot side for the reasons that had been outlined in previous Security Council debates on the matter: any resolution that referred to the Greek Cypriot administration as the “Government of Cyprus” was unacceptable because it ignored the existing realities in Cyprus and negated the

principle of equality between the two sides. He stated, however, that the “Turkish Republic of Northern Cyprus” nevertheless accepted the presence of UNFICYP on its territory on the same basis as that stated in December 1988: namely, “that the principle, the scope and the modalities and procedures of cooperation between the authorities of the Turkish Republic of Northern Cyprus and UNFICYP shall be based only on decisions to be taken solely by the Government of the Turkish Republic of Northern Cyprus”. He also reiterated the support of the “Turkish Republic of Northern Cyprus” for the Secretary-General’s mission of good offices and the current efforts under his auspices to find a negotiated settlement in Cyprus.¹⁰

The representative of Turkey similarly stressed that the basis of a lasting settlement in Cyprus was the establishment of a bicomunal, bizonal, federal State, based on the political equality of the two peoples. He praised the friendly and constructive atmosphere of the negotiations between the two sides, but cautioned that certain recent developments could have an adverse effect on the negotiations. He mentioned, in particular, the growing military build-up in southern Cyprus, the violent demonstrations organized with the encouragement of the Greek Cypriot authorities in or near the buffer zone and the declared intention of the Greek Cypriots to apply for full membership in the European Community. With regard to the resolution just adopted by the Council, his Government could not agree to an extension of the UNFICYP mandate on the basis as therein set out. His Government fully supported the position of the Turkish Cypriot side as expressed by Mr. Koray on the modalities governing the presence of UNFICYP in northern Cyprus.¹¹

**Decisions of 14 December 1989 (2898th
meeting): resolution 646 (1989) and statement
by the President**

On 7 December 1989, pursuant to resolution 634 (1989), the Secretary-General submitted to the Council a report on the United Nations operation in Cyprus for the period from 1 June to 4 December 1989.¹² The report covered developments with regard to UNFICYP and the Secretary-General’s mission of good offices. The Secretary-General reported that Greek Cypriot

⁹ S/PV.2868, pp. 14-18.

¹⁰ *Ibid.*, pp. 18-26.

¹¹ *Ibid.*, pp. 26-31.

¹² S/21010.

demonstrators had on four occasions entered the United Nations buffer zone. During one such demonstration, in July, Turkish Cypriot police and security forces had apprehended a number of demonstrators, which had prompted further demonstrations. Those events had created considerable tension on the island and had underlined the importance for all concerned to respect the role and functions of UNFICYP. In that regard, the Secretary-General was pleased that the Government of Cyprus had in the recent past cooperated with UNFICYP in protecting the integrity of the buffer zone. Observing that the presence of the Force remained indispensable, he recommended that the Council extend its mandate for a further six months. In accordance with established practice, he had undertaken consultations on this matter with the parties concerned, and would report to the Council on them as soon as possible.¹³ He once again drew the attention of the Council to the worsening financial crisis facing UNFICYP, reiterating his view that the best way to finance the Force on a more equitable basis would be for the United Nations share of its costs to be financed from assessed contributions. He expressed the hope that in due course the members of the Council would accept that overdue reform.

With regard to his mission of good offices, the Secretary-General reported that, although it had not yielded concrete results, he remained of the view that a basis for effective negotiations existed, provided that both leaders manifested the necessary goodwill and recognized that a viable solution had to satisfy the interests of both communities. The discussions since the previous year had brought out all the ideas that needed to be covered in an agreement, and had produced ideas that should facilitate the negotiating process. He hoped that, after further discussions with his Special Representative, a way would be found for both parties to resume their negotiations, and to

¹³ On 13 December 1989, the Secretary-General informed the Council that the Government of Cyprus, as well as the Governments of Greece and the United Kingdom, had concurred with the proposed extension of the UNFICYP mandate (S/21010/Add.1). He added that the Government of Turkey had indicated that it concurred with and supported the position of the Turkish Cypriot side, which was that draft resolution S/21020 was unacceptable as a basis for extending the stationing of UNFICYP, and that its stand would be expounded at the next meeting of the Security Council.

proceed expeditiously to complete their work on an outline, as agreed on 29 June. Underlining the close relationship between the negotiations and the overall atmosphere, the Secretary-General urged the two leaders to make a determined effort to promote reconciliation. He observed that the adoption of goodwill measures, including an extension of the unarming arrangements, could prove useful in that regard.

At its 2898th meeting, on 14 December 1989, the Council included the Secretary-General's report in its agenda and considered the item at the same meeting. The Council invited the representatives of Cyprus, Greece and Turkey, at their request, to participate in the discussion without the right to vote. As agreed during its prior consultations, the Council also invited Mr. Özer Koray to participate in the meeting under rule 39 of the Council's provisional rules of procedure.

The President (Colombia) drew the attention of the members to a draft resolution that had been prepared in the course of the Council's prior consultations.¹⁴ The draft resolution was then put to the vote and adopted unanimously as resolution 646 (1989), which reads:

The Security Council,

Taking note of the report of the Secretary-General on the United Nations operation in Cyprus of 7 and 13 December 1989,

Taking note also of the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 December 1989,

Reaffirming the provisions of resolution 186 (1964) of 4 March 1964 and other relevant resolutions,

1. *Extends once more* the stationing in Cyprus of the United Nations Peacekeeping Force established under resolution 186 (1964) for a further period ending on 15 June 1990;

2. *Requests* the Secretary-General to continue his mission of good offices, to keep the Security Council informed of the progress made and to submit a report on the implementation of the present resolution by 31 May 1990;

3. *Calls upon* all the parties concerned to continue to cooperate with the Force on the basis of the present mandate.

¹⁴ S/21020.

The representative of Cyprus welcomed the Council's decision to renew the mandate of UNFICYP and that of the Secretary-General's good offices mission. Among the most recent developments, he underlined the importance of two separate lunches, hosted by the Secretary-General, in which the President of Cyprus and the leader of the Turkish Cypriot community, respectively, had participated, together with the Presidents of the Council for November and December, the coordinators of the non-aligned caucus for November and December, and the permanent members of the Security Council. He thought that type of gathering was important for two reasons: it extended the involvement of the Security Council, and especially its five permanent members, beyond the renewal of the two mandates; and it provided a unique, informal, opportunity to the members of the Security Council to know a lot more about Cyprus and why its problem had remained unresolved for more than 15 years. He regretted, on the other hand, the lack of progress in the intercommunal talks, which he attributed to the leader of the Turkish Cypriot community. He stated that, during parallel meetings with the Secretary-General, the Turkish Cypriot side had demanded the withdrawal of the ideas presented by the Secretary-General to the parties, rejected the agreed negotiating procedure and challenged the role of the Secretary-General. Many other unacceptable conditions, moreover, had been laid down that were tantamount to institutionalizing a system of segregation and separation of the Cypriot people based on ethnic origin. He called on the Security Council to strengthen the role of the Secretary-General and assist him in overcoming the obstacles that had arisen. Concluding, he expressed the hope that, despite all the setbacks, and with the active assistance of the Council, a meaningful and results-orientated dialogue could commence on the Cyprus problem.¹⁵

The representative of Greece stated that his Government considered the presence of UNFICYP in Cyprus as indispensable and therefore concurred in the extension of its mandate. He, too, regretted that no concrete results had been achieved during the last mandate period; he maintained that the Turkish Cypriot side had frustrated progress when their leader had, under various pretexts, suspended his attendance at the talks carried out under the auspices of the Secretary-

General. He emphasized that Greece was convinced that it would be inconceivable for claims or proposals presented during the intercommunal talks to depart from the basic rules of international law or from the resolutions of the United Nations and other international or regional bodies that had authoritatively pronounced themselves on the issue. Among the latter, he referred to recent pronouncements of the European Council of Heads of State or Government of the States members of the European Community, underlining that the Cyprus problem had always been, and remained, a European problem too. He added that Greece failed to see that a solution to the problem could be reached unless there was an assurance that the Turkish occupying forces and Turkish settlers would withdraw from Cyprus, that the fundamental freedoms of movement and establishment and the right to property would be respected, and that the people of Cyprus in their entirety would enjoy the fruits of cooperation and unity without external interference or intervention. In conclusion, he recommended that, in accordance with paragraph 5 of resolution 550 (1984), the area of Varosha should be transferred to the administration of the United Nations in order to alleviate the continuing plight of some of the refugees and enable them to regain their homes.¹⁶

Mr. Koray recalled that Mr. Denktash, in an effort to secure a resumption of the stalled talks, had presented substantive proposals to the Secretary-General on how the negotiations could be meaningfully pursued. They were designed, he said, to define the basis of a new pattern of relationship between the two peoples through a "joint declaration", and to prepare, through direct talks, the main features of an outline for a comprehensive settlement. He stressed that the success of the forthcoming negotiations would depend on the acceptance by the Greek Cypriot side of certain guidelines and principles, such as those contained in the "joint declaration" proposal, which he read out.¹⁷ With regard to the extension of the UNFICYP mandate, he reiterated that the resolution that had just been adopted was unacceptable to the Turkish Cypriot side, for reasons outlined in previous Security Council debates on the matter. His government was, nevertheless, favourably disposed to accept the presence of UNFICYP on the territory of the "Turkish Republic of Northern Cyprus" on the same basis as

¹⁵ S/PV.2898, pp. 3-13.

¹⁶ *Ibid.*, pp. 13-18.

¹⁷ See S/PV.2898, pp. 21-22.

stated in June 1989: namely, “that the principle, the scope and the modalities and procedures of cooperation between the authorities of the Turkish Republic of Northern Cyprus and UNFICYP shall be based only on decisions taken solely by the Government of the Turkish Republic of Northern Cyprus”.¹⁸

The representative of Turkey reiterated that his Government could not agree to an extension of the UNFICYP mandate on the basis of the resolution that had just been adopted, which contained a number of unacceptable elements. It supported the position outlined by the representative of the “Turkish Republic of Northern Cyprus” on the modalities governing the presence of UNFICYP in northern Cyprus. He also reiterated that his Government fully supported the Secretary-General’s mission of good offices, and continued to believe that the only way to achieve a just and lasting solution that could lead to a federation of the two Cypriot States was through direct negotiations conducted on a footing of complete equality. All outside attempts to impose a settlement were condemned to fail.¹⁹

In a further statement, the representative of Greece suggested that the President of the Council might wish to place before the members of the Council a procedural proposal: namely, that, in the light of Security Council resolutions 541 (1983) and 550 (1984), and bearing in mind rules 27, 29, 37 and 39 of the Council’s provisional rules of procedure, precedence should be given to representatives of Member States who wished to address the Council over persons entitled to address the Council under rule 39.²⁰

The representative of Turkey took issue with the attempt by the representative of Greece to cast doubt on the Turkish Cypriot State. He maintained that the “Turkish Republic of Northern Cyprus” had all the attributes of a State, including population, territory and sovereignty.²¹

The representative of Cyprus questioned that assertion, in the light of the mandatory decisions of the Security Council on the matter.²²

At the same meeting, the President of the Council stated that he had been authorized to make the following statement on behalf of the Council following consultations among the members of the Council:²³

The members of the Security Council take note of the Secretary-General’s report on the United Nations operation in Cyprus and express their full support for his continuing efforts in pursuing the initiative launched in August 1988.

The members of the Council recall the statement made on their behalf by the President of the Council on 9 June 1989 in which they expressed their regret that, in the more than 25 years since the establishment of the United Nations Peacekeeping Force in Cyprus, it had not been possible to achieve a negotiated settlement of all aspects of the Cyprus problem.

The members of the Council note the Secretary-General’s assessment that a basis for effective negotiations exists provided both leaders manifest the necessary goodwill and recognize that a viable solution must satisfy the legitimate interests of both communities.

The members of the Council share the Secretary-General’s disappointment that it has not been possible to achieve concrete results to date in developing an agreed outline of an overall agreement. In this regard, they share the Secretary-General’s hope that direct and meaningful talks can be resumed early next year.

The members of the Council urge both leaders to proceed as suggested by the Secretary-General during their most recent meetings and, as agreed in June, to cooperate with him and his Special Representative in completing work on an outline. They also urge the two parties to make a further determined effort to promote reconciliation. They share the Secretary-General’s view that the adoption of goodwill measures could prove useful in this regard.

The members of the Council are concerned about the difficulties encountered by the Force during the last mandate period. They call on all parties to cooperate with the Force and to take effective measures to ensure that the integrity of the buffer zone is safeguarded.

The members of the Council also note the continuing financial difficulties facing the Force as indicated by the Secretary-General. They take note of his appeal for greater financial contributions to the Force, which would help it continue its important peacekeeping role in Cyprus and would reduce its financial difficulties.

The members of the Council request the Secretary-General to report back to the Council by 1 March 1990 on what progress has been made in resuming intensive talks and developing an agreed outline of an overall agreement.

²³ S/21026.

¹⁸ Ibid., pp. 19-33.

¹⁹ Ibid., pp. 34-39.

²⁰ Ibid., p. 40; see also chapter I, case 10.

²¹ S/PV.2898, p. 41.

²² Ibid., p. 42.

Decision of 22 February 1990: statement by the President

On 22 February 1990, following consultations among the members of the Council, the President made the following statement on behalf of the Council:²⁴

The members of the Council recall the statement made on their behalf by the President on 14 December 1989. They express their appreciation to the Secretary-General for his briefing on the current situation about his mission of good offices concerning Cyprus and give their full support to his efforts to assist the two communities to reach a just and lasting solution.

The members of the Council stress the importance they attach to an early negotiated settlement of the Cyprus problem.

The members of the Council are pleased that the leaders of the two sides in Cyprus have accepted the Secretary-General's invitation to meet with him for an extended session beginning on 26 February 1990 to complete the work on an outline of an overall agreement, as agreed in June 1989.

The members of the Council call upon the leaders of the two sides to demonstrate the necessary goodwill and flexibility and to cooperate fully with the Secretary-General so that the talks will result in a major step towards the resolution of the Cyprus problem.

The members of the Council request the Secretary-General to report to the Council at the conclusion of the forthcoming meeting to inform them of the results achieved and of his assessment of the situation at that time.

Decision of 12 March 1990 (2909th meeting): resolution 649 (1990)

On 8 March 1990, pursuant to the presidential statement of 22 February 1990, the Secretary-General submitted to the Security Council a report on his mission of good offices concerning Cyprus.²⁵ He reported on the joint and separate meetings that he and his Special Representative had held with the leaders of the two communities in Cyprus from 26 February to 2 March 1990. He annexed the text of his opening and closing statements made during the talks.

In concluding, the Secretary-General regretted that it had not proved possible to advance in drafting an outline of an overall agreement. However, he remained of the view that a basis for effective negotiations existed, provided that both leaders were prepared to take into account each other's concerns,

and that both were willing to proceed within the framework of the 1977 and 1979 high-level agreements. He recalled that, in those agreements, the leaders of the two communities had pledged to establish a bicomunal and bizonal Federal Republic of Cyprus that would safeguard its independence, territorial integrity and non-alignment and exclude union in whole or in part with any other country as well as any form of partition or secession. He added that, as he had repeatedly indicated to the parties, the solution that was being sought was one that must be decided upon by, and must be acceptable to, both communities.

He stressed that the two leaders must agree to pursue seriously the current effort to reach a solution providing for a political settlement and the establishment of a mutually acceptable constitutional arrangement, and to cooperate on an equal footing with him to complete, as the next step, an outline of an overall agreement, as they had agreed to do in June 1989.

At its 2909th meeting, on 12 March 1990, the Council included the Secretary-General's report in its agenda. The President (Democratic Yemen) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.²⁶ The draft resolution was put to the vote and adopted unanimously as resolution 649 (1990), which reads:

The Security Council,

Having considered the report of the Secretary-General of 8 March 1990 on the recent meeting between the leaders of the two communities in Cyprus and on his assessment of the current situation,

Recalling its relevant resolutions on Cyprus,

Recalling the statement of the President of the Security Council of 22 February 1990 calling upon the leaders of the two communities to demonstrate the necessary goodwill and flexibility and to cooperate with the Secretary-General so that the talks will result in a major step forward towards the resolution of the Cyprus problem,

Expressing its regret that, in the more than twenty-five years since the establishment of United Nations Force in Cyprus, it has not been possible to achieve a negotiated settlement of all aspects of the Cyprus problem,

²⁴ S/21160.

²⁵ S/21183.

²⁶ S/21184.

Concerned that, at the recent meeting in New York, it was not possible to achieve results in arriving at an agreed outline of an overall agreement,

1. *Reaffirms* in particular its resolution 367 (1975) of 12 March 1975 as well as its support for the 1977 and 1979 high-level agreements between the leaders of the two communities in which they pledged themselves to establish a bicommunal Federal Republic of Cyprus that will safeguard its independence, sovereignty, territorial integrity and non-alignment, and exclude union in whole or in part with any other country and any form of partition or secession;

2. *Expresses its full support* for the current effort of the Secretary-General in carrying out his mission of good offices concerning Cyprus;

3. *Calls upon* the leaders of the two communities to pursue their efforts to reach freely a mutually acceptable solution providing for the establishment of a federation that will be bicommunal as regards the constitutional aspects and bizonal as regards the territorial aspects, in line with the present resolution and their 1977 and 1979 high-level agreements, and to cooperate, on an equal footing, with the Secretary-General in completing, in the first instance and on an urgent basis, an outline of an overall agreement, as agreed in June 1989;

4. *Requests* the Secretary-General to pursue his mission of good offices in order to achieve the earliest possible progress and, towards this end, to assist the two communities by making suggestions to facilitate the discussions;

5. *Calls* on the parties concerned to refrain from any action that could aggravate the situation;

6. *Decides* to remain actively seized of the situation and the current effort;

7. *Requests* the Secretary-General to inform the Council in his report due by 31 May 1990, of the progress made in resuming the intensive talks and in developing an agreed outline of an overall agreement in line with the present resolution.

**Decisions of 15 June 1990 (2928th meeting):
resolution 657 (1990) and statement by the
President**

On 31 May 1990, pursuant to resolution 646 (1989), the Secretary-General submitted to the Council a report on the United Nations operation in Cyprus for the period from 1 December 1989 to 31 May 1990.²⁷ The report covered developments with regard to UNFICYP and the Secretary-General's mission of good offices pursuant to resolution 646 (1989). He observed that the Force continued to perform its functions of supervising the ceasefire, maintaining calm and

²⁷ S/21340.

promoting peaceful civilian activity in the area between the ceasefire lines, adding that, in carrying out its function, the Force had the cooperation of both sides. In the light of the prevailing circumstances, he had concluded that the continued presence of the Force in Cyprus remained indispensable to achieve the objectives set by the Council. He therefore recommended to the Council that it extend the mandate of UNFICYP for a further six-month period. In accordance with established practice, he had undertaken consultations on the matter with the parties concerned, and would report to the Council as soon as they had been completed.²⁸ He underlined that the Force was facing a chronic and ever-deepening financial crisis, which imposed an inordinately heavy burden on the countries contributing troops to the Force, and suggested that the United Nations part of the cost of the Force be financed from assessed contributions.

With regard to his mission of good offices, the Secretary-General informed the Security Council that the contacts aimed at resuming the intensive talks between the two parties had not yet been concluded. He intended to submit a further report as soon as that had happened.

At its 2928th meeting, on 15 June 1990, the Council included the report of the Secretary-General in its agenda and considered the item at the same meeting. The Council invited the representatives of Cyprus, Greece and Turkey, at their request, to participate in the discussion without the right to vote. As agreed during its prior consultations, the Council also invited Mr. Özer Koray to participate in the meeting under rule 39 of the Council's provisional rules of procedure.

The President (France) drew the attention of the members to a draft resolution that had been prepared in

²⁸ On 13 June 1990, the Secretary-General informed the Security Council that the Government of Cyprus as well as the Governments of Greece and the United Kingdom had indicated their concurrence with the proposed extension of the UNFICYP mandate (S/21340/Add.1). He added that the Government of Turkey had indicated that it concurred with and supported the position of the Turkish Cypriot side, which was that draft resolution S/21357 was unacceptable as a basis for extending the stationing of UNFICYP, and that its stand would be expounded at the next meeting of the Security Council.

the course of the Council's prior consultations.²⁹ The draft resolution was then put to the vote and adopted unanimously as resolution 657 (1990), which reads:

The Security Council,

Taking note of the report of the Secretary-General on the United Nations operation in Cyprus of 31 May and 13 June 1990,

Taking note also of the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 June 1990,

Reaffirming the provisions of resolution 186 (1964) of 4 March 1964 and other relevant resolutions,

1. *Extends once more* the stationing in Cyprus of the United Nations Peacekeeping Force established under resolution 186 (1964) for a further period ending on 15 December 1990;

2. *Requests* the Secretary-General to continue his mission of good offices, to keep the Security Council informed of the progress made and to submit a report on the implementation of the present resolution by 30 November 1990;

3. *Calls upon* all the parties concerned to continue to cooperate with the Force on the basis of the present mandate.

The representatives of Canada, the United Kingdom and Finland underlined the vital role played by UNFICYP in helping to create the necessary conditions for a negotiated settlement to the Cyprus problem. They expressed concern, however, at the precarious state of the Force's finances, noting that it was the only United Nations peacekeeping operation financed from voluntary contributions. They fully supported the proposal made by the Secretary-General in his report that the United Nations share of the cost of UNFICYP should be financed from assessed contributions.³⁰

The representative of the Union of Soviet Socialist Republics stated that, while his country recognized that UNFICYP had serious financial difficulties, it attributed that to the fact that the Cyprus problem had remained unresolved for an inadmissibly long time. The problems relating to financing of the Force could hardly be regarded in isolation from other

crucial aspects of the United Nations peacekeeping operation in Cyprus. He stressed that one should not lose sight of the specific nature and characteristics of that particular peacekeeping operation, as reflected in resolution 186 (1964), by which it was established. He recalled that his country had supported that resolution, taking into account the stance of Cyprus and the fact that the adoption of the resolution would not result in financial obligations being imposed on Member States not involved in the Force. The problem of financing had to be resolved, therefore, in accordance with the procedures laid down in that resolution. It was on that basis, he stated, that his country had not opposed the Secretary-General's appeal to Member States "for a voluntary financial contribution" so as "to enable UNFICYP to continue to carry out the functions for which it was established". In conclusion, he stressed that, in his Government's view, the understanding with regard to the financial procedures laid down in resolution 186 (1964) still held good and should not be undermined: the practice established by the decisions of the Council more than 25 years before had, in its view, become binding and should continue to be followed.³¹

The representative of Cyprus stressed that the Council's decisions to renew the mandate of UNFICYP and that of the good offices mission of the Secretary-General were indispensable to the search for a solution to the question of Cyprus. He urged, however, that the Council not limit itself to the renewal of mandates and the occasional presidential statement. Rather, it should demand from Turkey more respect for its resolutions and the principles of the Charter, the abandonment of illegal preconditions and tangible proof of the political will to embark on a meaningful dialogue.³²

The representative of Greece considered that the present crisis had three aspects: political, institutional and financial. The deadlock in the talks was, he said, of a political nature. It concerned a substantive problem that had arisen from the insistence by the head of the Turkish Cypriot community on the notion of a separate people in Cyprus and on promoting the idea of a new entity, which the Security Council had explicitly condemned by the Council in its resolutions 367 (1975), 541 (1983) and 550 (1984). The institutional aspect of the crisis was illustrated, he stated, by the

²⁹ S/21357.

³⁰ S/PV.2928, pp. 5-7 (Canada); pp. 7-8 (United Kingdom); and pp. 8-10 (Finland).

³¹ *Ibid.*, pp. 11-13.

³² *Ibid.*, pp. 13-21.

fact that the Security Council was unable to react more effectively to the continued presence in Cyprus of 35,000 Turkish occupying troops, in violation of the Charter of the United Nations. He urged the Council to implement paragraph 5 of resolution 649 (1990) and call upon Turkey to refrain from any action that could aggravate the situation. With regard to the financial aspects of the crisis, he reiterated Greece's position that the Force should be financed in the same way as that employed for other United Nations peacekeeping forces: through assessed contributions.³³

Mr. Koray stated that the talks had been stalled because of the preconditions set and the intransigent attitude displayed by the Greek Cypriot leader. In an effort to break out of the impasse, the Turkish Cypriot side had made substantive proposals that would enable the two sides to move towards a federal solution and establish their relationship on a new pattern based on respect for each other's existence, integrity and political equality. An essential element of a negotiated settlement based on federation was the separate right of the two peoples to decide freely their future political status — in other words the right to self-determination. Mr. Koray stated that all those proposals were reflected in the Secretary-General's report of 8 March 1990.³⁴ In the report, the Secretary-General called for acknowledgement of the political equality of the two peoples in the federation, which was to be bicomunal as well as bizonal in nature, and explained that the objective of his mission of good offices was a new constitution for Cyprus that would regulate relations between the two sides. Subsequent to the consideration of the report, the Council adopted resolution 649 (1990) and confirmed the legal and political equality of the Turkish Cypriots and Greek Cypriots. In the light of the resolution, the Greek Cypriots had no authority in law, or in fact, to represent Cyprus as a whole. Furthermore, it was important for third parties to treat the Greek Cypriot administration and the "Turkish Republic of Northern Cyprus" equally and fairly, in accordance with resolution 649 (1990). Mr. Koray accused the Greek Cypriot side of creating tension and mistrust in the island, in violation of paragraph 5 of resolution 649 (1990), by aggressive development of its military forces and a massive campaign to internationalize the Cyprus issue. Turning to the question of the extension of the UNFICYP mandate, he

added that the Turkish Cypriot side could not accept the resolution just adopted for the reasons stated in previous Council debates on the matter. Nonetheless, it accepted the presence of UNFICYP on its territory on the same basis as that stated in December 1989. He stressed that the UNFICYP mandate needed to be reappraised, because it was not compatible with the currently prevailing circumstances, which had undergone radical change.³⁵

The representative of Turkey stated that the resolution adopted by the Council was unacceptable, for the reasons outlined by Mr. Koray. The early resumption of the talks was the only practical way to reach a settlement that conformed to the guidelines restated in resolution 649 (1990). From such a settlement, a "Government of Cyprus" would eventually emerge and therefore that label should not be used to designate the Government of either one of the two existing states in the island. Commenting on the issue of the "so-called Turkish settlers", he stated that since the respective sizes of the Turkish Cypriot and Greek Cypriot populations was irrelevant to the final settlement, Turkey had no reason to attempt to alter the demographic balance in Cyprus. He expressed his Government's disappointment at the way the Greek Cypriots had been violating paragraph 5 of the resolution, which called upon the parties to refrain from action that could aggravate the situation. He accused the Greek Cypriots of continuing to wage political and economic warfare against the Turkish Cypriots, pointing to the lack of their sincerity at the negotiations to establish a federation of equals in Cyprus.³⁶

At the same meeting, the President of the Council stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:³⁷

The members of the Council recall Security Council resolution 649 (1990) of 12 March 1990 and other relevant resolutions. They express again their regret that, in the more than 25 years since the establishment of the United Nations Peacekeeping Force in Cyprus, it has not been possible to achieve a negotiated settlement for all aspects of the Cyprus problem. They reiterate their full support for the current effort of

³³ *Ibid.*, pp. 22-28.

³⁴ S/21183.

³⁵ S/PV.2928, pp. 29-42.

³⁶ *Ibid.*, pp. 42-50.

³⁷ S/21361.

the Secretary-General in carrying out his mission of good offices concerning Cyprus.

The members of the Council also recall the statement made by the President on 30 May 1990 on United Nations peacekeeping operations. They reiterate their view expressed in that statement that peacekeeping operations must be launched and maintained on a sound and secure financial basis. They therefore express their concern at the chronic and ever-deepening financial crisis facing the Force, as described in the Secretary-General's report and in his letter of 31 May 1990 (S/21351) addressed to all States Members of the United Nations, and they support his appeal for financial contributions which would enable the Force to continue to carry out the functions for which it was established.

**Decision of 19 July 1990 (2930th meeting):
statement by the President**

On 12 July 1990, pursuant to resolution 649 (1990), the Secretary-General submitted to the Council a report on his mission of good offices in Cyprus,³⁸ in which he reported on the progress made in resuming the intensive talks and in developing an agreed outline of an overall agreement in line with that resolution. The Secretary-General observed that the adoption of resolution 649 (1990), which confirmed the essential elements of the solution of the Cyprus problem, and the acceptance by both sides of all aspects of that resolution, suggested that the two leaders could now proceed with the work agreed to in June 1989. He stated that it was important that the two leaders meet with him as soon as possible to agree on an outline and to launch the negotiation of an overall agreement. However, to ensure that such a meeting yielded the intended results, he proposed that separate discussions be held in Nicosia to prepare the ground. During those discussions, he would again submit to the two leaders the headings that had emerged from their talks as the basis for organizing the work of arriving at an agreed outline. Further, in line with paragraph 4 of resolution 649 (1990), he intended to make suggestions, as necessary, to assist the two sides in arriving at an agreed outline. Once an agreed outline was within reach, he would invite the two leaders to meet with him personally to complete the task and to launch negotiations on an overall agreement.

By a letter dated 18 July 1990 addressed to the President of the Security Council,³⁹ the representative of Cyprus transmitted a letter dated 17 July 1990 from

³⁸ S/21393.

³⁹ S/21399.

the Foreign Minister of Cyprus, requesting the convening of a meeting of the Council. In his letter, the Foreign Minister referred to recent developments regarding the city of Varosha and expressed his grave concern at information that indicated that the military status quo in the fenced area of Varosha would be altered in a way intended to facilitate the opening of the area to settlement by people other than its inhabitants. He stressed that that would constitute a violation of resolution 550 (1984), which could endanger the maintenance of the ceasefire and have serious repercussions on peace and security in the area. It was the position of his Government that the relevant provisions of resolution 550 (1984) should be fully implemented by transferring the area to the administration of the United Nations and allowing the rightful owners of the city to return to their homes and properties. In an annexed letter dated 18 July addressed to the President of the Security Council, the representative of Cyprus stated that the threatened change to the status quo had just taken place, making the taking of urgent action by the Security Council, in order to restore the status quo ante, imperative.

At its 2930th meeting, held on 19 July 1990, in accordance with the understanding reached in its prior consultations, the Council included in its agenda the Secretary-General's report and the letter from the representative of Cyprus.

At the same meeting, the President of the Council (Malaysia) stated that he had been authorized to make the following statement on behalf of the Council following consultations among the members of the Council:⁴⁰

The members of the Council have considered the Secretary-General's report on his mission of good offices in Cyprus. They are unanimous in giving their full support to the Secretary-General's current effort to assist the two communities to reach a just and lasting solution. They agree with his assessment of recent developments, share his concern about the lack of progress, and endorse his plan of action.

The members of the Council reaffirm resolution 649 (1990) of 12 March 1990, which was accepted by both sides, and reiterate the importance they attach to an early negotiated settlement of the Cyprus problem.

The members of the Council call on the leaders of the two communities to cooperate fully with the Secretary-General on the basis of his plan of action and to arrive, on an urgent basis, at an agreed outline of an overall agreement. In line with

⁴⁰ S/21400.

resolution 649 (1990), they request the Secretary-General to make suggestions, as necessary, to assist the two communities in arriving at an agreed outline.

The members of the Council again call on the parties concerned to refrain, especially at this sensitive stage in the process, from any action or statement that could aggravate the situation. They express their concern over any action which contravenes paragraph 5 of resolution 550 (1984) of 11 May 1984 and paragraph 5 of resolution 649 (1990). They call upon both communities to concentrate their efforts on promoting mutual confidence and reconciliation.

The members of the Council request the Secretary-General to inform the Council by 31 October 1990 about the implementation of his plan of action.

Decision of 9 November 1990: statement by the President

On 7 November 1990, pursuant to the presidential statement of 19 July 1990, the Secretary-General submitted to the Security Council a further report on his mission of good offices in Cyprus.⁴¹ He reported that the negative atmosphere had persisted, with each side objecting to actions and statements by the other, which had detracted from his effort. Since mid-October, however, his Special Representative and a Director in the Office of the Secretary-General had met several times with each leader in Nicosia to explore, in line with his plan of action, the possibility of bringing together the elements of an outline with which the two sides could agree. Subsequently, they had visited Athens and Ankara, where they had discussed his current effort with the Greek and Turkish Foreign Ministers. As those discussions had not yet been completed, he proposed to submit a further progress report to the Council within three months.

On 9 November 1990, following consultations among the members of the Council, the President issued the following statement on behalf of the Council:⁴²

The members of the Council have considered the Secretary-General's report on his mission of good offices in Cyprus. They reiterate their full support of the Secretary-General's current effort and reaffirm their endorsement of his plan of action to complete an outline of an overall agreement covering the critical substantive issues specified in paragraph 7 of his report to the Council of 8 March 1990.

⁴¹ S/21932.

⁴² S/21934.

The members of the Council affirm their resolution 649 (1990) of 12 March 1990.

The members of the Council stress the urgent need to arrive at a negotiated settlement of the Cyprus problem and express their regret that an outline of an overall agreement has not yet been completed. They call for renewed political will and commitment by all parties to facilitate a process of negotiations.

The members of the Council request the parties concerned to extend to the Secretary-General during the coming period their full cooperation and to refrain from taking any action or making any public statement that could further complicate his efforts.

The members of the Council request the Secretary-General to report to the Council by 15 February 1991 on the outcome of his effort to arrive at an agreed outline of an overall agreement and to provide the Council with his assessment of the situation at that time. They will examine closely the Secretary-General's report and assessment, particularly as they relate to resolution of the substantive issues in the outline.

Decision of 14 December 1990 (2969th meeting): resolution 680 (1990)

On 7 December 1990, pursuant to resolution 657 (1990), the Secretary-General submitted to the Council a report on the United Nations operation in Cyprus,⁴³ covering developments from 1 June to 30 November 1990.⁴² The Secretary-General reported that the continued presence of UNFICYP in the island remained indispensable to achieve the objectives set by the Council. He noted that the number of ceasefire violations had slightly increased and the transfer by the Government of Turkey of the responsibility for the security of Varosha to the Turkish Cypriot forces had caused an increase in political tensions. He recommended to the Council that it extend the mandate of UNFICYP for a further six-month period⁴⁴ and drew attention to the Force's ever-deepening financial crisis.

The Secretary-General informed the Council that, in November 1990, he had dispatched a Secretariat

⁴³ S/21981.

⁴⁴ The Secretary-General subsequently informed the Security Council that the Governments of Cyprus, Greece and the United Kingdom had indicated their concurrence with the proposed extension of the UNFICYP mandate, while the Government of Turkey indicated that it concurred with and supported the position of the Turkish Cypriot side, which was that draft resolution S/22000 was unacceptable as the basis for such an extension, and that its stand would be expounded at the forthcoming meeting of the Security Council (S/21981/Add.1).

review team to Cyprus to examine the operations and organization of UNFICYP, in particular the continued relevance of the functions entrusted to the Force by the Council in resolution 164 (1964) and subsequent resolutions and to examine the possibility of reducing the Force's strength. The team had concluded that the current functions of UNFICYP remained valid, its deployment along the buffer zone was necessary, and that the Force's presence on the line had been stretched as far as it could be and that no further reductions in that deployment were possible without impairing its ability to implement its current functions. The cost-cutting measures implemented by UNFICYP over the past 10 years had reached their limit; any further cuts could impair the effectiveness of the Force. The team had considered the possibility of converting UNFICYP wholly or in part to an observer mission, but concluded that the prevailing situation on the ground did not make that a viable option. Owing to the lack of agreement between UNFICYP and the two sides regarding the complete delineation of the ceasefire lines and the lack of agreement on the use and control of the buffer zone, the Force had to retain both reactive and preventive capabilities. The team had concluded that a reduction of the number of infantry battalions from four to three, while retaining the current level of personnel on the line, was feasible. The team noted that UNFICYP was the only United Nations peacekeeping operation that was not financed from assessed contributions but that, in accordance with resolution 186 (1964), the costs of the Force were met by the Governments providing the contingents and the voluntary contributions received for this purpose by the United Nations. This arrangement for financing a peacekeeping force had proved most unsatisfactory and particularly unfair to the troop-contributing countries, which had had to shoulder a disproportionate share of the cost. In addition, the continuous shortfall in voluntary contributions had caused the United Nations to be 10 years in arrears in paying the troop contributors the sums due for additional expenses, for which the United Nations was responsible. It concluded that continued reliance on voluntary contributions would jeopardize the future of UNFICYP, and that the recommended organizational changes to the Force could be implemented only if the method of its financing was changed to assessed contributions. The Secretary-General considered the team's findings and recommendations to be sound and indicated that he

intended to discuss their implementation with the troop-contributing Governments.⁴⁵

At its 2969th meeting, on 14 December 1990, the Council included the report of the Secretary-General in its agenda and considered the item at the same meeting. The Council invited the representatives of Cyprus, Greece and Turkey, at their request, to participate in the discussion without the right to vote. As agreed during its prior consultations, the Council also invited Mr. Özer Koray to participate in the meeting under rule 39 of the Council's provisional rules of procedure.

The President (Yemen) drew the attention of the members to a draft resolution that had been prepared in the course of the Council's prior consultations.⁴⁶ He also drew the attention of the members to a letter dated 12 December 1990 from the representatives of Australia, Austria, Denmark, Ireland and Sweden addressed to the Secretary-General,⁴⁷ expressing grave concern at the continuing massive shortfall in the voluntary contributions required to provide UNFICYP with adequate funding, and urging the members of the Council to support a draft resolution⁴⁸ that would, in their view, solve the problem.

The Council then commenced the voting procedure on the draft resolution before it. Speaking before the vote, the representative of Canada recalled his country's participation in UNFICYP since its inception in 1964 and reiterated its continuing commitment. He observed, however, that the financing of UNFICYP through a system of voluntary contributions had resulted in the troop-contributing countries, including Canada, bearing an inordinate share of the costs of the Force in the absence of sufficient funds. After two years of negotiation and discussion, Canada and some other members of the Council had circulated a draft resolution that would put the financing of UNFICYP on a more sound and secure basis through assessed contributions. At the request of a few members of the Council, Canada had asked for the voting on that draft to be postponed until the following week to allow time for further consultations. Since the financial crisis of UNFICYP had not been

⁴⁵ For details, see the report of the Secretariat review team on UNFICYP (S/21982).

⁴⁶ S/22000.

⁴⁷ S/21996.

⁴⁸ S/21988.

dealt with before the meeting scheduled to renew the mandate, Canada would abstain from the vote on the renewal.

The Council then voted on the draft resolution, which was adopted by 14 votes in favour, none against and 1 abstention (Canada) as resolution 680 (1990), which reads:

The Security Council,

Taking note of the report of the Secretary-General on the United Nations operation in Cyprus of 7 and 14 December 1990,

Taking note also of the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 December 1990,

Reaffirming the provisions of resolution 186 (1964) of 4 March 1964 and other relevant resolutions,

1. *Extends once more* the stationing in Cyprus of the United Nations Peacekeeping Force established under resolution 186 (1964) for a further period ending on 15 June 1991;

2. *Requests* the Secretary-General to continue his mission of good offices to keep the Security Council informed of the progress made and to submit a report on the implementation of the present resolution by 31 May 1991;

3. *Calls upon* all the parties concerned to continue to cooperate with the Force on the basis of the present mandate.

Speaking after the vote, the representative of Cyprus welcomed the resolution and reiterated his country's pledge of full cooperation with the Secretary-General and with UNFICYP. He expressed his sympathy with the Canadian initiative and stated that the Government of Cyprus had always been preoccupied with the chronic financial problem of UNFICYP. He stressed that any possible reduction of the Force must not reduce its effectiveness. He described the recent visits by the Prime Minister and Foreign Minister of Turkey to the occupied part of Cyprus as new and serious provocations, constituting blatant violations of Council resolutions 541 (1983) and 550 (1984). This also showed the other side's serious disregard for the appeals of the Secretary-General and the Council, who had called upon the parties to refrain from actions aggravating the situation. Recent statements by the Turkish Cypriot leadership showed a return to the discredited thesis of "two peoples" and their "separate rights to self-

determination". The Cyprus question was an international problem of invasion and occupation and the same considerations and principles that were applicable on Kuwait were equally applicable to Cyprus.⁴⁹

The representative of Greece welcomed the renewal of the UNFICYP mandate and expressed the hope that the following week the Council would be able to adopt a resolution to resolve the chronic financial crisis facing UNFICYP by changing its methods of financing from voluntary to assessed contributions. He also expressed his Government's concern that the reduction proposed by the Secretariat review team of infantry battalions from four to three should in no way reduce the effectiveness of the Force. Sixteen years after the Turkish invasion of Cyprus, the relevant United Nations resolutions had yet to be implemented. He accused Turkey and the Turkish Cypriot side of undermining the agreed basis of the intercommunal negotiations, jeopardizing the efforts of the Secretary-General and further aggravating the already grave situation in Cyprus. It was, therefore, indispensable that the Council assume a more active role in the search for a solution to the Cyprus problem and contribute more effectively to the Secretary-General's ongoing efforts.⁵⁰

Mr. Koray regretted that the high-level meetings in New York in February and March 1990 had failed to produce a favourable outcome, owing to the rejection by the Greek Cypriot leader of the guiding principles of equality, bizonality and true partnership based on friendly relations and mutual respect for each other's sovereignty and integrity. He outlined three issues that had continued to threaten the situation in Cyprus: the unilateral Greek Cypriot application for membership in the European Community; the economic and other restrictions imposed on northern Cyprus; and the rearmament efforts of the Greek Cypriot side. He rejected the Greek Cypriot attempts to draw parallels between the situations in Kuwait and Cyprus and claims over the territory of Varosha as untenable and provocative. On the question of the extension of the mandate of UNFICYP, he reiterated that the resolution, which had been just adopted, was unacceptable since it ignored the existing realities in Cyprus; nevertheless, the Government of the "Turkish Republic of Northern

⁴⁹ S/PV.2969, pp. 8-15.

⁵⁰ *Ibid.*, pp. 16-20.

Cyprus” accepted the presence of UNFICYP on its territory.⁵¹

The representative of Turkey stated that his Government, for reasons well known to the Council, could not accept the resolution that had just been adopted. Turkey supported the political equality of the Turkish Cypriot people and their right to determine their own future. The Greek Cypriot unilateral application for membership in the European Community and rearmament effort were incompatible with the efforts to create an atmosphere of trust and good will in Cyprus, and violated paragraph 5 of resolution 649 (1990) by aggravating the already tense situation on the island. He criticized the Greek Cypriot’s precondition for resuming the negotiations, namely that the Turkish Cypriots renounce some of their basic rights, including their right to self-determination.⁵²

**Decision of 21 December 1990 (2971st meeting):
resolution 682 (1990)**

At its 2971st meeting, on 21 December 1990, the Council resumed its consideration of the item and included in its agenda the Secretary-General’s report on the United Nations operation in Cyprus,⁵³ a letter dated 12 December 1990 from the representatives of Australia, Austria, Denmark, Ireland and Sweden,⁵⁴ and the report of the Secretariat review team on the United Nations Peacekeeping Force in Cyprus.⁵⁵

The President (Yemen) drew the attention of the members of the Council to a draft resolution,⁵⁶ to which he made oral amendments before it was put to the vote. It was adopted unanimously as resolution 682 (1990), which reads:

The Security Council,

Recalling its resolution 186 (1964) of 4 March 1964 establishing the United Nations Peacekeeping Force in Cyprus for an initial period of three months,

Recalling also its subsequent resolutions extending the stationing in Cyprus of the United Nations Peacekeeping Force, most recently its resolution 680 (1990) of 14 December 1990,

Reaffirming the statement of the President of the Council of 30 May 1990, in which the members emphasized that United Nations peacekeeping operations must be launched and maintained on a sound and secure financial basis,

Concerned about the chronic and ever-deepening financial crisis facing the Force, as described in the report of the Secretary-General and as expressed in the statement of the President of the Council of 15 June 1990,

1. *Decides* to examine the problem of the costs and financing of the United Nations Peacekeeping Force in Cyprus in all its aspects, bearing in mind the financial crisis facing the Force and the report of the Secretariat Review Team of 7 December 1990, and to report by 1 June 1991 on alternative arrangements for meeting the costs of the Force for which the United Nations is responsible, in order to place the Force on a sound and secure financial basis;

2. *Also decides* to consider, not later than early June 1991, comprehensively and favourably the results of the examination mentioned in paragraph 1 above, with a view to putting into effect an alternative method of financing the Force, which could, *inter alia*, include the use of assessed contributions, simultaneously with the extension of the mandate on or before 15 June 1991.

The representative of Canada noted that all the UNFICYP troop contributors and the Secretariat review team had endorsed the Secretary-General’s call that assessed contributions should be used to meet the costs for which the United Nations was responsible. He recalled that together with the other troop-contributing countries, Canada had continued its efforts to convince certain permanent members of the Council — members with a special responsibility for peace and security — that the time had come to solve the financial crisis of UNFICYP. A draft resolution, which would have committed the Council to replacing voluntary contributions with assessed contributions, effective from the next mandate renewal in June 1991, had been prepared and circulated among the Council members.⁵⁷ In the face of the reluctance of certain permanent members to commit themselves to sharing in the cost of the Force, the draft resolution had twice been revised, resulting in the resolution that the Council had adopted.⁵⁸

The representative of Finland stated that his country, as a troop contributor, had consistently supported the Secretary-General’s efforts to bring about a change in the present system of financing and had cooperated with other troop-contributing countries

⁵¹ *Ibid.*, pp. 21-34.

⁵² *Ibid.*, pp. 34-40.

⁵³ S/21981 and Add.1.

⁵⁴ S/21996.

⁵⁵ S/21982.

⁵⁶ S/21988/Rev.2.

⁵⁷ S/21988.

⁵⁸ S/PV.2971, pp. 3-10.

in order to achieve a change from voluntary to assessed contributions. He expressed the hope that this process would lead to an irreversible change in June 1991.⁵⁹

The representative of the United Kingdom stated that his delegation regretted that the Council had not been able to “go the whole way”, but believed that the resolution just adopted was a big step forward. His delegation also welcomed the fact that the Council had at last committed itself to finding a solution to the problem of the finances of UNFICYP. In view of the fact that the Council might soon have before it proposals for much larger peacekeeping operations in Western Sahara and Cambodia, it was simply not equitable or acceptable to leave the anomalous and unsatisfactory arrangements for financing UNFICYP unchanged.⁶⁰

The representative of China pointed out that the decisions governing the establishment, composition and financial arrangements for UNFICYP had been made in special circumstances existing at that time and the Force, therefore, had its own unique features. If its financial arrangements were to be altered, questions of reconsidering and changing other aspects of the Force’s arrangements as a whole might also arise. An appropriate solution could be reached only through full consultations. The representative emphasized that, although his delegation believed that consultations should continue, China was not committed to any change in the financing of UNFICYP.⁶¹

The representative of the Union of Soviet Socialist Republics reiterated that the financing arrangements for UNFICYP could not be considered apart from its other fundamental aspects. He recalled that his delegation had supported resolution 186 (1964) by which UNFICYP was established in view of the fact that the resolution would not impose financial obligations on States that did not participate in the Force. He noted that the financing of peacekeeping operations in general had become an acute problem and that the large States, the major contributors, including the Soviet Union, paid a considerable amount for peacekeeping operations around the world. He stressed that the resolution adopted by the Council did not prejudice the question of UNFICYP financing and that mandatory financing would not be automatically

applied to the Force. In conclusion, he emphasized that the problem of a settlement in Cyprus should be at the forefront of the Council’s attention.⁶²

The representative of the United States stated that his country fully supported UNFICYP and considered it to be an integral part of the Secretary-General’s efforts to facilitate a lasting and just solution to the Cyprus problem. He also believed that a solution to the problem of funding shortfalls caused by the decline in voluntary donations to UNFICYP had to be found. While the funding problem was being addressed, the Council should also review means to reduce the operating expenses of the Force without undermining its ability to perform its mission.⁶³

The representative of France stated that while peacekeeping operations were a valuable instrument — enabling the United Nations to carry out the duties entrusted to it under the Charter in regard to the maintenance of international peace and security — they should always be temporary and could not be regarded as a substitute for peace or for the quest for a negotiated political settlement. Therefore, in dealing with the financial difficulties facing UNFICYP, the Council should avoid any decision that might strengthen an already too pronounced trend towards institutionalizing the Force and making it permanent. However, his delegation was open to an in-depth review of the financing of the Force that would cover also the functioning and organizational aspects of the Force.⁶⁴

Decision of 28 March 1991: statement by the President

On 28 March 1991, following consultations among the members of the Council, the President made the following statement on behalf of the Council:⁶⁵

The members of the Security Council have considered the Secretary-General’s report on his mission of good offices in Cyprus. They are unanimous in expressing their full support of his current efforts.

The members of the Council agree with the Secretary-General’s assessment of the current situation, including the main issues that remain to be clarified before an outline of an overall settlement can be completed, and encourage him to continue his

⁵⁹ Ibid., pp. 9-11.
⁶⁰ Ibid., pp. 11-12.
⁶¹ Ibid., pp. 13-14.

⁶² Ibid., pp. 15-17.
⁶³ Ibid., pp. 17-18.
⁶⁴ Ibid., pp. 18-20.
⁶⁵ S/22415.

efforts along the lines he has proposed by making suggestions to facilitate the discussions.

The members of the Council reaffirm Council resolution 649 (1990) of 12 March 1991 and the mandate for the Secretary-General's mission of good offices as set out in resolution 367 (1975) of 12 March 1975; and recall that resolution 649 (1990) reaffirmed in particular resolution 367 (1975) as well as the Council's support for the high-level agreements of 1977 and 1979 between the leaders of the two communities. This should continue to serve as the basis for the Secretary-General's effort to arrive at an agreed outline.

The members of the Council urge all concerned to act in a manner consistent with resolution 649 (1990), to cooperate fully with the Secretary-General and to continue the discussions that have taken place over the past few months in order to resolve without delay the outstanding issues.

The members of the Council welcome the Secretary-General's intention to submit a further report by early July 1991 on his effort to arrive at an agreed outline of an overall settlement. The members of the Council will decide, in the light of the situation at that time, on any further measures for proceeding that may be necessary.

**Decision of 14 June 1991 (2992nd meeting):
resolution 697 (1991)**

On 31 May 1991, pursuant to resolution 680 (1990), the Secretary-General submitted to the Council a report on the activities of the United Nations operation in Cyprus,⁶⁶ covering developments from 1 December 1990 to 31 May 1991. The Secretary-General stated that the continued presence of UNFICYP in the island remained indispensable to achieve the objectives set by the Council, and recommended that the Council extend its mandate for a further six-month period.⁶⁷ He noted that UNFICYP was facing a chronic and ever-deepening financial crisis and suggested once again that the United Nations

⁶⁶ S/22665.

⁶⁷ In an addendum dated 3 June 1991 (S/22665/Add.1), the Secretary-General submitted to the Security Council a map of the UNFICYP deployment on May 1991. The Secretary-General subsequently informed the Council that the Governments of Cyprus, Greece and the United Kingdom had indicated their concurrence with the proposed extension of the UNFICYP mandate, while the Government of Turkey had stated that it concurred with and supported the position of the Turkish Cypriot side, which was that draft resolution S/22700 was unacceptable as a basis for such an extension, and that its stand would be expounded at the forthcoming meeting of the Security Council (S/22665/Add.2).

share of the Force's costs should be financed from assessed contributions.

At its 2992nd meeting, on 14 June 1991, the Council included the report of the Secretary-General in its agenda and considered the item at the same meeting. The Council invited the representatives of Cyprus, Greece and Turkey, at their request, to participate in the discussion without the right to vote. As agreed during its prior consultations, the Council also invited Mr. Osman Ertug to participate in the discussion under rule 39 of its provisional rules of procedure.

The President (Côte d'Ivoire) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁶⁸ The draft resolution was then put to the vote and adopted unanimously as resolution 697 (1991), which reads:

The Security Council,

Taking note of the report of the Secretary-General on the United Nations operation in Cyprus of 31 May and 3 and 14 June 1991,

Taking note also of the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 June 1991,

Reaffirming the provisions of resolution 186 (1964) of 4 March 1964 and other relevant resolutions,

1. *Extends once more* the stationing in Cyprus of the United Nations Peacekeeping Force established under resolution 186 (1964) for a further period ending on 15 December 1991;

2. *Requests* the Secretary-General to continue his mission of good offices, to keep the Security Council informed of the progress made and to submit a report on the implementation of the present resolution by 30 November 1991;

3. *Calls upon* all the parties concerned to continue to cooperate with the Force on the basis of the present mandate.

The representative of Cyprus, welcoming the extension of the Force's mandate, called for a swift conclusion to the Council's deliberations on the financing of UNFICYP. Rejecting the Turkish proposal for quadrilateral talks on Cyprus, he instead supported convening a conference, presided over by the Secretary-General with the participation of the

⁶⁸ S/22700.

Governments of the permanent members of the Council, Greece, Turkey and Cyprus, and of the two communities in Cyprus. He stated that communal rights were important, but they could not be a motive for the denial of individual rights and freedoms; nor could they be augmented through violations of international law, whether by military occupation, the implantation of settlers or the forcible removal of populations for the purpose of creating homogeneous areas. His delegation believed that a solution for Cyprus, achieved through a demilitarized federal republic without foreign troops and settlers, must provide for the equal security of individual citizens of both communities and of the federal state.⁶⁹

The representative of Greece stated that his Government had hoped, subsequent to the establishment of an informal group of friends of the President, that it would be possible to put into effect an alternative method of financing UNFICYP before 15 June 1990, as was anticipated in resolution 682 (1990). The Government of Greece rejected the Turkish proposal for a high-level quadrilateral meeting and proposed that Turkey should first respond to the Secretary-General's questions regarding territorial adjustments, freedom of settlement, displaced persons, and the structure and functioning of the federal executive. A conference should then be convened under the Secretary-General's chairmanship with the participation of the five permanent members of the Council and Greece, Turkey and Cyprus, as well as the two communities in Cyprus.⁷⁰

Mr. Ertug said that the Turkish Cypriot side had sought to facilitate the process of negotiations within the framework of the Secretary-General's good offices and take advantage of the opportunity created by the adoption of resolution 649 (1990), in which the Council called on the two sides to cooperate, on an equal footing, with the Secretary-General. However, by claiming that equality as expressed in resolution 649 (1990) was limited to the negotiating table, the Greek Cypriots and Greece had clearly ruled out the political equality of the Turkish Cypriots in a future federation. The Turkish Cypriots supported the proposal to hold a quadripartite meeting put forward by Turkey, in the belief that it would inject impetus into the negotiating process and facilitate the Secretary-General's mission

of good offices. Rather than adopting a positive attitude to this proposal, the Greek Cypriot side had stepped up its hostile actions against the Turkish Cypriot people. With a view to promoting mutual trust, his side had put together a package of ideas in the form of stabilization measures, which could be used to supplement an outline for an overall agreement. In connection with the Secretary-General's report, he referred to specific elements that detracted from the balance of the report and indicated that more detailed comments on the report would be conveyed to the Secretariat. Turning to the question of the extension of the mandate of UNFICYP, he reiterated that resolution 697 (1991), which had been just adopted, was unacceptable since it ignored the existing realities in Cyprus and attempted to negate the principle of equality between the two sides; nevertheless, the Government of the "Turkish Republic of Northern Cyprus" would accept the presence of UNFICYP on its territory on the basis of the terms stated in December 1990. He pointed out that the Force's mandate was not compatible with the radically changed conditions in Cyprus and a reappraisal had become necessary.⁷¹

The representative of Turkey pointed out that the President of his country had proposed the quadripartite summit, within the framework of the Secretary-General's good offices, in order to break the present stalemate afflicting the intercommunal talks. On the other hand, the proposal to convene an international conference attended by, among others, the Government of Cyprus and the representatives of the Turkish Cypriots and the Greek Cypriots could not be taken seriously, because it would violate the equality of the two sides. Although the reference in resolution 697 (1991) to the "Government of Cyprus" was not acceptable, his Government had no objection to the extension of the mandate of UNFICYP.⁷²

The representative of Cyprus pointed out that his delegation was participating pursuant to rule 37 of the provisional rules of procedure of the Council. However, by allowing participation under rule 39 of the previous speaker as a representative of the so-called illegal entity of the "Turkish Republic of Northern Cyprus", the Council had become part of a masquerade. Rejecting Mr. Ertug's interpretation of resolution 649 (1990), he emphasized that the

⁶⁹ S/PV.2992, pp. 4-11.

⁷⁰ *Ibid.*, pp. 12-19.

⁷¹ *Ibid.*, pp. 20-30.

⁷² *Ibid.*, pp. 30-36.

resolution clearly denied the right of self-determination of the Turkish Cypriots. As far as the equality of the two sides was concerned, he stated that it merely referred to equality in the negotiating process of the intercommunal talks.⁷³

**Decision of 14 June 1991 (2993rd meeting):
resolution 698 (1991)**

At its 2993rd meeting, on 14 June 1991, held in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled “The costs and financing of the United Nations Peacekeeping Force in Cyprus”.

The President (Côte d’Ivoire) drew the attention of the Council members to a draft resolution submitted by Austria, Belgium and the United Kingdom.⁷⁴ The draft resolution was put to the vote and adopted unanimously as resolution 698 (1991), which reads:

The Security Council,

Recalling its resolution 186 (1964) of 4 March 1964 establishing the United Nations Peacekeeping Force in Cyprus for an initial period of three months,

Recalling its subsequent resolutions extending the mandate of the Force, most recently its resolution 697 (1991) of 14 June 1991,

Also recalling the report of the United Nations Secretariat review team on the United Nations Peacekeeping Force in Cyprus of 7 December 1990 and the recommendations contained therein,

Further recalling its resolution 682 (1990) of 21 December 1990, by which it decided to examine the problem of the costs and financing of the Force in all its aspects, with a view to putting into effect an alternative method of financing simultaneously with the renewal of the mandate on or before 15 June 1991,

Noting with appreciation the recent consultations among Council members on the problem of the costs and financing of the Force in all its aspects, resulting in the report of the Group of Friends of the President of the Security Council of 31 May 1991,

Taking note with concern of the latest report of the Secretary-General on the United Nations Peacekeeping Force in Cyprus, of 31 May and 3 and 14 June 1991, which once again draws attention to the chronic financing problem of the Force,

Reaffirming again the statement of the President of the Security Council of 30 May 1990, in which the members of the

Council emphasized that United Nations peacekeeping operations must be launched and maintained on a sound and secure financial basis,

Stressing the importance of an early agreement on a resolution of the Cyprus problem,

1. *Concludes* that a method of financing of the United Nations Peacekeeping Force in Cyprus is needed which will put the Force on a sound and secure financial basis;

2. *Also concludes* that the question of the costs of the Force needs to be studied further, with the aim of both reducing and clearly defining the costs for which the United Nations should be responsible;

3. *Requests* the Secretary-General to hold consultations with members of the Council, troop-contributing countries and others concerned on the question of costs, taking into account both the report of the United Nations Secretariat review team on the United Nations Peacekeeping Force in Cyprus of 7 December 1990 and the report of the Group of Friends of the President of the Security Council of 31 May 1991, and to report to the Council by 1 October 1991, and undertakes to decide, in the light of this report and by the time of the next extension of the mandate of the Force on or before 15 December 1991, on measures to be taken to put the Force on to a sound and secure financial basis.

**Decision of 28 June 1991: statement by the
President**

On 28 June 1991, following consultations among the members of the Security Council, the President issued the following statement on behalf of the Council:⁷⁵

The members of the Security Council have considered the Secretary-General’s report on his mission of good offices in Cyprus. They are unanimous in reiterating their full support of his current efforts.

The members of the Council recall that they had urged all concerned to cooperate with the Secretary-General and to continue the discussions with a view to resolving without delay the outstanding issues. They regret that, despite the Secretary-General’s efforts, the necessary progress has not yet been made on these outstanding issues.

The members of the Council endorse the Secretary-General’s view that a high-level international meeting, if properly prepared and of adequate duration, could give his efforts the necessary impetus and achieve an agreed outline of an overall settlement. They agree with the Secretary-General’s judgement that before such a meeting could be held, the two sides should be within agreement range on all the issues. They urgently appeal to all concerned to spare no efforts to achieve this goal.

⁷³ Ibid., pp. 37-39.

⁷⁴ S/22697.

⁷⁵ S/22744.

The members of the Council further endorse the Secretary-General's intention to have his aides meet with all concerned during the months of July and August to try to work out a set of ideas that would bring the two sides within agreement range on each of the eight headings of the outline. The members of the Council request the Secretary-General to pursue these consultations urgently and to assist this process by making suggestions.

The members of the Council request the Secretary-General to provide a full report to the Council by the end of August on the substance of the ideas that were discussed and the responses of all concerned, and to provide his assessment of the situation, particularly with regard to whether the conditions are conducive to a successful outcome of a high-level international meeting.

**Decision of 11 October 1991 (3013th meeting):
resolution 716 (1991)**

On 8 October 1991, pursuant to the presidential statement of 28 June 1991, the Secretary-General submitted to the Council a report on his mission of good offices in Cyprus,⁷⁶ providing his assessment of whether the conditions were conducive to a successful outcome of a high-level international meeting.⁷⁷ The Secretary-General informed the Council of the steps taken to prepare for the high-level meeting, under his chairmanship, of Greece, Turkey and the leaders of the two communities. His representatives had held two rounds of discussions with all concerned during July and August 1991, to elaborate a set of ideas that would bring the parties within agreement range. In view of the comprehensive manner in which the ideas had been elaborated during the talks, the leaders of both the communities in Cyprus had agreed that it would be possible to omit the preparation of an outline agreement and proceed directly to an overall framework agreement. President Vassiliou's reaction to the ideas had revealed that, although differences remained to be resolved on a number of issues, the set of ideas as a whole provided the basis for working out an overall framework agreement. In the course of discussions, Mr. Denktash had stated that each side possessed sovereignty which it would retain after the establishment of a federation, including the right of secession, and sought extensive changes in the text of

⁷⁶ S/23121.

⁷⁷ The Secretary-General reminded the members of the Council that he had postponed the submission of the report, which was due in August, until the completion of the two rounds of talks between his representatives and the two parties in Cyprus and Greece and Turkey.

the ideas that was discussed. The introduction of that concept, the Secretary-General noted, would fundamentally alter the nature of a solution based on the existence of one State of Cyprus comprising two communities, provided for in the high-level agreements of 1977 and 1979 and the understandings accepted by both sides and reiterated in successive resolutions of the Council. He remained confident that it would be possible to convene a high-level meeting if a set of ideas which were in keeping with the Security Council resolutions and the high-level agreements of 1977 and 1979 could be finalized. He would therefore request his representatives to resume their discussions early in November with the two sides in Cyprus and Greece and Turkey.

At its 3013th meeting, on 11 October 1991, the Council included the report of the Secretary-General in its agenda. The President (India) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁷⁸ The draft resolution was put to the vote and adopted unanimously as resolution 716 (1991), which reads:

The Security Council,

Having considered the report of the Secretary-General of 8 October 1991 on his mission of good offices in Cyprus,

Noting with satisfaction the progress made in preparing a set of ideas as the basis for arriving at an agreed overall framework agreement on Cyprus,

Noting with concern the difficulties encountered in completing this work,

Regretting that it was not possible to convene the high-level international meeting foreseen in the statement made by the President of the Security Council on 28 June 1991,

1. *Commends* the Secretary-General for his efforts during the past few months, and endorses his report and observations;

2. *Reaffirms* its previous resolutions on Cyprus;

3. *Reaffirms also* its position on the Cyprus question, expressed most recently in resolution 649 (1990) of 12 March 1990 and in line with the high-level agreements of 1977 and 1979 between the parties in Cyprus, that the fundamental principles of a Cyprus settlement are the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus, the exclusion of union in whole or in part with any other country and of any form of partition or secession and the establishment of a new constitutional arrangement for

⁷⁸ S/23137.

Cyprus that would ensure the well-being and security of the Greek Cypriot and Turkish Cypriot communities in a bicomunal and bizonal federation;

4. *Reaffirms further* that its position on the solution to the Cyprus problem is based on one State of Cyprus comprising two politically equal communities as defined by the Secretary-General in the eleventh paragraph of annex I to his report of 8 March 1990;

5. *Calls upon* the parties to adhere fully to these principles and to negotiate within the framework of them without introducing concepts that are at variance with them;

6. *Reaffirms* that the Secretary-General's mission of good offices is with the two communities whose participation in the process is on an equal footing;

7. *Endorses* the Secretary-General's intention to resume discussions in early November with the two parties in Cyprus and Greece and Turkey to complete the set of ideas on an overall framework agreement;

8. *Considers* that convening a high-level international meeting chaired by the Secretary-General in which the two communities and Greece and Turkey would participate represents an effective mechanism for concluding an overall framework agreement on Cyprus;

9. *Requests* the leaders of the two communities and Greece and Turkey to cooperate fully with the Secretary-General and his representatives so that the high-level international meeting can be convened before the end of this year;

10. *Requests* the Secretary-General to report to the Security Council in November 1991 whether sufficient progress has been made to convene the high-level international meeting and, should conditions not be ripe, to convey to the Council the set of ideas as they will have evolved by that time with his assessment of the situation.

Decision of 12 December 1991: statement by the President

On 15 October 1991, pursuant to resolution 698 (1991), the Secretary-General submitted to the Security Council a report on the financing of UNFICYP⁷⁹ based on the results of his extensive consultations with members of the Council, troop-contributing countries and others concerned. Among the possible ways considered in the report to reduce the costs of the Force were the following: reduction of troops; reduction of troops with a seasonal increase; replacement of current troops by less expensive troops and change of structure; transformation of UNFICYP into an observer mission; abolition of humanitarian or economic work

⁷⁹ S/23144.

and the provision of services; examination of operational costs; and examination and rationalization of extra and extraordinary costs. The report also discussed the possibilities of increasing income. The Secretary-General could not recommend any of the options considered in the report. The Secretariat had explored the only remaining possibility — retaining the present structure and composition of the Force but asking the Government with the highest current rate of claims to reduce its request for reimbursement to the level of the other comparable contributor. The Government concerned had indicated that it was prepared to work towards a solution on this basis, but stipulated that its willingness to reduce its claims was conditional on a number of factors, among them that the Security Council decide to move to assessed contributions.

A draft resolution on the financing of UNFICYP was submitted by Austria and the United Kingdom on 10 December 1991,⁸⁰ but was not acted upon by the Council.

On 12 December 1991, following consultations among the members of the Council, the President issued the following statement on behalf of the Council:⁸¹

In the light of the discussion at the informal consultations of members of the Security Council, it was concluded that the necessary agreement did not currently exist in the Council for a decision to be adopted on a change in the financing of United Nations Peacekeeping Force in Cyprus. The members of the Council agreed to keep this issue under urgent review.

Decision of 12 December 1991 (3022nd meeting): resolution 723 (1991)

On 30 November 1991, pursuant to resolution 697 (1991), the Secretary-General submitted to the Security Council a report on the United Nations operation in Cyprus,⁸² covering developments from 1 June to 30 November 1991. The Secretary-General stated that the continued presence of the Force in the island remained indispensable; therefore, he recommended that the Council extend its mandate for a further six months.⁸³ Finally, he again drew attention to

⁸⁰ S/23277.

⁸¹ S/23284.

⁸² S/23263.

⁸³ The Secretary-General subsequently informed the Council that the Governments of Cyprus, Greece and the

the financial crisis facing UNFICYP and reiterated his belief that the United Nations share of its costs should be financed from assessed contributions.

At its 3022nd meeting, held on 12 December 1991 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda and considered the item at the same meeting. The Council invited the representatives of Canada, Cyprus, Greece and Turkey, at their request, to participate in the discussion without the right to vote. As agreed during its prior consultations, the Council also invited Mr. Osman Ertug to participate in the meeting under rule 39 of the Council's provisional rules of procedure.

The President (Union of Soviet Socialist Republics) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁸⁴ The draft resolution was then put to the vote and adopted unanimously as resolution 723 (1991), which reads:

The Security Council,

Taking note of the report of the Secretary-General on the United Nations operation in Cyprus of 30 November and 12 December 1991,

Also taking note of the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 December 1991,

Reaffirming the provisions of resolution 186 (1964) of 4 March 1964 and other relevant resolutions,

1. *Extends once more* the stationing in Cyprus of the United Nations Peacekeeping Force established under resolution 186 (1964) for a further period ending on 15 June 1992;

2. *Requests* the Secretary-General to continue his mission of good offices, to keep the Security Council informed

United Kingdom had indicated that they concurred with the proposed extension of the UNFICYP mandate; however, the Government of Turkey concurred with and supported the position of the Turkish Cypriot side, which was that draft resolution S/23281 was unacceptable as a basis for the extension, and that its stand would be expounded at the forthcoming meeting of the Security Council (S/23263/Add.1).

⁸⁴ S/23281.

of the progress made and to submit a report on the implementation of the present resolution by 31 May 1992;

3. *Calls upon* all the parties concerned to continue to cooperate with the Force on the basis of the present mandate.

Speaking after the vote, the representatives of Austria and Canada recalled that, by resolution 698 (1991), the Council had undertaken to decide, by the time of the next extension of the UNFICYP mandate on or before 15 December 1991, on measures to put the Force on a secure financial basis. By resolution 723 (1991), which had just been adopted, the Council extended the mandate of the Force without putting it on such a basis. As most of the permanent members had once again opposed the use of assessed contributions to finance UNFICYP, the Council had failed to fulfil its own undertaking as contained in resolution 698 (1991). The representatives placed on record the position of their respective Governments that the essential principle of using assessed financing for peacekeeping operations, in accordance with Article 17(2) of the Charter, ought to be maintained and that such a system of financing should be extended, at the earliest, to UNFICYP. In the light of the failure of the Council to resolve the Force's financing difficulties, Austria and Canada would have to review their continuing contribution in UNFICYP. The representative of Canada further stressed that the purpose of UNFICYP was to create the conditions conducive to the negotiation of a settlement in Cyprus; but after 27 years if a settlement continued to elude the United Nations, the Council should consider not only how to reduce the expenditure of scarce resources on a process that was stalled but also the role of the Force itself.⁸⁵

The representative of Cyprus stated that the renewal of the UNFICYP mandate was indicative of the continued interest and earnest commitment of the Council to finding a just and viable solution to the Cyprus problem. In relation to the issue of the Force's finances, he expressed the hope that the imperative need to maintain the Force at the level required for it to carry out its duties successfully would be recognized for as long as necessary. He observed that resolution 716 (1991) unequivocally rejected the Turkish side's demands for separate sovereignty and a right to self-determination and defined with precision the parameters within which a just solution must be sought. He emphasized that Council resolutions on

⁸⁵ S/PV.3022, pp. 6-8 (Austria); and pp. 9-15 (Canada).

Cyprus were directed at all parties concerned in Cyprus, not just the two communities, and that they could not be subjected to arbitrary or selective interpretation.⁸⁶

The representative of Greece stated that his Government regarded the presence and the role of UNFICYP as indispensable, and he appealed to the Council members to ensure that it was properly and justly financed. He held the Government of Turkey and the leader of the Turkish Cypriot community responsible for the stalemate in the negotiating process and welcomed resolution 716 (1991) which reiterated the fundamental principles of a lasting settlement in Cyprus. He characterized the problem of Cyprus as a problem of the invasion and foreign occupation of the territory of an independent State Member of the United Nations by another Member State, which constituted a flagrant violation of the Charter and the Council's resolutions.⁸⁷

Mr. Ertug stated that the Turkish Cypriot side rejected all claims that the Cyprus question was a problem of invasion and occupation. He observed that such claims misrepresented the Cyprus issue as a question between Turkey and the Greek Cypriots and ignored the existence of the Turkish Cypriots as an equal party. The talks on Cyprus had failed to produce a final result because the Greek Cypriot side had persistently refused to accept a power-sharing formula with the Turkish Cypriots on the basis of equality. The Turkish Cypriot side believed that a direct meeting between the leaders was still the best way for making progress. Commenting on the recent report of the Secretary-General,⁸⁸ he asserted that the report contained inaccuracies which detracted from its objectivity. Although resolution 723 (1991) was not acceptable to the Turkish Cypriot side, his Government accepted the presence of UNFICYP on its territory on the basis set out at the most recent occasion when the mandate was renewed. However, the present mandate of UNFICYP needed to be reappraised because it was not compatible with the radically changed conditions and circumstances.⁸⁹

The representative of Turkey noted with concern the systematic campaign of the Greek Cypriot

leadership to undermine the very existence of the "Turkish Republic of Northern Cyprus" and to internationalize the question, presumably in the hope that outsiders could impose a settlement that was contrary to the fundamental interests of one of the parties of the future federation in Cyprus. The quadripartite high-level meeting envisaged in resolution 716 (1991) could serve to facilitate a mutually acceptable resolution, provided that it was not seen as a mechanism for imposing solutions on parties that harboured serious misgivings. The representative of Turkey stated that his Government could not accept the reference to "the Government of Cyprus" in resolution 723 (1991); however, his Government had no objections to the extension of the UNFICYP mandate.⁹⁰

**Decision of 23 December 1991 (3024th meeting):
statement by the President**

On 19 December 1991, pursuant to resolution 716 (1991), the Secretary-General submitted to the Council a report on his mission of good offices in Cyprus.⁹¹ The Secretary-General informed the Council that, as a result of parliamentary elections and the subsequent change of Government in Turkey, the discussions towards the convening of a high-level international meeting to conclude an overall framework agreement had had to be postponed. However, the set of ideas that had evolved from the talks held in August 1991 represented an important step forward for arriving at an agreement on Cyprus. The framework of a settlement had become clear and would result in the establishment of a bicomunal and bizonal federation and one State comprising two politically equal communities in which sovereignty would be equally shared but indivisible. The expectations raised earlier in the year that a high-level international meeting would be held to conclude the overall framework agreement should not be lost. The Secretary-General believed that a solution was within reach if all concerned were willing to contribute to a compromise solution that safeguarded the legitimate interests and concerns of both communities.

At its 3024th meeting, held on 23 December 1991, in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda.

⁸⁶ Ibid., pp. 16-24.

⁸⁷ Ibid., 25-29.

⁸⁸ S/23263.

⁸⁹ Ibid., pp. 30-38.

⁹⁰ Ibid., pp. 38-43.

⁹¹ S/23300.

At the same meeting, the President of the Council (USSR) stated that he had been authorized to make the following statement on behalf of the Council following consultations among the members of the Council:⁹²

The members of the Security Council have considered the report of the Secretary-General of 19 December 1991 on his mission of good offices in Cyprus (S/23300).

The members of the Council expressed their deep gratitude to the Secretary-General for his long and tireless efforts in seeking a just and lasting solution to the Cyprus question. They noted with appreciation that thanks to his efforts, progress was being made during this year towards achieving an overall framework agreement.

The members of the Council reaffirmed the Council's position as expressed in its previous resolutions, especially in resolutions 649 (1990) of 12 March 1990 and 716 (1991) of 11 October 1991.

The members of the Council were unanimous in endorsing the report and observations of the Secretary-General. They fully shared his view that a solution of the Cyprus problem is long overdue. The mere maintenance of the status quo does not constitute a solution. They called on the leaders of the two communities and of Greece and Turkey to devote their full energies to early achievement of this objective.

The members of the Council reiterated the Council's position that the convening of a high-level international meeting chaired by the Secretary-General in which the two communities and Greece and Turkey would participate represents an effective mechanism for concluding an overall framework agreement.

The members of the Council requested the leaders of the two communities and of Greece and Turkey to cooperate fully with the Secretary-General in completing on an urgent basis the set of ideas on an overall framework agreement.

The members of the Council requested the Secretary-General to report to the Security Council by April 1992 whether sufficient progress has been made to convene the high-level international meeting and, should conditions not be ripe, to convey to the Council the set of ideas as they will have evolved by that time with his assessment of the situation.

**Decision of 10 April 1992 (3067th meeting):
resolution 750 (1992)**

On 3 April 1992, pursuant to the presidential statement of 23 December 1991, the Secretary-General submitted to the Council a report on his mission of good offices in Cyprus.⁹³ He informed the Council that, despite repeated efforts since the beginning of 1992, there had been no progress in reaching an overall

agreement. In some areas there had even been regression. Summarizing the set of ideas that had emerged from the talks in August 1991, he opined that it provided the elements of a fair solution on a significant number of parts of the overall agreement. If similar progress could be made on the outstanding issues in the set of ideas, in particular territorial adjustments and displaced persons, an overall solution would be within reach. The Secretary-General concluded that the current effort could not be expected to continue indefinitely if all concerned were not willing to make their contribution to a compromise solution. Furthermore, the usefulness of the parties' endorsement of Council resolutions was undermined by the interpretation they had given them — it was essential that their views be in harmony with the Council's position. He also emphasized that the lack of progress in his mission of good offices was compounded by the financial crisis facing UNFICYP and the resulting dissatisfaction of the troop-contributing Governments. It thus seemed unlikely that UNFICYP could be maintained in its present form beyond the end of the current year. At a time of greatly increased demands on the scarce peacekeeping resources available to the Organization, a critical look had to be taken at long-lived operations such as UNFICYP and the peacemaking process it supported. If an effort to conclude an agreement based on the set of ideas did not succeed, an alternative course of action for dealing with the Cyprus question would have to be considered. He was examining alternative possibilities and would report on them to the Council in May 1992.

At its 3067th meeting, held on 10 April 1992, in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (Zimbabwe) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁹⁴ The draft resolution was then put to the vote and adopted unanimously as resolution 750 (1992), which reads:

The Security Council,

Having considered the report of the Secretary-General of 3 April 1992 on his mission of good offices in Cyprus,

Reaffirming its previous resolutions on Cyprus,

Noting with concern that there has been no progress in completing the set of ideas for an overall framework agreement

⁹² S/23316.

⁹³ S/23780.

⁹⁴ S/23797.

since the Secretary-General's report of 8 October 1991 and that in some areas there has even been regression,

Welcoming the assurances given to the Secretary-General over the past two months by the leaders of the two communities and the Prime Ministers of Greece and Turkey of their desire to cooperate with him and his representatives,

1. *Commends* the Secretary-General for his efforts, and expresses its appreciation for his report of 3 April 1992 on his mission of good offices in Cyprus;

2. *Reaffirms* the position, set out in resolutions 649 (1990) of 12 March 1990 and 716 (1991) of 11 October 1991, that a Cyprus settlement must be based on a State of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities as defined in paragraph 11 of the Secretary-General's report in a bicomunal and bizonal federation, and that such a settlement must exclude union in whole or in part with any other country or any form of partition or secession;

3. *Calls again upon* the parties to adhere fully to these principles and to negotiate without introducing concepts that are at variance with them;

4. *Endorses* the set of ideas described in paragraphs 17 to 25 and 27 of the Secretary-General's report as an appropriate basis for reaching an overall framework agreement, subject to the work that needs to be done on the outstanding issues, in particular on territorial adjustments and displaced persons, being brought to a conclusion as an integrated package mutually agreed upon by both communities;

5. *Requests* all concerned to cooperate fully with the Secretary-General and his representatives in clarifying without delay these outstanding issues;

6. *Reaffirms* that the Secretary-General's mission of good offices is with the two communities, whose participation in the process is on an equal footing to assure the well-being and security of both communities;

7. *Decides* to remain seized of the Cyprus question on an ongoing and direct basis in support of the effort to complete the set of ideas referred to in paragraph 4 above and to conclude an overall framework agreement;

8. *Requests* the Secretary-General to pursue his intensive efforts to complete the set of ideas referred to in paragraph 4 above during May and June 1992, to keep the Council closely informed of his efforts and to seek the Council's direct support whenever necessary;

9. *Continues to believe* that, following the satisfactory conclusion of the Secretary-General's intensive efforts to complete the set of ideas referred to in paragraph 4 above, the convening of a high-level international meeting chaired by the Secretary-General in which the two communities and Greece and Turkey would participate represents an effective mechanism for concluding an overall framework agreement;

10. *Also requests* the Secretary-General to submit a full report to the Council on the outcome of his efforts by July 1992 at the latest and to make specific recommendations for overcoming any outstanding difficulty;

11. *Reaffirms* the important mandate entrusted to the United Nations Peacekeeping Force in Cyprus and looks forward to receiving the report on the Force that the Secretary-General proposes to submit in May 1992.

**Decision of 12 June 1992 (3084th meeting):
resolution 759 (1992)**

On 31 May 1992, pursuant to resolution 723 (1991), the Secretary-General submitted to the Council a report on the United Nations operation in Cyprus,⁹⁵ covering developments from 1 December 1991 to 31 May 1992. Noting that one or more of the Force's main contingents might soon be withdrawn or reduced because of the uniquely unsatisfactory system of financing UNFICYP, the Secretary-General outlined two ways in which the Council could proceed. One option would be to accept the risk of executing the existing mandate with fewer troops; the other option would be to tailor the mandate to one that could be executed by the smaller number of troops likely to be available under the current financial arrangements. The second option would entail abandoning the function that had enabled UNFICYP to keep the peace in Cyprus, namely controlling the buffer zone. Without the presence of the Force in the buffer zone the danger of petty incidents escalating into armed conflict would greatly increase. Therefore, the better solution would be to alter the structure of the Force by reducing the number of battalions from four to three, while simultaneously increasing the number of troops deployed on the line. The Secretary-General stated that consultations with the troop contributors were necessary in order to clarify their precise intentions about continuing participation in UNFICYP, including the timing of any reduction or withdrawal of their contingents, and to explore with them the possibilities discussed in the report. In this way it would be possible to define specific proposals for submission to the Security Council at the appropriate time. The Secretary-General concluded that the continued presence of UNFICYP remained indispensable to achieve the objectives of the Council and he therefore

⁹⁵ S/24050.

recommended that it extend the mandate of the Force for a further six-month period.⁹⁶

At its 3084th meeting, held on 12 June 1992, in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (Belgium) drew the attention of the Council's members to a draft resolution that had been prepared in the course of the Council's prior consultations.⁹⁷ The draft resolution was then put to the vote and adopted unanimously as resolution 759 (1992), which reads:

The Security Council,

Taking note of the report of the Secretary-General of 31 May and 10 June 1992 on the United Nations operation in Cyprus,

Taking note also of the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island, it is necessary to keep the Force in Cyprus beyond 15 June 1992,

Reaffirming the provisions of resolution 186 (1964) of 4 March 1964 and other relevant resolutions,

1. *Extends once more* the stationing in Cyprus of the United Nations Peace-keeping Force established under resolution 186 (1964) for a further period ending on 15 December 1992;

2. *Requests* the Secretary-General, after consulting the troop-contributing Governments as envisaged in paragraph 56 of his report, to submit specific proposals to the Security Council no later than 1 September 1992 on the restructuring of the Force, such proposals to be based on the realistic options available in current circumstances;

3. *Requests* the Secretary-General to continue his mission of good offices, to keep the Security Council informed of the progress made and to submit a report on the implementation of the present resolution by 30 November 1992;

⁹⁶ The Secretary-General subsequently informed the Council that the Governments of Cyprus, Greece and the United Kingdom had indicated their concurrence with the proposed extension of the UNFICYP mandate; the Government of Turkey had indicated that it concurred with and supported the position put forward by the Turkish Cypriot side, as expressed at previous meetings of the Security Council on the extension of the mandate (S/24050/Add.1).

⁹⁷ S/24084.

4. *Calls upon* all the parties concerned to continue to cooperate with the Force on the basis of the present mandate.

**Decision of 13 July 1992 (3094th meeting):
statement by the President**

At the 3094th meeting, held on 13 July 1992, in accordance with the understanding reached in its prior consultations, the President (Cape Verde), following consultations among the members of the Council, made the following statement on behalf of the Council:⁹⁸

The Council recalls the oral report presented on 24 June 1992 on the Secretary-General's mission of good offices in Cyprus. It welcomes the separate meetings which the Secretary-General had with the leaders of the two communities from 18 to 23 June. It notes with satisfaction that the discussions focused on the issues of territorial adjustments and displaced persons and that the other six issues that make up the set of ideas on an overall framework agreement were also reviewed. The Council is unanimous in expressing its full support of the procedure adopted by the Secretary-General for implementing resolution 750 (1992) of 10 April 1992.

The Council reaffirms its endorsement of the set of ideas as an appropriate basis for reaching an overall framework agreement as mentioned in paragraph 4 of resolution 750 (1992).

The Council notes with satisfaction the acceptance by the leaders of the two communities to resume on 15 July 1992 their meetings with the Secretary-General and to remain for such reasonable duration as may be necessary to complete the work.

The Council considers that the forthcoming meetings represent a determining phase in the Secretary-General's effort and calls on both leaders to be ready to take the necessary decisions to reach agreement on each of the issues as dealt with in the set of ideas as an integrated whole on an overall framework agreement.

The Council endorses the Secretary-General's intention to invite the two leaders to a joint meeting as soon as the proximity talks reveal that the two sides are within agreement range on the set of ideas; and, subject to the successful completion of the work at the joint meeting, to convene an international high-level meeting to conclude the overall framework agreement.

The Council calls upon all concerned to fulfil their responsibilities and cooperate fully with the Secretary-General to ensure the success of these meetings.

The Council reaffirms its decision to remain seized of the Cyprus question on an ongoing and direct basis in support of the effort to complete the set of ideas and to conclude an overall framework agreement.

The Council requests that the Secretary-General provide it with an ongoing assessment of the progress being made at the

⁹⁸ S/24271.

meetings beginning on 15 July so as to enable the Council to determine, as the talks unfold, how it might best lend its full and direct support.

The Council looks forward to receiving at the conclusion of these meetings a full report from the Secretary-General as requested in paragraph 10 of resolution 750 (1992).

**Decision of 26 August 1992 (3109th meeting):
resolution 774 (1992)**

On 21 August 1992, pursuant to resolution 750 (1992), the Secretary-General submitted to the Council a report on his mission of good offices in Cyprus.⁹⁹ He reported that the strenuous effort from June to August had yielded some progress but had not achieved the expected goal. In the series of talks held with the leaders of both communities, the Secretary-General had concentrated on the two outstanding issues, territorial adjustments and displaced persons, as envisaged by the Council. On territorial adjustments, substantive discussions had taken place for the first time, but the Turkish Cypriot side needed to show the necessary willingness to foresee an adjustment more or less in line with the suggestions embodied in the set of ideas, if the delicately crafted balance in the remainder of the set of ideas was to be maintained. Concerning displaced persons, the Secretary-General welcomed the acceptance by the Turkish Cypriot side of the principle of the right to return and the right to property. The set of ideas offered reasonable arrangements that addressed the practical difficulties involved in resolving the issue of displaced persons in a manner that took into account the legitimate rights and interests of both sides. The Secretary-General concluded that the set of ideas as an integrated whole had been sufficiently developed and the two outstanding issues brought to the same level of clarity as the other elements of the set of ideas to enable the two sides to reach an overall agreement, provided the leaders manifested the necessary political will. A continuation of the status quo was not a viable option. Therefore, should no agreement emerge from the talks scheduled for October 1992, it would be necessary for the Council seriously to consider alternative courses of action for resolving the Cyprus problem.

At its 3109th meeting, held on 26 August 1992, in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda.

The President (China) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.¹⁰⁰ The draft resolution was then put to the vote and adopted unanimously as resolution 774 (1992), which reads:

The Security Council,

Having considered the report of the Secretary-General of 21 August 1992 on his mission of good offices in Cyprus,

Reaffirming all its previous resolutions on Cyprus,

Noting that some progress has been achieved, in particular the acceptance by both sides of the right of return and the right to property, and in a narrowing of the gap by both sides on territorial adjustments,

Expressing concern nevertheless that it has not yet been possible, for reasons explained in the above-mentioned report, to achieve the goals set out in resolution 750 (1992) of 10 April 1992,

1. *Endorses* the report of the Secretary-General of 21 August 1992 on his mission of good offices in Cyprus and commends him for his efforts;

2. *Reaffirms* its position that a Cyprus settlement must be based on a State of Cyprus with a single sovereignty and international personality and a single citizenship, with its independence and territorial integrity safeguarded, and comprising two politically equal communities as defined in paragraph 11 of the report of the Secretary-General of 3 April 1992 in a bicomunal and bizonal federation, and that such a settlement must exclude union in whole or in part with any other country or any form of partition or secession;

3. *Endorses* the set of ideas including suggested territorial adjustments reflected in the map contained in the annex to the report of the Secretary-General of 21 August 1992 as the basis for reaching an overall framework agreement;

4. *Agrees* with the Secretary-General that the set of ideas as an integrated whole has now been sufficiently developed to enable the two sides to reach an overall agreement;

5. *Calls on* the parties to manifest the necessary political will and to address in a positive manner the observations of the Secretary-General for resolving the issues covered in his report;

6. *Urges* the parties, when they resume their face-to-face talks with the Secretary-General on 26 October 1992, to pursue uninterrupted negotiations at United Nations Headquarters in New York until an overall framework agreement is reached on the basis of the entire set of ideas;

7. *Reaffirms* its position that the Secretary-General should convene, following the satisfactory conclusion of the

⁹⁹ S/24472.

¹⁰⁰ S/24487.

face-to-face talks, a high-level international meeting chaired by him to conclude an overall framework agreement, in which the two communities and Greece and Turkey would participate;

8. *Requests* all concerned to cooperate fully with the Secretary-General and his representatives in preparing the ground prior to the resumption of the direct talks in October to facilitate the speedy completion of the work;

9. *Expresses the expectation* that an overall framework agreement will be concluded in 1992 and that 1993 will be the transitional period during which the measures set out in the appendix to the set of ideas will be implemented;

10. *Reaffirms* that, in line with previous resolutions of the Security Council, the present status quo is not acceptable, and, should an agreement not emerge from the talks that will reconvene in October, calls on the Secretary-General to identify the reasons for the failure and to recommend to the Council alternative courses of action to resolve the Cyprus problem;

11. *Requests* the Secretary-General to submit to the Security Council, prior to the end of 1992, a full report on the talks that will resume in October.

Decision of 25 November 1992 (3140th meeting): resolution 789 (1992)

On 19 November 1992, pursuant to resolution 774 (1992), the Secretary-General submitted to the Council a report on his mission of good offices in Cyprus.¹⁰¹ The Secretary-General informed the Council that the outcome of the joint meetings held in the period from 28 October to 11 November 1992 had not met expectations. While the meetings clarified in an unprecedented manner the respective positions of the two sides, they failed to achieve the objectives set by the Council in resolution 774 (1992) and reach an overall framework agreement. The lack of political will, mentioned in his report of 12 August 1992,¹⁰² continued to block the conclusion of an agreement that was otherwise within reach.

Some of the differences between the two sides amounted to variations of the set ideas and ought, therefore, to prove amenable to harmonization. However, certain positions taken by the Turkish Cypriot side were fundamentally at variance with the set of ideas. Those positions fell broadly under the following headings: the concept of federation, displaced persons, and territorial adjustments. With regard to the concept of federation, the position of the Turkish Cypriot side was based on the premise that

there currently existed two sovereign States with equal rights and that they would remain effectively sovereign in a future federation. The Secretary-General recalled that the resolutions of the Council concerning Cyprus had from 1964 onwards sought to preserve the territorial integrity and unity of Cyprus. Concerning displaced persons, the Secretary-General stated that, although the leader of the Turkish Cypriot side had accepted the principle of the right to return and the right to property, the exceptions set out by the Turkish Cypriot side would in effect preclude the possibility that any Greek Cypriot displaced persons would be able to return. Concerning territorial adjustments, the leader of the Turkish Cypriot side refused to accept the map included in the set of ideas, even as a basis for discussion. It was essential that the Turkish Cypriot side adjusted its positions more or less in line with the suggestions in the set of ideas given their delicate balance. The Secretary-General noted that the Greek Cypriot side frequently appended provisos when it declared that it accepted the provisions of the set of ideas; those would have to be cleared up at the forthcoming meetings without deviating from the set of ideas.

In order to counteract the deep crisis of confidence existing between the two sides and enhance prospects for the success of the forthcoming meetings, the Secretary-General proposed a range of confidence-building measures to be embraced by the parties before the scheduled resumption of negotiations in March 1993. They included the reduction in the level of Turkish troops, to be reciprocated by a suspension of weapons acquisition programmes on the Greek Cypriot side; the extension of the unmanning agreement to cover all areas of the United Nations-controlled buffer zone where the parties were in close proximity to each other; the inclusion of Varosha in the UNFICYP-controlled area; the reduction of travel restrictions across the buffer zone to promote people-to-people contact; the promotion of bicomunal projects; a Cyprus-wide census under United Nations auspices; and feasibility studies on the resettlement and rehabilitation of Turkish Cypriots affected by territorial adjustments as part of the overall agreement. Finally, the Secretary-General urged the Council to keep developments under close review in order to consider any additional action that should be taken to achieve a speedy solution to the Cyprus problem.

¹⁰¹ S/24830.

¹⁰² S/24471.

At its 3140th meeting, held on 25 November 1992, in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. At the same meeting, the President (Hungary) drew the attention of the members to a draft resolution that had been prepared in the course of the Council's prior consultations.¹⁰³ The draft resolution was then put to the vote and adopted unanimously as resolution 789 (1992), which reads:

The Security Council,

Having considered the report of the Secretary-General of 19 November 1992 on his mission of good offices in Cyprus,

Noting with satisfaction that the leaders of the two communities discussed all the issues in the set of ideas with the result that there were areas of agreement, as noted in the above-mentioned report,

Welcoming the agreement by the two sides to meet again with the Secretary-General in early March 1993 to complete the work on an agreed set of ideas,

1. *Reaffirms* all its previous resolutions on Cyprus, including resolutions 365 (1974) of 13 December 1974, 367 (1975) of 12 March 1975, 541 (1983) of 18 November 1983, 550 (1984) of 11 May 1984 and 774 (1992) of 26 August 1992;

2. *Endorses* the report of the Secretary-General of 19 November 1992 on his mission of good offices in Cyprus and commends him for his efforts;

3. *Reaffirms also* its endorsement of the set of ideas including the territorial adjustments reflected in the map contained in the appendix to the report of the Secretary-General of 21 August 1992 as the basis for reaching an overall framework agreement;

4. *Reaffirms further* its position that the present status quo is not acceptable and that an overall agreement in line with the set of ideas should be achieved without further delay;

5. *Notes* that the recent joint meetings did not achieve their intended goal, in particular because certain positions adopted by the Turkish Cypriot side were fundamentally at variance with the set of ideas;

6. *Calls upon* the Turkish Cypriot side to adopt positions that are consistent with the set of ideas on those issues identified by the Secretary-General in his report of 19 November 1992, and for all concerned to be prepared in the next round of talks to make decisions that will speedily bring about an agreement;

7. *Recognizes* that the completion of this process in March 1993 would be greatly facilitated by the implementation

by each side of measures designed to promote mutual confidence;

8. *Urges* all concerned to commit themselves to the confidence-building measures set out below:

(a) As a first step towards the withdrawal of non-Cypriot forces envisaged in the set of ideas, the number of foreign troops in the Republic of Cyprus undergo a significant reduction and a reduction of defence spending must be effected in the Republic of Cyprus;

(b) The military authorities on each side cooperate with the United Nations Peacekeeping Force in Cyprus in order to extend the unmanning agreement of 1989 to all areas of the United Nations-controlled buffer zone where the two sides are in close proximity to each other;

(c) With a view to the implementation of resolution 550 (1984), the area at present under the control of the Force be extended to include Varosha;

(d) Each side take active measures to promote people-to-people contact between the two communities by reducing restrictions to the movement of persons across the buffer zone;

(e) Restrictions imposed on foreign visitors crossing the buffer zone be reduced;

(f) Each side propose bicomunal projects, for possible financing by lending and donor Governments as well as international institutions;

(g) Both sides commit themselves to the holding of a Cyprus-wide census under the auspices of the United Nations;

(h) Both sides cooperate to enable the United Nations to undertake, in the relevant locations, feasibility studies (i) in connection with the resettlement and rehabilitation of persons who would be affected by the territorial adjustments as part of the overall agreement, and (ii) in connection with the programme of economic development that would, as part of the overall agreement, benefit those persons who would resettle in the area under Turkish Cypriot administration;

9. *Requests* the Secretary-General to follow up on the implementation of the above confidence-building measures and to keep the Council informed as appropriate;

10. *Also requests* the Secretary-General to maintain such preparatory contacts as he considers appropriate before the resumption of the joint meetings in March 1993, and to propose for the Council's consideration revisions in the negotiating format to make it more effective;

11. *Further requests* the Secretary-General, during the March 1993 joint meetings, to assess developments on a regular basis with the Council with a view to considering what further action may be needed by the Council;

12. *Requests* the Secretary-General to submit a full report to the Security Council after the conclusion of the joint meetings that will resume in March 1993.

¹⁰³ S/24841.

**Decision of 14 December 1992 (3148th meeting):
resolution 796 (1992)**

On 1 December 1992, pursuant to resolution 759 (1992), the Secretary-General submitted to the Council a report on the United Nations operation in Cyprus,¹⁰⁴ covering developments from 1 June to 30 November 1992. The Secretary-General concluded that the continued presence of UNFICYP on the island remained indispensable to achieve the objectives set by the Council, and recommended that its mandate be extended for another six months.¹⁰⁵

The Secretary-General reported that, in the light of a forthcoming troop reduction of 28 per cent,¹⁰⁶ the remaining UNFICYP contingents were being restructured and reorganized in order to maintain the Force's ability to implement its present mandate to the greatest extent possible. The troop-contributing Governments had informed the Secretary-General that they wished to make further reductions in their contingents during 1993. The progressive reductions in the strength of the Force had brought UNFICYP to a point at which the viability of its current operational concept was in doubt. In the future the Force would not be able to react as rapidly as in the past to ceasefire violations or incidents, nor would it be able to maintain the same level of control of the buffer zone as it had previously done. The reductions meant that greater responsibility would rest on the two sides for ensuring that conditions were maintained for a speedy overall agreement as envisaged by the Council and that there was no increase in tension in Cyprus. The efforts of UNFICYP to promote a return to normal conditions by facilitating humanitarian activities would also be affected by the troop reduction. At the same time, UNFICYP faced a potential increase in its tasks if all concerned implemented the confidence-building measures endorsed in resolution 789 (1992).

¹⁰⁴ S/24917.

¹⁰⁵ The Secretary-General subsequently informed the Security Council that the Governments of Cyprus, Greece and the United Kingdom had indicated their concurrence with the proposed extension of the UNFICYP mandate. The Government of Turkey had indicated that it concurred with and supported the position of the Turkish Cypriot side, as expressed at previous meetings of the Security Council on the extension of the mandate of UNFICYP (S/24917/Add.1).

¹⁰⁶ See the report of the Secretary-General (S/24581) submitted pursuant to paragraph 2 of resolution 759 (1992).

The Secretary-General reported that he was pursuing his consultations with the troop-contributing Governments about a restructuring of the Force and would report as soon as possible to the Council. He was also exploring the possibility of finding additional countries that could agree to contribute troops to replace those being withdrawn; however, his impression was that even if UNFICYP was radically restructured it was likely that a viable arrangement could exist only on the basis of financing by assessed contributions.

At its 3148th meeting, held on 14 December 1992, in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda.

At the same meeting, the President (India) drew the attention of the members to a draft resolution that had been prepared in the course of the Council's prior consultations.¹⁰⁷ The draft resolution was then put to the vote and adopted unanimously as resolution 796 (1992), which reads:

The Security Council,

Taking note of the report of the Secretary-General of 1 and 9 December 1992 on the United Nations operation in Cyprus,

Taking note also of the recommendation by the Secretary-General that the Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that, in view of the prevailing conditions in the island, it is necessary to keep the Force in Cyprus beyond 15 December 1992,

Reaffirming the provisions of resolution 186 (1964) of 4 March 1964 and other relevant resolutions,

1. *Extends once more* the stationing in Cyprus of the United Nations Peacekeeping Force established under resolution 186 (1964) for a further period, ending on 15 June 1993;
2. *Requests* the Secretary-General to continue his mission of good offices, to keep the Council informed of the progress made and to submit a report on the implementation of the present resolution by 31 May 1993;
3. *Welcomes* the intention of the Secretary-General expressed in paragraph 46 of his report to pursue his consultations with the troop-contributing Governments about a restructuring of the Force and to report on this to the Security Council as soon as possible;
4. *Calls upon* all the parties concerned to continue to cooperate with the Force on the basis of the present mandate.

¹⁰⁷ S/24949.

18. The situation in Georgia

Initial proceedings

Decision of 10 September 1992: statement by the President

By a letter dated 8 September 1992 addressed to the President of the Security Council,¹ the representative of the Russian Federation transmitted the text of the agreement on the situation in Abkhazia signed in Moscow, on 3 September 1992, by the Presidents of the Russian Federation and the Republic of Georgia, and agreed to by the leaders of Abkhazia (the “Moscow Agreement”). The Agreement, inter alia, ensured the territorial integrity of Georgia, provided for a ceasefire effective as from 5 September and established a Monitoring and Inspection Commission composed of representatives of Georgia, including Abkhazia, and the Russian Federation to ensure compliance with the Agreement. The Agreement also contained an appeal by the parties to the United Nations and to the Conference on Security and Cooperation in Europe to promote respect for the principles of settlement it set out, particularly by sending fact-finding missions and observers to the area.

On 10 September 1992, following consultations held on the same day among the members of the Security Council, the President of the Council (Ecuador) made the following statement to the media on behalf of the Council:²

The members of the Council, having heard the information provided by the Secretary-General and having considered the Final document of the Moscow meeting between the President of the Russian Federation and the Chairman of the State Council of the Republic of Georgia, held on 3 September 1992, express their satisfaction with the efforts of the participants of the meeting aimed at achieving an immediate ceasefire, overcoming the crisis situation and creating conditions for a comprehensive political settlement in Abkhazia, which had become an area of armed conflict.

The members of the Council, stressing the urgent necessity for a political settlement of the conflict by peaceful means, through negotiations, reaffirm the inadmissibility of any encroachment upon the principle of territorial integrity and upon Georgia’s internationally recognized borders, and the necessity

of respecting the rights of all people of all ethnic groups in the region. They welcome the resumption of the normal functioning of the legitimate authorities in Abkhazia.

In this connection the members of the Council welcome the principles of the settlement contained in the above-mentioned final document and commend the concrete measures aimed at a settlement in Abkhazia envisaged in it. They call upon all the parties to the conflict and all others concerned to observe strictly the agreements achieved in Moscow.

The members of the Council take note of the intention of the Secretary-General to send a goodwill mission and request him to inform the Security Council periodically of the developments there.

Decision of 8 October 1992 (3121st meeting): statement by the President

By a letter dated 6 October 1992 addressed to the President of the Security Council,³ the First Deputy Foreign Minister of Georgia requested an urgent meeting of the Council to consider the grave and deteriorating situation in Georgia as a result of the armed conflict in Abkhazia, which threatened regional and international peace and security, and asked the Council to take appropriate action to restore peace and stability in the region.

By a letter dated 7 October 1992 addressed to the Secretary-General,⁴ the First Deputy Foreign Minister of Georgia transmitted his statement of the same date addressed to the Security Council. He described the escalation of armed conflict in Abkhazia and its implications for the sovereignty and territorial integrity of Georgia. He stated that it was unacceptable that, under “the guise of self-determination”, the actual splintering of the territory of a democratic State Member of the United Nations was taking place, at the instigation of the Abkhaz leaders who represented a small fraction of the total population of Abkhazia. He emphasized that Georgia followed all the norms of international law, especially those pertaining to the protection of human rights and the rights of ethnic minorities. The First Deputy Foreign Minister contended that Russian armed forces had not complied with their obligations under the Moscow Agreement

¹ S/24523.

² S/24542; recorded as a Security Council decision in *Resolutions and Decisions of the Council, 1992*, p. 107.

³ S/24619.

⁴ S/24632.

and denounced a conspiracy between Abkhaz separatists, nationalistic terrorists from the so-called confederation of Caucasian nations and reactionary forces from within the state structures of the Russian Federation. The central Government of the Russian Federation had been unable to curb this “direct aggression” against Georgia. The conflict was not simply a local border skirmish: it might attain regional dimensions. Indeed, by the sheer magnitude of the violation of human rights, it had already become a global issue. Georgia looked to the United Nations to find a way to bring an end to the “military aggression” and to launch peace talks in the region, in compliance with the Moscow Agreement, which it considered should serve as a basis for a just and equitable settlement of the conflict. Georgia requested the Security Council to authorize the Secretary-General to send his personal representative to the region. It also asked the Council to send either a small United Nations peacekeeping force or 10 to 15 military observers who would work under the Secretary-General’s personal envoy. Moreover, Georgia intended to launch a formal complaint with the International Court of Justice to investigate the cases of atrocities and numerous violations of the Vienna and Hague Conventions.

By a letter dated 7 October 1992, the Secretary-General transmitted to the Security Council a summary of the report of the mission of good offices to Georgia, which had been conducted from 12 to 20 September 1992.⁵ In his covering letter, the Secretary-General noted that the situation in Abkhazia had, since the mission, deteriorated considerably. Fierce fighting had broken out again, threatening peace and security in the region. In view of the serious deterioration in the conflict, he intended, in response to the request of the Government of Georgia,⁶ to send a further United Nations mission to the region, headed by an Under-Secretary-General. He proposed that the mission inform the parties of the international community’s grave concern over the fighting; that it stress the urgency of prompt and full implementation of the Moscow Agreement; and that it explore ways in which the United Nations could support implementation of

the Agreement, including through the deployment of civilian and/or military observers. The mission would include several observers who would remain in Georgia in order to provide an initial United Nations presence.

By a letter dated 8 October 1992 addressed to the President of the Security Council,⁷ the Chairman of the State Council of Georgia reported that, according to reliable sources from Abkhazia, mass executions of the Georgian civilian population, widespread torture, rape and other atrocities were being committed. He appealed to the Council to consider setting up a war crimes commission to collect evidence of possible atrocities committed in Georgia.

At its 3121st meeting, on 8 October 1992, the Council included in its agenda the letter dated 6 October 1992 from the First Deputy Foreign Minister of Georgia.⁸ Following the adoption of the agenda, the Council invited the representative of Georgia, at his request, to participate in the discussion without the right to vote. The President (France) drew the attention of the members of the Council to the above-mentioned letters of 7 October from, respectively, the First Deputy Foreign Minister of Georgia to the Secretary-General, and the Secretary-General to the President of the Security Council.⁹

At the same meeting, following consultations held earlier among the members of the Security Council, the President said that he had been authorized to make the following statement on behalf of the Council:¹⁰

The Council has noted with concern the summary by the Secretary-General of 7 October 1992 of the report of the goodwill mission to Georgia regarding the situation in Georgia. It thanks the Secretary-General for the useful information contained in that document. It expresses its grave preoccupation regarding the recent deterioration of the situation in Georgia. It calls on all the parties to cease the fighting forthwith and to observe the terms of the agreement concluded on 3 September 1992 in Moscow, which affirms that the territorial integrity of Georgia shall be ensured, which provides for the establishment of a ceasefire and the commitment by the parties not to resort to the use of force, and which constitutes the basis for an overall political situation.

⁵ S/24633.

⁶ Letter dated 2 October 1992 from the Vice-Chairman of the State Council of Georgia addressed to the Secretary-General, requesting him to convene a meeting of the Security Council to consider “the situation in one of the regions of Georgia/Abkhazia” (S/24626, annex I).

⁷ S/24641.

⁸ S/24619.

⁹ S/24632 and S/24633.

¹⁰ S/24637.

The Council supports the decision of the Secretary-General to send, in response to the request of the Government of Georgia, another mission to Georgia, headed by an Under-Secretary-General, who will be accompanied by members of the Secretariat, some of whom will remain on the spot. It endorses the mandate proposed by the Secretary-General in his letter of 7 October 1992. It looks forward to the report to be submitted by the Secretary-General upon the return of his mission from Georgia and is prepared to consider the recommendations which he plans to submit to it concerning the contribution which the

United Nations could make to the implementation of the agreement of 3 September 1992.

The Council notes that the current Chairman of the Conference on Security and Cooperation in Europe intends to dispatch a mission to Georgia in the near future and underlines the need to ensure coordination between the efforts of the United Nations and those of the Conference on Security and Cooperation in Europe aimed at restoring peace.

19. The situation relating to Nagorny-Karabakh

Initial proceedings

By a letter dated 9 May 1992 addressed to the President of the Security Council,¹ the representative of Azerbaijan transmitted a statement by the President of Azerbaijan in connection with “the grave situation in Nagorny-Karabakh as a consequence of the intensifying attacks of Armenian forces”. The representative of Azerbaijan stated that the attacks had resulted in the occupation and destruction of the city of Shusha with heavy loss of life. He contended that the massive offensive, supported by the air force and tanks, was a flagrant violation of the sovereignty and territorial integrity of Azerbaijan and a most serious threat to peace. He was accordingly bringing the “very grave situation” to the urgent attention of the Council.

The President of Azerbaijan described the bombardment of the city of Shusha — the ancient centre of Azerbaijani spiritual and cultural life — and added that Armenian forces had cut off the only road linking that city with the rest of Azerbaijan. That provocative incident had seriously jeopardized the outcome of the recent tripartite meeting at Tehran between Azerbaijan, Armenia and the Islamic Republic of Iran, at which there had been agreement that the bloodshed must be stopped. In the President’s view, the matter was clear: a band of separatists and ardent nationalists from Khankendi and their protectors — not only from Armenia — was “playing with the fates of peoples, continuing to rely on force and to fan the flames of hatred and war”. The separatists’ new venture nullified the peacekeeping efforts of the United Nations, the Conference on Security and Cooperation in Europe (CSCE), other international organizations and a number of Heads of State who were seeking to

normalize the situation in Karabakh and on the Azerbaijani-Armenian frontier. The President warned that the destruction or capture of the sacred city would inevitably “elicit an appropriate response”, and that the battle for Shusha might develop into a large-scale conflict. He appealed to CSCE, the Presidents of the Russian Federation, Kazakhstan and other States of the Commonwealth of Independent States, Turkey and the Islamic Republic of Iran, and the entire international community, to restrain the aggressor.

By a letter dated 11 May 1992 addressed to the President of the Security Council,² the representative of Armenia transmitted a letter dated 9 May from the President of Armenia, requesting an emergency meeting of the Council to discuss the escalation of the conflict in Nagorny-Karabakh, the continuing blockade of Armenia and Nagorny-Karabakh, and the threat of potential outside intervention in the region. In his letter, the President of Armenia stated that his country was bringing the situation to the attention of the Council pursuant to Article 35 (1) of the Charter of the United Nations. While Armenia was not a party to the dispute between Nagorny-Karabakh and the Azerbaijani Republic, it had been subject to cross-border attacks from and illegal blockades by the latter. Accordingly, Armenia was specifically requesting the Security Council: (a) to dispatch peacekeeping forces to Nagorny-Karabakh; and (b) to order such other measures as it deemed necessary to compel the lifting of economic blockades, maintain and restore international peace and security, and protect human rights. Armenia also requested the Council to take measures to ensure that all States Members of the

¹ S/23894.

² S/23896.

United Nations respected their obligations under the Charter and refrained from any and all intervention in the region. In conclusion, the President of Armenia recalled that Nagorny-Karabakh and Azerbaijan had agreed to ceasefires, however temporary, through the recent mediation efforts of the Islamic Republic of Iran. But those agreements were, in his view, not enough; an international peacekeeping force had become essential if the inhabitants of Nagorny-Karabakh were to believe that ceasefires would be respected, a permanent peace process secured and human rights guaranteed. Armenia was convinced that, without the international guarantees that only a United Nations peacekeeping force could provide, the conflict would continue to escalate, jeopardizing the security of the region and, ultimately, of the world.

**Decision of 12 May 1992 (3072nd meeting):
statement by the President**

At its 3072nd meeting, on 12 May 1992, the Council included in its agenda the item entitled “The situation relating to Nagorny-Karabakh”, as well as the letters dated 9 and 11 May 1992, respectively, from the representatives of Azerbaijan and Armenia. The Council considered the item at the same meeting.

The President (Austria) drew the attention of the members of the Council to two other documents relating to the item on the agenda.³ He then stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁴

The members of the Council are deeply concerned by recent reports on the deterioration of the situation relating to Nagorny-Karabakh and by violations of ceasefire agreements which have caused heavy losses of human life and widespread material damage, and by their consequences for the countries of the region.

The members of the Council commend and support the efforts undertaken within the framework of the Conference on Security and Cooperation in Europe, as well as other efforts aimed at assisting the parties in arriving at a peaceful settlement and at providing humanitarian assistance.

The members of the Council welcome the urgent dispatch by the Secretary-General of a mission to the region for fact-finding and to study ways and means to speedily assist the efforts undertaken within the framework of the Conference on Security and Cooperation in Europe to help the parties to reach a peaceful settlement. This mission will also include a technical element to look into ways the international community could provide prompt humanitarian assistance.

The members of the Council call upon all concerned to take all steps necessary to bring the violence to an end, to facilitate the work of the Secretary-General’s mission and to ensure the safety of its personnel. They recall the statements made on their behalf by the President of the Council on 29 January and 14 February 1992 on the admission, respectively, of Armenia and Azerbaijan to the United Nations, in particular the reference to the principles of the Charter of the United Nations relating to the peaceful settlement of disputes and the non-use of force.

By a letter dated 1 June 1992 addressed to the President of the Security Council,⁵ the representative of Azerbaijan alleged that the armed forces of Armenia had resorted to using chemical weapons in recent events in Nakhichevan, an Azerbaijani enclave in Armenia. By a letter dated 8 June 1992 addressed to the Secretary-General,⁶ the representative of Armenia denied the accusations concerning the use of chemical weapons by his country and requested that a group of experts be dispatched to the conflict zones to assess the situation.

By identical letters dated 11 June 1992 addressed, respectively, to the Secretary-General and the President of the Security Council,⁷ the representative of Azerbaijan reported that 36 documents had been given to the United Nations fact-finding mission which had gone to Azerbaijan at the end of May. As indicated in the annex to the letters, some of the documents concerned results of tests for the use of chemical weapons carried out by the Ministry of Health of Azerbaijan. Azerbaijan requested that the report of the fact-finding mission be distributed as a Security Council document.⁸ It also requested that the representative of Azerbaijan, as the initiator of the mission, be afforded the opportunity of participating in

³ Letter dated 13 March 1992 from the representative of Ukraine addressed to the Secretary-General (S/23716); and letter dated 27 March 1992 from the representative of the Islamic Republic of Iran addressed to the Secretary-General (S/23760).

⁴ S/23904.

⁵ S/24053.

⁶ As reported by the Secretary-General in his note of 24 July 1992 (S/24344).

⁷ S/24103.

⁸ That request was reiterated in a letter of 17 June 1992 from the representative of Azerbaijan addressed to the Secretary-General (S/24112).

and addressing the Council's meeting to discuss the report, in accordance with Article 32 of the Charter.

In a note dated 24 July 1992 to the Security Council,⁹ the Secretary-General recalled that, during informal consultations on 19 June 1992, he had informed the Council of his decision to dispatch a mission to the region to investigate the allegations made by Azerbaijan concerning the use of chemical weapons by the armed forces of Armenia in April and May 1992. By his note, he transmitted the report of the mission of experts, which had visited Azerbaijan and Armenia from 4 to 8 July 1992. He noted that the experts had determined that no evidence of the use of chemical weapons had been presented to the team.

**Decision of 26 August 1992: statement by the
President**

By a letter dated 20 August 1992 addressed to the President of the Security Council,¹⁰ the representative of Armenia drew attention to the rapidly deteriorating and dangerous situation in Armenia and Nagorny-Karabakh and the failure of the CSCE negotiations to bring about an effective ceasefire agreement. He requested an urgent meeting of the Council for the purpose of considering specific steps towards stabilizing the situation.

In his letter, the representative of Armenia reported that intense fighting continued in Nagorny-Karabakh and the border regions of Azerbaijan and Armenia. He claimed that Azerbaijan continued to shell the civilian population of the capital city and a district of Nagorny-Karabakh; at the same time, it was carrying out "attacks of aggression" against Armenia itself, in an attempt to involve it directly in the conflict. Little progress had been made in the negotiations conducted under the auspices of CSCE since January 1992. The representative recalled that, following the presidential statement of 12 May, the Secretary-General had dispatched a fact-finding mission to the region at the end of May and that the Security Council had discussed its report at consultations on 22 June. He claimed that, at those consultations, the Council members had reiterated their support of the efforts of CSCE and decided to study the issue of sending observers to Nagorny-Karabakh, and that the Secretary-General had decided to send

observers to the CSCE negotiations. Conditions in Nagorny-Karabakh had deteriorated further, however. Armenia was of the view that, without the active and direct involvement of the United Nations in the peace negotiations, no concrete progress would be realized. Armenia reiterated its belief that peacekeeping forces were necessary to bring about an end to the fighting. It suggested, as a first step, that United Nations observers be sent to Nagorny-Karabakh to negotiate a lasting ceasefire agreement; and, as a second step, that peacekeeping forces be deployed in and around Nagorny-Karabakh and on the Armenian-Azerbaijan border, while negotiations to resolve the conflict were being conducted. Those forces could be sponsored individually or jointly by the United Nations, CSCE or any other appropriate international organization.

By a letter dated 25 August 1992 addressed to the President of the Security Council,¹¹ the representative of Azerbaijan transmitted a message dated 24 August from the Minister for Foreign Affairs of Azerbaijan concerning the status of the conflict between Armenia and Azerbaijan. The Minister alleged that Armenia was continuing its "armed aggression against Azerbaijan". He stated, further, that Azerbaijan remained nonetheless determined to work towards a peaceful settlement of the dispute and to help to further the process of negotiation within the CSCE framework, which had already achieved results. He added that his country attached great importance to efforts made by the United Nations to help resolve the conflict: namely, its sending of two missions to the region by the Secretary-General, and the endorsement by the Security Council of the CSCE actions. That had strengthened Azerbaijan's conviction that a peaceful settlement could be achieved within the framework of CSCE and had led it to focus its efforts on expanding the results already obtained in the context of that regional organization.

On 26 August 1992, following consultations among the members of the Council, the President (China) made the following statement on behalf of the Council:¹²

The members of the Council are deeply concerned by recent reports on the deterioration of the situation relating to Nagorny-Karabakh with heavy losses of human life and widespread material damage.

⁹ S/24344.

¹⁰ S/24470.

¹¹ S/24486.

¹² S/24493.

The members of the Council strongly appeal to all parties and others concerned for an immediate ceasefire and support the efforts of the Minsk Conference on the question of Nagorny-Karabakh within the framework of the Conference on Security and Cooperation in Europe as well as the preparatory negotiations held in Rome. They urge all parties and others concerned to cooperate closely with the Conference on Security and Cooperation in Europe and to participate positively in the negotiations with a view to reaching a peaceful settlement of their disputes as early as possible. They have noted that the Secretary-General dispatched fact-finding missions to the region and was ready to send observers to the above-mentioned negotiations of the Conference on Security and Cooperation in Europe. The members of the Council will consider further the role of the United Nations in Nagorny-Karabakh at an appropriate time in the light of the development of the situation in the area.

**Decision of 27 October 1992 (3127th meeting):
statement by the President**

By a letter dated 12 October 1992 addressed to the President of the Security Council,¹³ the representative of Armenia requested an urgent meeting of the Council to consider the direct involvement of the United Nations in the efforts to establish peace in Nagorny-Karabakh. He expressed Armenia's full support for the efforts of CSCE and especially those of the Minsk process, but noted that a ceasefire agreement had not been successfully negotiated under its auspices in August. However, a meeting held on 21 September at Sochi, Russian Federation, in support of the CSCE peace process, between representatives of the Russian Federation, Kazakhstan, Armenia and Azerbaijan, had resulted in the signing of a ceasefire agreement, to take effect on 26 September. Although that agreement had already been seriously violated, Armenia believed that, if effective mechanisms were put in place, there was hope that a ceasefire agreement could be successfully implemented. The representative invoked in support Azerbaijan's expression of willingness to enter into a lasting ceasefire agreement and, in accordance with the Sochi agreement, to accept observers in the region. Certain that the appropriate time for direct United Nations involvement had come, Armenia appealed to the United Nations to lend its experience and established mechanisms to bring about and implement a lasting ceasefire agreement. It specifically requested that the Secretary-General designate as soon as possible a special representative and send to the region a United Nations team of observers to assist the parties

in reaching a ceasefire agreement and to monitor the situation thereafter.¹⁴

At its 3127th meeting, on 27 October 1992, the Council included in its agenda the letter dated 12 October 1992 from the representative of Armenia. It considered the item at the same meeting.

The President (France) drew the attention of the members of the Council to a letter dated 24 October 1992 from the representative of Azerbaijan,¹⁵ in which Azerbaijan reiterated that it continued to favour a peaceful settlement of the dispute on the basis of the principles laid down by CSCE, and expressed optimism with regard to accelerating the settlement process within the CSCE framework.

The President then stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁶

The Council is deeply concerned by the grave situation which continues to prevail in Nagorny-Karabakh and surrounding districts, and also by the resulting loss of human life and destruction of property, despite the ceasefire agreement concluded at Sochi on 21 September 1992.

The Council reaffirms the terms of its statement of 26 August 1992 on the situation concerning Nagorny-Karabakh, and in particular its support for the efforts of the Minsk Conference on the Nagorny-Karabakh question within the framework of the Conference on Security and Cooperation in Europe. It strongly urges all the parties and others concerned to implement the ceasefire forthwith and to lift all blockades. It requests that the Minsk Conference be convened immediately and that political negotiations be undertaken in accordance with the President's rules of procedure. It urges all the parties and others concerned to cooperate closely with the Conference on Security and Cooperation in Europe and to participate positively in the Conference in order to reach an overall settlement of their disputes as soon as possible.

The Council welcomes the intention of the Secretary-General to send a representative to the region to evaluate the contribution which the United Nations might make in supporting the efforts of the Conference on Security and Cooperation in Europe and in providing humanitarian assistance.

¹⁴ See also letter dated 15 October 1992 from the representative of Azerbaijan addressed to the President of the Security Council (S/24671).

¹⁵ S/24713.

¹⁶ S/24721.

¹³ S/24656.

20. Items relating to the situation in the former Yugoslavia

Initial proceedings

A. Letter dated 19 September 1991 from the Permanent Representative of Austria to the United Nations addressed to the President of the Security Council

Letter dated 19 September 1991 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council

Letter dated 20 September 1991 from the Permanent Representative of Hungary to the United Nations addressed to the President of the Security Council

Letter dated 24 September 1991 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council

Decision of 25 September 1991 (3009th meeting): resolution 713 (1991)

By a letter dated 19 September 1991 addressed to the President of the Security Council,¹ the representative of Austria requested an urgent consideration, in informal consultations of the members of the Council, of the deteriorating situation regarding Yugoslavia which gave rise to serious concern throughout the region.

By letters dated 19 and 20 September 1991 addressed to the President of the Council,² the representatives of Canada and Hungary, respectively, requested an urgent meeting of the Security Council in the light of the deteriorating situation in Yugoslavia, the continuation of which was likely to endanger the maintenance of international peace and security.

By a letter dated 24 September 1991 addressed to the President of the Council,³ the representative of Yugoslavia stated that his Government welcomed the decision that had been taken, at the initiative of Belgium, France and the United Kingdom, to call a meeting of the Council to discuss the situation in Yugoslavia. He added that the Foreign Minister of Yugoslavia wished to participate in the Council meeting, and that he was hopeful that the Council would be able to adopt a resolution at that meeting which would contribute to the current efforts to bring peace to all Yugoslavs.

At its 3009th meeting, on 25 September 1991, the Council included the letters from the representatives of Austria, Canada, Hungary and Yugoslavia in its agenda.

On behalf of the Council, the President (France) expressed deep appreciation for the presence at the meeting of the following Foreign Ministers of States members of the Council: Austria, China, Cuba, Ecuador, India, Romania, the Union of Soviet Socialist Republics, the United Kingdom, the United States and Zimbabwe. He invited the representative of Yugoslavia, at his request, to participate in the discussion without the right to vote.

The President drew the attention of the members of the Council to a draft resolution submitted by Austria, Belgium, France, the Union of Soviet Socialist Republics and the United Kingdom.⁴

He also drew their attention to the following other documents: (a) letters dated 5 July to 20 September 1991 from the representative of the Netherlands to the Secretary-General,⁵ transmitting statements and declarations on Yugoslavia adopted by the European Community and its member States during that period, the last of which — a declaration issued on 19 September 1991 — expressed the intention of seeking, through the Security Council, the support of the international community for the European efforts; (b) joint letters dated 7 August to 20 September 1991

³ S/23069.

⁴ S/23067

⁵ S/22775, S/22834, S/22898, S/22975 and S/23059.

¹ S/23052.

² S/23053 and S/23057.

from the representatives of Belgium, France and the United Kingdom to the Secretary-General and the President of the Security Council,⁶ also transmitting declarations on Yugoslavia adopted by the European Community and its member States during that period; (c) a letter dated 12 July 1991 from the representative of Czechoslovakia to the Secretary-General,⁷ transmitting the texts of the documents adopted in July 1991 in the framework of the Conference on Security and Cooperation in Europe in connection with the situation in Yugoslavia; (d) a letter dated 7 August 1991 from the representative of Austria to the President of the Council,⁸ drawing attention to the recent deterioration of the situation regarding Yugoslavia which gave rise to serious concern throughout the region, and reserving the right to ask for informal consultations of the members of the Council in the light of further developments with a view to the Council taking such measures as might be deemed appropriate; and (e) a letter dated 19 September 1991 from the representative of Australia to the Secretary-General,⁹ expressing the view that the time had come for the international community to reinforce the European efforts through the United Nations, asking the Secretary-General to lend the authority of his own office to the search for a resolution of the problems in Yugoslavia, and suggesting that the Security Council should consider the issue as a matter of urgency.

The President of the Council also noted that members had received copies of a letter dated 25 September 1991 from the representative of Australia addressed to him,¹⁰ attaching a statement by the Foreign Minister of Australia. The latter set out, *inter alia*, why his Government believed that the Security Council had the authority to consider the situation in Yugoslavia and what the Council could do to support the European efforts. In his country's view, the situation represented a threat to international peace and security in the region justifying, and indeed — in terms of the Charter — requiring, United Nations involvement: continued fighting in Yugoslavia posed a threat to the security of its neighbours; and numbers of refugees fleeing the conflict had already crossed international borders, while the threat of further

outflows on a massive scale was of major concern. As to what the United Nations could do, the Security Council could throw the full moral and political authority of the international community behind the European efforts to secure peace in Yugoslavia; the United Nations, and particularly the Secretary-General, could play a more direct role in supporting those efforts by engaging the parties in dialogue; the Council could, as proposed, adopt a resolution imposing an arms embargo on Yugoslavia; and it should stand ready to consider further measures under its Charter competencies, if necessary.

Commencing the discussion, the representative of Yugoslavia stated that the Yugoslav crisis, which threatened peace and security on a large scale, had rightly become a matter of concern for the Council. Yugoslavia was in conflict with itself. The crisis was an integral part of the historical turmoil that had been besetting Central and Eastern Europe, the Soviet Union and other parts of the world in recent years. However, it had another tragic aspect due to the historical, political and, particularly, ethnic differences involved. Deep mutual distrust, unilateral acts, the policy of *fait accompli* and the use of force had blocked all efforts towards a peaceful and democratic resolution of the crisis. The crisis jeopardized not only the present and future of the Yugoslav peoples, but also peace and stability in Europe. It also threatened the emerging new world architecture. Yugoslavia had not been able to resolve the crisis on its own and had welcomed the peace efforts of the European Community under the auspices of the Conference on Security and Cooperation in Europe (CSCE), based on certain basic principles: the unacceptability of any unilateral or forcible changes of borders; protection of, and respect for, the rights of all in Yugoslavia; and full recognition of all legitimate interests and aspirations. Those efforts had included the brokering of a ceasefire, monitored by European Community observers, the suspension of arms deliveries to all the parties involved, and, in September 1991, the inauguration of a Conference on Yugoslavia at The Hague. The speaker stressed the need for a genuine readiness on the part of the international community, the European actors — CSCE and the European Community — and all Yugoslav parties, to utilize the framework of the Conference on Yugoslavia in order to consolidate peace and to open a political dialogue on the future of Yugoslavia. He stated that the draft resolution represented a sincere effort to ensure that the Council would enhance the

⁶ S/22902, S/22991, S/23010 and S/23060.

⁷ S/22785.

⁸ S/22903.

⁹ S/23047.

¹⁰ S/23071.

endeavours of the European Community and help Yugoslavia to find the way to help itself. The draft also reaffirmed the original principles of the Charter of the United Nations and the need to preserve international peace and security and to resolve crises primarily through regional arrangements and mechanisms. It was essential that the Yugoslav disputes be resolved through the Conference on Yugoslavia, that the efforts towards peace and dialogue invested by the European Community under the auspices of CSCE should be supported; that the international community be engaged by imposing a general and complete embargo on all deliveries of weapons and military equipment to all parties in Yugoslavia; and that everyone refrain from any action that might contribute to increasing tension and to impeding or delaying a peaceful and negotiated outcome to the conflict in Yugoslavia.¹¹

The Council then commenced the voting procedure on the draft resolution before it. Speaking before the vote, the representative of Belgium stated that the Council could not fail to address a situation which had caused loss of human life and significant destruction and was a threat to regional peace and security, especially destabilizing in the context of political and economic change in Central and Eastern Europe. He referred to the efforts by the European Community and CSCE, which had called for a ceasefire, the sending of monitors to the area and the convening of a peace conference. Notwithstanding the difficulties encountered in setting up that machinery, the European Community and its member States were determined to contribute to a negotiated settlement on the basis of the following principles: the unacceptability of the use of force; the unacceptability of any modification of frontiers through the use of force — modifications which they were determined not to recognize; respect for the rights of all those who lived in Yugoslavia, including minorities; and the need to take into account all legitimate concerns and aspirations. They needed the support of the Council and of the international community, in conformity with Chapter VIII of the Charter, to lay the groundwork for the parties to settle their dispute within the framework of an international conference.¹²

The representative of Austria stated that his country viewed with great concern the developments in

neighbouring Yugoslavia and supported fully the efforts of the European Community and CSCE. Those efforts ought to be supported by the international community as a whole, which had a responsibility to put an end to the armed conflict in Yugoslavia. At the same time, no appeal to the collective security organs could release the European regional organizations from their own responsibility. He reiterated the principles on which the future relations between the peoples in Yugoslavia should be based, including the non-use of force; the right to self-determination; the unacceptability of any changes by force of the borders between the Yugoslav republics; the full implementation of the Paris Charter for a New Europe concerning democracy, the rule of law and respect for human rights; and the conclusion of binding agreements on the protection of minorities and effective guarantees for equal participation in the political process by all groups.¹³

The representative of Zimbabwe stated that he would vote for the draft resolution because the Government of Yugoslavia had clearly indicated its support for it through its letter and the statement by its Foreign Minister. Grieved by the outbreak of tribal hostilities and the escalating toll of death and destruction in Yugoslavia, a founder member of the Non-Aligned Movement, the speaker supported the proposed action by the Council, which focused on two areas: strengthening the hand of the Secretary-General in seeking a peaceful political solution to the problems in Yugoslavia, and stopping the flow of arms into that country. He cautioned, however, that any further action by the Council should be taken properly, within the terms of the Charter and of its own practice.¹⁴

The representative of Yemen said that Yugoslavia was an example of the new type of problems facing the United Nations, which were characterized by political upheavals inside States and a slide towards fragmentation and even anarchy. The Security Council needed to deal creatively with these problems in order to avoid their escalation to the point where they would threaten regional and international security. However, the principles of the Charter, including respect for the sovereignty of States and non-interference in their domestic affairs, must not be disregarded. The Council, while reviewing the bases on which it worked, should

¹¹ S/PV.3009, pp. 6-17.

¹² *Ibid.*, pp. 18-22.

¹³ *Ibid.*, pp. 23-26.

¹⁴ *Ibid.*, pp. 28-32.

not engage in experimentation in settling internal disputes. The speaker, noting the request of the Government of Yugoslavia, hoped that the involvement of the Security Council would contribute to halting the military operations in Yugoslavia and help all parties to settle their disputes and differences peacefully.¹⁵

The representative of Cuba expressed hope that the proposed decision of the Security Council would help to ensure that Yugoslavia and its people would make progress towards the settlement of the country's internal conflicts and achieve stability and lasting peace.¹⁶

The representative of Romania reiterated his country's position that the Security Council's main concern should be to find the best way to encourage the Yugoslav parties to come to an understanding by themselves on issues dividing them and to support the efforts of the European Community to assist those parties to reach such an understanding. Commenting on the draft resolution, he highlighted the importance of the provisions concerning the ceasefire, the arms embargo, and the efforts of the European Community supported by CSCE and those to be undertaken by the Secretary-General. With respect to the embargo, his delegation hoped that all countries would observe the Council's decision in accordance with Article 25 of the Charter.¹⁷

The representative of India stressed that the Council was being formally seized of the situation in Yugoslavia by the State concerned, which was an essential requirement in such cases. Referring to Article 2 (7) of the Charter, he pointed out that the Council's consideration of the item on the agenda related not to Yugoslavia's internal situation as such, but to its implications for peace and security in the region. The Council's intervention became legitimate only when a conflict had serious implications for international peace and security. The efforts of the European Community and CSCE, undertaken with the consent and request of the Yugoslav authorities, deserved commendation and support, as provided for by Chapter VIII of the Charter. The speaker referred specifically to Article 52 (3) and Article 54 of the Charter. In his view, the main purpose of the draft

resolution was to throw the Council's moral and political weight behind collective regional efforts.¹⁸

The draft resolution was then put to the vote and adopted unanimously as resolution 713 (1991), which reads:

The Security Council,

Conscious of the fact that Yugoslavia has welcomed, through a letter from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council, the decision to convene a meeting of the Security Council,

Having heard the statement by the Minister for Foreign Affairs of Yugoslavia,

Deeply concerned by the fighting in Yugoslavia, which is causing a heavy loss of human life and material damage, and by the consequences for the countries of the region, in particular in the border areas of neighbouring countries,

Concerned that the continuation of this situation constitutes a threat to international peace and security,

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Chapter VIII of the Charter,

Commending the efforts undertaken by the European Community and its member States, with the support of the States participating in the Conference on Security and Cooperation in Europe, to restore peace and dialogue in Yugoslavia, through, inter alia, the implementation of a ceasefire including the sending of observers, the convening of a conference on Yugoslavia, including the mechanisms set forth within it, and the suspension of the delivery of all weapons and military equipment to Yugoslavia,

Recalling the relevant principles enshrined in the Charter, and in this context taking note of the declaration of 3 September 1991 of the States participating in the Conference on Security and Cooperation in Europe that no territorial gains or changes within Yugoslavia brought about by violence are acceptable,

Taking note of the agreement for a ceasefire concluded on 17 September 1991 in Igalo, and also that signed on 22 September 1991,

Alarmed by the violations of the ceasefire and the continuation of the fighting,

Taking note of the letter dated 19 September 1991 from the Permanent Representative of Austria to the United Nations addressed to the President of the Security Council,

¹⁵ Ibid., pp. 33-36.

¹⁶ Ibid., pp. 37-38.

¹⁷ Ibid., pp. 43-44.

¹⁸ Ibid., pp. 44-48.

Taking note also of the letters dated 19 and 20 September 1991 from, respectively, the Permanent Representative of Canada and the Permanent Representative of Hungary to the United Nations addressed to the President of the Security Council,

Taking note further of the letters addressed to the Secretary-General dated 5 and 22 July, 6 and 21 August and 20 September 1991 from the Permanent Representative of the Netherlands, the letter dated 12 July 1991 from the Permanent Representative of Czechoslovakia, the letter dated 7 August 1991 from the Permanent Representatives of Belgium, France and the United Kingdom of Great Britain and Northern Ireland, and the letter dated 19 September 1991 from the Permanent Representative of Australia as well as the letter addressed to the President of the Security Council dated 7 August 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Austria and the letters dated 29 August and 4 and 20 September 1991 from the Permanent Representatives of Belgium, France and the United Kingdom of Great Britain and Northern Ireland to the United Nations,

1. *Expresses its full support* for the collective efforts for peace and dialogue in Yugoslavia undertaken under the auspices of the member States of the European Community with the support of the States participating in the Conference on Security and Cooperation in Europe consistent with the principles of that Conference;

2. *Supports fully* all arrangements and measures resulting from such collective efforts as those described above, in particular with regard to assistance and support to the ceasefire observers, and to consolidate an effective end to hostilities in Yugoslavia and to assure the smooth functioning of the process instituted within the framework of the Conference on Yugoslavia;

3. *Invites* to this end the Secretary-General to offer his assistance without delay, in consultation with the Government of Yugoslavia and all those promoting the efforts referred to above, and to report as soon as possible to the Security Council;

4. *Strongly urges* all parties to abide strictly by the ceasefire agreements of 17 and 22 September 1991;

5. *Appeals urgently to and encourages* all parties to settle their disputes peacefully and through negotiation at the Conference on Yugoslavia, including through the mechanisms set forth within it;

6. *Decides*, under Chapter VII of the Charter of the United Nations, that all States shall, for the purposes of establishing peace and stability in Yugoslavia, immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia until the Council decides otherwise following consultation between the Secretary-General and the Government of Yugoslavia;

7. *Calls upon* all States to refrain from any action which might contribute to increasing tension and to impeding or delaying a peaceful and negotiated outcome to the conflict in

Yugoslavia, which would permit all Yugoslavs to decide upon and to construct their future in peace;

8. *Decides* to remain seized of the matter until a peaceful solution is achieved.

Speaking after the vote, the representative of China stated that his delegation had voted in favour of the draft resolution on the understanding that the Security Council discussion was being carried out in special circumstances, that is, with the explicit agreement of the Government of Yugoslavia. However, China's principled position that a country's internal affairs should be handled by the people of that country, and that, according to the Charter, the United Nations, including the Security Council, had to refrain from involving itself and interfering in the internal affairs of any Member State, remained unchanged. The speaker hoped that the Council's action would contribute to the restoration of domestic peace and stability through Yugoslavia's internal peaceful negotiations. He reiterated that the international community, in its endeavours to restore peace and security in the country, must strictly abide by the relevant principles contained in the Charter and international law.¹⁹

The representative of the Union of Soviet Socialist Republics noted that the fratricidal conflict in Yugoslavia had begun to spill over national borders and that, if it continued, it would constitute a direct threat to international peace and security. Convinced that the problems of Yugoslavia and many other multinational States could only be solved through dialogue and negotiation, his delegation had sponsored the resolution just adopted, which called upon all parties to the conflict immediately to cease hostilities and to resolve their disputes peacefully by means of negotiation at the Conference on Yugoslavia. It had been prompted to do so, owing to the consent given by Yugoslavia. The speaker emphasized that intra-State conflicts, like intergovernmental ones, had to be resolved politically, by using new approaches in accordance with the principles both of the Charter and of the CSCE process. Another lesson to be learned from the events in Yugoslavia was the need to respect the rights of national minorities.²⁰

The representative of the United Kingdom stated that, against a background of suffering, bereavement and much fear for the future, the Security Council's

¹⁹ Ibid., pp. 49-51.

²⁰ Ibid., pp. 51-53.

aim had not been to interfere or to try to impose a solution. Rather, it had sought to respond to the pleas of the Yugoslav parties to help them to find a peaceful way through their differences. Although the conflict in Yugoslavia was being handled as a European matter, it was believed that the unique authority of the Council was needed to emphasize that this was an international concern with stakes and implications going wider than Yugoslavia alone. The resolution just adopted was fully consistent with the principles set out by the European Community on 19 September 1991, namely, that the use of force was unacceptable, that any change of borders by force was unacceptable, that the rights of all who lived in Yugoslavia, including minorities, had to be respected, and that there was a need to take account of all legitimate concerns and aspirations. Noting that some had suggested that it was premature to use the language of Chapter VII, the speaker pointed out that the conflict under discussion had a strong international dimension and that the patchwork of nationalities and minorities throughout Central and Eastern Europe meant that full-scale war might not easily be confined to a single territory.²¹

The representative of the United States observed that the Security Council was meeting because the crisis in Yugoslavia had descended into open warfare which threatened the peoples of that country as well as its neighbours. It was that danger of escalation which made it a matter of prime concern to the Council. It was time for all parties to commit themselves to resolving their differences peacefully and, as a first step, to respect the ceasefire. The speaker contended that the Yugoslav federal military was not serving as an impartial guarantor of the ceasefire in Croatia and that the Serbian leadership had been actively supporting and encouraging the use of force in Croatia by Serbian militants and the Yugoslav military. Force was also beginning to be used in Bosnia by the Serbian leadership and the Yugoslav military to establish control over territories outside the borders of Serbia. The aggression within Yugoslavia therefore represented a direct threat to international peace and security. The use of aggression to determine the future internal borders of Yugoslavia or Serbia also represented a grave challenge to the values and principles which underlay the Helsinki Final Act, the Charter of Paris and the Charter of the United Nations. Calling upon all parties to establish a genuine ceasefire and work

towards a negotiated agreement on Yugoslavia's future, the speaker commended the efforts of the European Community and CSCE, for which the Council had expressed its full support in the resolution just adopted. The United States had voted for the resolution without reservation, welcoming in particular the international arms embargo and the call for the Secretary-General to bring the good offices of the Organization to bear on the Yugoslav situation in concert with the efforts of regional bodies.²²

Several other speakers also expressed their support for the resolution, in response to the appeal by the Yugoslav authorities, in the hope that it would strengthen the European peace efforts.²³

The President, speaking in his capacity as the representative of France, stated that several of the Yugoslav republics were calling for their independence and that the right of peoples to self-determination could not be challenged. He noted that the members of the Security Council had once again shouldered a historic responsibility: a responsibility to Yugoslavia, which had accepted its assistance, to Europe and to the international community. They had to demonstrate that it was possible to build an order of peace and cooperation without recourse to force for the settlement of disputes. In the context of the ongoing peace efforts, he called upon the Secretary-General to offer his assistance without delay.²⁴

²² *Ibid.*, pp. 58-62.

²³ *Ibid.*, pp. 26-28 (Ecuador); pp. 63-65 (Zaire); pp. 39-41 (Côte d'Ivoire).

²⁴ *Ibid.*, pp. 65-67.

²¹ *Ibid.*, pp. 55-57.

**B. Letter dated 24 November 1991 from
the Secretary-General addressed to the
President of the Security Council**

**Letter dated 21 November 1991 from
the Permanent Representative of
Germany to the United Nations
addressed to the President of the
Security Council**

**Letter dated 26 November 1991 from
the Permanent Representative of
France to the United Nations addressed
to the President of the Security Council**

**Decision of 27 November 1991 (3018th
meeting): resolution 721 (1991)**

On 25 October 1991, pursuant to resolution 713 (1991), the Secretary-General submitted to the Council a report on the mission to Yugoslavia undertaken by his Personal Envoy, Mr. Cyrus R. Vance, from 11 to 18 October.²⁵ He stated that the latter had visited the six republics comprising the Socialist Federal Republic of Yugoslavia; attended sessions of the Conference on Yugoslavia at The Hague where he had conferred with the current President of the Council of Ministers of the European Community; and met in Bonn with the current Chairman of the States participating in the Conference on Security and Cooperation in Europe. The Secretary-General observed that the situation in Yugoslavia was very serious and had, in many respects, deteriorated markedly since the adoption of resolution 713 (1991). In sum, the threat to international peace and security identified by the Council in that resolution continued. The resolution itself had been well received on all sides and each of Mr. Vance's interlocutors wished to see the interest of the Security Council in this matter maintained. However, despite the efforts of the States members of the European Community and the strong urging of the Council, successive ceasefire agreements had not been observed. On the contrary, hostilities continued to escalate, with civilians continuing to pay a high price, through casualties and internal displacement, and the country's economy was rapidly deteriorating. There were credible assertions, moreover, from many parties in Yugoslavia that the

²⁵ S/23169.

arms embargo imposed by the Council under Chapter VII of the Charter, in resolution 713 (1991), was being violated. The Secretary-General observed that, given the gravity of this apparent violation of the Council's decision, its members would no doubt wish to respond appropriately. He added that developments in Yugoslavia had already, in varying measure, affected neighbouring States. There had been a flow, as yet relatively modest, of civilians affected by the hostilities from Yugoslavia into the territory of some neighbouring States, as well as allegations of unauthorized overflights of the airspace of a neighbouring State by Yugoslav military aircraft. In conclusion, the Secretary-General expressed his confidence that the Council would continue to be actively seized of the matter. He suggested that it might wish to assist, as well as to encourage, all parties to settle their disputes peacefully and through negotiation at the Conference on Yugoslavia, including through the mechanisms set forth within it.

By a letter dated 24 November 1991 addressed to the President of the Council,²⁶ the Secretary-General reported on a further mission of his Personal Envoy to Yugoslavia, from 17 to 24 November.²⁷ He stated that, as he had indicated to the members of the Council during informal consultations on 15 November, he had decided to ask his Personal Envoy, accompanied by a team of senior United Nations officials, to travel to Yugoslavia to discuss with the principal parties to the conflict the feasibility of deploying a United Nations peacekeeping operation in Yugoslavia. The Secretary-General informed the Council that, at a meeting at Geneva on 23 November chaired by his Personal Envoy, the Yugoslav parties — President Milosevic of Serbia, President Tudjman of Croatia and General Kadijevic, Minister of Defence of the Socialist Federal Republic of Yugoslavia — had signed an agreement (the Geneva Agreement),²⁸ a copy of which he attached. The Agreement provided for the immediate lifting by Croatia of its blockade of Yugoslav army barracks, the immediate withdrawal from Croatia of blockaded personnel and their equipment, and, most importantly, a ceasefire, which was to come into effect

²⁶ S/23239.

²⁷ That was Mr. Vance's third mission to the area. A second mission was carried out from 3 to 9 November, and reported on by the Secretary-General in an informal briefing to the members of the Council (S/23280, para. 2).

²⁸ S/23239, annex.

on 24 November 1991. With regard to the possibility of a United Nations peacekeeping operation in Yugoslavia, each of the three Yugoslav participants in the meeting had stated that they wished to see the deployment of such an operation as soon as possible. It was agreed that further work needed to be done on defining the areas where such an operation would be deployed and that this work should be undertaken as quickly as possible so that Mr. Vance could make recommendations to the Secretary-General on the matter. In the meantime, his Personal Envoy had made it clear to the parties that the deployment of a United Nations peacekeeping operation could not be envisaged without a lasting and effective ceasefire.

By letters dated 21 and 26 November 1991 addressed to the President of the Security Council, the representatives of Germany and France, respectively, requested an urgent meeting of the Security Council to consider the situation in Yugoslavia.²⁹

At its 3018th meeting, on 27 November 1991, the Council included the letters from the Secretary-General and the representatives of Germany and France in its agenda. Following the adoption of the agenda, the Council invited the representative of Yugoslavia, at his request, to participate in the discussion without the right to vote.

The President (Romania) drew the attention of the Council members to a letter dated 26 November 1991 from the representative of Yugoslavia to the President of the Security Council,³⁰ requesting the establishment of a peacekeeping operation in Yugoslavia. He also drew their attention to a number of other documents.³¹

²⁹ S/23232 and S/23247.

³⁰ S/23240.

³¹ (a) Joint letters dated 7 and 30 October, 8 and 13 November 1991, from the representatives of Belgium, France and the United Kingdom to the President of the Council, transmitting declarations and a statement on Yugoslavia adopted by the European Community and its member States in October and November (S/23114, S/23181, S/23203 and S/23214); (b) joint letter dated 18 October 1991 from the representatives of Belgium, France, the Soviet Union, the United Kingdom and the United States to the President of the Council, enclosing a declaration on Yugoslavia adopted by the European Community and its member States, the Soviet Union and the United States at The Hague on 18 October (S/23155); (c) letter dated 7 October 1991 from the representative

The President of the Council noted further that a draft resolution prepared in the course of prior consultations had been distributed to the Council members.³² He stated that, in the light of the urgency of the matter under consideration, he had been authorized by the Council to read out the text of the draft resolution, which he did.

The draft resolution was then put to the vote and adopted unanimously as resolution 721 (1991), which reads:

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991,

Considering the request by the Government of Yugoslavia for the establishment of a peacekeeping operation in Yugoslavia, as conveyed in the letter of 26 November 1991 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council,

of Bulgaria to the Secretary-General, enclosing a declaration by his Government on the escalation of the conflict in neighbouring Yugoslavia (S/23117); (d) letter dated 10 October 1991 from the representatives of Hungary and Poland to the Secretary-General, transmitting a statement by their Prime Ministers on the continuation of attacks against Croatia, in particular its capital, Zagreb, by the federal armed forces of Yugoslavia (S/23136); (e) report of the Secretary-General of 25 October 1991 (S/23169); (f) note verbale dated 6 November 1991 from the representative of Yugoslavia to the Secretary-General, disputing an allegation by Hungary that aircraft from Yugoslav territory had violated Hungarian airspace and alleging violation of Yugoslav airspace by Hungarian aircraft (S/23200); (g) letter dated 21 November 1991 from the representative of Germany to the Secretary-General, transmitting a declaration on Yugoslavia issued by the Council of Ministers of the Western European Union on 18 November (S/23236); (h) letter dated 21 November 1991 from the representative of Romania to the Secretary-General, relating to his country's implementation of resolution 713 (1991) concerning the arms embargo against Yugoslavia (S/23238); (i) letter dated 26 November 1991 from the representative of Czechoslovakia to the President of the Security Council, forwarding the press statement issued by the Presidents of the Czech and Slovak Federal Republic and of Slovenia concerning talks held on the situation in Yugoslavia and their initiative to save Dubrovnik, which included the recommendation that a United Nations peacekeeping force start its mission there (S/23248).

³² S/23245.

Deeply concerned by the fighting in Yugoslavia and by the serious violations of earlier ceasefire agreements, which have caused heavy loss of human life and widespread material damage, and by the consequences for the countries of the region,

Noting that the continuation and aggravation of this situation constitute a threat to international peace and security,

Considering also the letter of 24 November 1991 from the Secretary-General to the President of the Security Council on the mission of his Personal Envoy to Yugoslavia and the annexed agreement signed in Geneva on 23 November 1991,

Considering further the fact, as conveyed in the above-mentioned letter of the Secretary-General, that each one of the Yugoslav participants in the meeting with his Personal Envoy stated that they wanted to see the deployment of a United Nations peacekeeping operation as soon as possible,

1. *Approves* the efforts of the Secretary-General and his Personal Envoy, and expresses the hope that they will pursue their contacts with the Yugoslav parties as rapidly as possible so that the Secretary-General can present early recommendations to the Security Council including for the possible establishment of a United Nations peacekeeping operation in Yugoslavia;

2. *Endorses* the statement made by the Personal Envoy of the Secretary-General to the parties that the deployment of a United Nations peacekeeping operation cannot be envisaged without, *inter alia*, full compliance by all parties with the agreement signed in Geneva on 23 November 1991 and annexed to the letter of the Secretary-General of 24 November 1991;

3. *Strongly urges* the Yugoslav parties to comply fully with that agreement;

4. *Undertakes* to examine the recommendations of the Secretary-General mentioned above and take appropriate action without delay upon them, including in particular any recommendation for the possible establishment of a United Nations peacekeeping operation in Yugoslavia;

5. *Decides* to remain actively seized of the matter until a peaceful solution is achieved.

C. Report of the Secretary-General pursuant to Security Council resolution 721 (1991)

Decision of 15 December 1991 (3023rd meeting): resolution 724 (1991)

On 11 December 1991, the Secretary-General submitted to the Council a report pursuant to resolution 721 (1991),³³ on the fourth mission by his Personal Envoy to Yugoslavia, from 1 to 9 December. He

³³ S/23280.

reported that the main purposes of the mission had been to urge the three Yugoslav parties to the Geneva Agreement of 23 November 1991 to comply with the commitments that they had entered into and to pursue discussion of the feasibility of a United Nations peacekeeping operation in Yugoslavia. The Secretary-General observed that the conditions for establishing a peacekeeping operation in Yugoslavia still did not exist,³⁴ as the Geneva Agreement was not being fully implemented. While the process of lifting the blockade on, and the withdrawal from Croatia of, those units of the Yugoslav federal army hitherto blockaded was proceeding, the unconditional ceasefire remained unimplemented. It was essential for the three Yugoslav parties that had signed the Agreement to ensure full compliance with its terms in order to facilitate the resumption of the political negotiations for a peaceful resolution to the problems of Yugoslavia and its peoples. The Secretary-General suggested that the Council might wish to consider ways by which it would seek to ensure such compliance. He added that full compliance with the Geneva Agreement would permit accelerated consideration of the question of establishing a United Nations peacekeeping operation.³⁵ A solid basis for such consideration was, he believed, provided by the concept paper attached to his report,³⁶ which had met with a wide measure of agreement from the parties to the Geneva Agreement. The concept paper envisaged that a peacekeeping operation in Yugoslavia would be an interim arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis and would not prejudice the outcome of such negotiations. The operation would be established by the Security Council, acting on a recommendation by the Secretary-General. All members of the operation would be under the command of the Secretary-General, would be required to be completely impartial as between the various parties to the conflict, and would be permitted to use force to the minimum extent necessary and normally only in self-defence. The basic approach would be to deploy United Nations troops and police monitors in those areas of Croatia in which Serbs constituted the majority or substantial majority of the population and where intercommunal tensions had led to armed conflict in the recent past. It was hoped that a

³⁴ *Ibid.*, para. 21.

³⁵ *Ibid.*, para. 24.

³⁶ *Ibid.*, annex III.

further spread of the conflagration could thereby be avoided and the necessary conditions created for successful negotiations on an overall settlement of the Yugoslav crisis. The areas concerned, which would be designated as “United Nations Protected Areas”, would be demilitarized; all armed forces in them would be either withdrawn or disbanded. The United Nations force would also include a group of unarmed military observers. They would initially be deployed in the Protected Areas to verify the demilitarization of those areas. As soon as demilitarization had been effected, they would be transferred to parts of Bosnia and Herzegovina adjacent to Croatia and at Dubrovnik, to monitor intercommunal tension there. Assurances had been sought from the parties to the Geneva Agreement, in particular from President Milosevic, that all currently armed elements would extend full support to this kind of peacekeeping operation.

In the meantime, the Secretary-General recalled that the Conference on Yugoslavia was guided by a number of considerations, including the principle that “the prospect of recognition of the independence of those republics wishing it [could] only be envisaged in the framework of an overall settlement”, and the unacceptability of any modification of external or internal borders by means of force. He stressed that any selective, uncoordinated departure from those principles could hold very serious dangers, not only for the republics of Yugoslavia, but for all of its peoples and indeed for the maintenance of peace and security in the region. He had written in this connection, on 10 December 1991,³⁷ to the current President of the Council of Ministers of the European Community, the Foreign Minister of the Netherlands. In conclusion, the Secretary-General observed that the general situation in Yugoslavia continued to worsen and that the crisis in the humanitarian area, in particular, was deepening. He believed, however, that the international community was prepared to assist the Yugoslav peoples if the conditions he had described were met.

At its 3023rd meeting, held on 15 December 1991 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General’s report of 11 December in its agenda.

The Council invited the representative of Yugoslavia, at his request, to participate in the discussion without the right to vote.

³⁷ Ibid., annex IV.

The President (Union of Soviet Socialist Republics) drew the attention of the members of the Council to three letters: a letter dated 2 December 1991 from the representative of Germany addressed to the Secretary-General,³⁸ enclosing the text of a resolution adopted on 29 November by the Committee of Senior Officials of the Conference on Security and Cooperation in Europe, expressing support for United Nations action on Yugoslavia; a letter dated 4 December 1991 from the representative of Yugoslavia addressed to the President of the Security Council,³⁹ transmitting a statement by the Federal Government of Yugoslavia of 2 December stressing the need to create the necessary conditions for the immediate deployment of a small-scale United Nations peacekeeping operation; and a letter dated 13 December 1991 from the representative of Yugoslavia in his capacity as Chairman of the Coordinating Bureau of Non-Aligned Countries in New York addressed to the President of the Security Council,⁴⁰ transmitting the statement on the situation in Yugoslavia adopted by the Bureau on 13 December.

The President also drew their attention to a draft resolution that had been prepared in the course of the Council’s prior consultations.⁴¹ The draft resolution was then put to the vote and adopted unanimously as resolution 724 (1991), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991 and 721 (1991) of 27 November 1991,

Taking note of the report of the Secretary-General pursuant to Security Council resolution 721 (1991) of 11 December 1991,

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Chapter VIII of the Charter,

Determined to ensure that the general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia imposed by resolution 713 (1991) is effectively applied,

Commending the initiatives taken by the Secretary-General in the humanitarian field,

³⁸ S/23262.

³⁹ S/23267.

⁴⁰ S/23289.

⁴¹ S/23285.

1. *Approves* the report of the Secretary-General of 11 December 1991, and expresses its appreciation for it;

2. *Endorses* in particular the views expressed in paragraph 21 of that report that the conditions for establishing a peacekeeping operation in Yugoslavia still do not exist and in paragraph 24 that full compliance with the agreement signed in Geneva on 23 November 1991 would permit accelerated consideration of the question of establishing a United Nations peacekeeping operation in Yugoslavia;

3. *Concurs* in particular with the Secretary-General's observation that the international community is prepared to assist the Yugoslav peoples, if the conditions described in his report are met, and in that context endorses his offer to send to Yugoslavia a small group of personnel, including military personnel, as part of the continuing mission of his Personal Envoy, to carry forward preparations for possible deployment of a peacekeeping operation;

4. *Underlines* the view that the purpose of the deployment of any United Nations peacekeeping operation in Yugoslavia would be to enable all parties to settle their disputes peacefully, including through the processes of the Conference on Yugoslavia;

5. *Acting* under Chapter VII of the Charter of the United Nations:

(a) *Requests* all States to report to the Secretary-General within twenty days on the measures they have instituted for meeting the obligations set out in paragraph 6 of resolution 713 (1991) to implement a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia;

(b) *Decides* to establish, in accordance with rule 28 of its provisional rules of procedure, a committee of the Security Council consisting of all the members of the Council to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(i) To examine the reports submitted pursuant to paragraph (a);

(ii) To seek from all States further information regarding the action taken by them concerning the effective implementation of the embargo imposed by paragraph 6 of resolution 713 (1991);

(iii) To consider any information brought to its attention by States concerning violations of the embargo, and in that context to make recommendations to the Council on ways of increasing the effectiveness of the embargo;

(iv) To recommend appropriate measures in response to violations of the general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia and to provide information on a regular basis to the Secretary-General for general distribution to Member States;

(c) *Calls upon* all States to cooperate fully with the Committee in the fulfilment of its tasks concerning the effective implementation of the provisions of paragraph 6 of resolution 713 (1991);

(d) *Requests* the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for this purpose;

6. *Undertakes* to consider ways by which compliance with the commitments entered into by the parties may be achieved;

7. *Strongly urges* all States and parties to refrain from any action which might contribute to increasing tension, to inhibiting the establishment of an effective ceasefire and to impeding or delaying a peaceful and negotiated outcome to the conflict in Yugoslavia which would permit all the peoples of Yugoslavia to decide upon and to construct their future in peace;

8. *Encourages* the Secretary-General to pursue his humanitarian efforts in Yugoslavia, in liaison with the International Committee of the Red Cross, the United Nations High Commissioner for Refugees, the United Nations Children's Fund and other appropriate humanitarian organizations, to take urgent practical steps to tackle the critical needs of the people of Yugoslavia, including displaced persons and the most vulnerable groups affected by the conflict, to assist in the voluntary return of displaced persons to their homes;

9. *Decides* to remain actively seized of the matter until a peaceful solution is achieved.

D. Oral report of the Secretary-General pursuant to his further report of 5 and 7 January 1992

Decision of 7 January 1992 (3027th meeting): statement by the President

On 5 January 1992, the Secretary-General submitted to the Council a further report pursuant to resolution 721 (1991) and taking into account resolution 724 (1991).⁴² He reported on the mission of the preparatory group dispatched to Yugoslavia from 18 to 30 December 1991 to carry forward preparations for the possible deployment of a peacekeeping operation, and on the fifth mission of his Personal Envoy to the area, from 28 December to 4 January 1992. By way of background, he recalled that his predecessor had informed the members of the Council in informal consultations on 27 December that the conditions for establishing a peacekeeping operation in Yugoslavia still did not exist: the commitments made at

⁴² S/23363 and Add.1 of 7 January 1992.

Geneva on 23 November to establish an unconditional ceasefire remained unimplemented; and the Personal Envoy had not received adequate assurances that full cooperation would be extended to such an operation. He recalled, further, that the former Secretary-General had also told Council members of his concern about the heightened tension, particularly in Bosnia and Herzegovina, that had followed certain decisions taken outside Yugoslavia. That tension had led the President of Bosnia and Herzegovina to request the immediate deployment of United Nations peacekeepers in his country. In the light of those considerations, the former Secretary-General had informed Council members that, having reviewed the situation with his successor and the Personal Envoy, he had asked Mr. Vance to undertake a further mission to Yugoslavia to see if the remaining obstacles could be removed in order to permit the establishment of a peacekeeping operation in the country.

The Secretary-General observed that, although the prevailing situation in Yugoslavia continued to give cause for serious concern, a glimmer of hope could be gleaned from two developments during his Personal Envoy's fifth mission. First, the parties directly involved had accepted the concept paper of 11 December for a United Nations peacekeeping operation,⁴³ and had given a commitment to ensure full cooperation with such an operation although recent public statements by certain leaders of the Serb communities in Croatia had given cause for some concern. Secondly, an Implementing Accord⁴⁴ had been signed, under the auspices of his Personal Envoy, at Sarajevo on 2 January 1992 (the "Sarajevo Accord"), for carrying out the unconditional ceasefire agreed to by the parties at Geneva on 23 November 1991. The Accord provided for the complete cessation of hostile military activities with effect from 3 January, which both parties were making a genuine effort to give effect to as well as for confidence-building measures and third-party monitoring mechanisms.

The Secretary-General stated that both sides had expressed the wish that the United Nations should form part of the monitoring mechanisms. He noted, in this regard, that one such third-party monitoring mechanism already existed in the form of the European Community Monitoring Mission, which had been

deployed in Yugoslavia since July 1991. In conformity with resolution 713 (1991), he believed it appropriate for the European Community monitors to take the lead in monitoring implementation of the Sarajevo Accord. At the same time, he had been struck by the strength of the belief expressed to his Personal Envoy by so many of his Yugoslav interlocutors that a United Nations presence in the country would help the Yugoslav parties to honour their commitments, and had also noted the wish expressed by many European Community leaders that the United Nations should play a role on the ground in Yugoslavia. The Secretary-General accordingly intended, as a follow-up to the latest mission of his Personal Envoy, to send immediately to Yugoslavia a group of up to 50 military liaison officers to promote maintenance of the ceasefire. The mission of the military liaison officers would take place on the assumption that the ceasefire would quickly establish itself, that the other necessary conditions for the deployment of a peacekeeping force would be met and that the military liaison group would thus be superseded by the envisaged larger operation, on which he would revert as needed to the Council. He reiterated that a United Nations peacekeeping force could not be established in Yugoslavia without sustained evidence of the willingness and ability of the leaders on both sides to ensure that the ceasefire was respected and adequate assurance that all those on whose cooperation such a force would depend to carry out its mandate had genuinely accepted the basis for the operation as set out in the concept paper of 11 December 1991. With regard to the request made by the President of Bosnia and Herzegovina for the immediate deployment of a substantial United Nations peacekeeping presence in that Republic, the Secretary-General noted that the concept paper already envisaged a deployment of United Nations military observers in Bosnia and Herzegovina.⁴⁵ He believed also that for the time being the matter should be approached in the context of the overall peacekeeping operation envisaged in that paper. The purpose of such an operation, he stressed, had from the outset been conceived as being to create favourable conditions for the necessary negotiations between the parties — negotiations that had been proceeding in the Conference on Yugoslavia, which remained the only forum for a negotiated settlement. In this way, the United Nations would be supporting the role and

⁴³ S/23280, annex III.

⁴⁴ S/23363, annex III.

⁴⁵ S/23280, annex III, para. 13.

efforts of the European Community, which had the backing of CSCE and which had been pursued in the framework of Chapter VIII of the Charter.

In conclusion, the Secretary-General stated that his Personal Envoy had pointed out to all interlocutors, during his fifth mission to Yugoslavia, that the arms embargo imposed by resolution 713 (1991) and reinforced by resolution 724 (1991) continued in force and would retain its application unless the Security Council determined otherwise; indeed, he had added that the embargo would continue to apply to all areas that had been part of Yugoslavia, any decisions on the question of the recognition of the independence of certain republics notwithstanding.⁴⁶

At its 3027th meeting, held on 7 January 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the Secretary-General's oral report pursuant to his report of 5 January. The Council invited the representative of Yugoslavia, at his request, to participate in the discussion without the right to vote.

The President (United Kingdom) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁴⁷

The members of the Council discussed on 7 January 1992 the tragic incident that occurred in Yugoslavia earlier in the day, in which helicopters of the European Community Monitoring Mission in Yugoslavia were shot down by a Yugoslav aircraft, killing four Italian members and one French member of the European Community Monitoring Mission.

The members of the Council condemned this callous attack on unarmed civilian personnel. They extended their most sincere condolences to the families of those who had lost their lives. They noted that the Yugoslav authorities had accepted responsibility for this flagrant breach of the ceasefire, had said that they would take the necessary disciplinary action against those responsible, and had reiterated their commitment to observe the ceasefire fully. The members of the Council called on the Yugoslav authorities to take all steps necessary to ensure that this act does not go unpunished and that such incidents do not occur again.

The members of the Council reiterated their urgent call on all parties to the conflict in Yugoslavia to respect their ceasefire commitments. They underlined the continuing importance of the role played by the European Community Monitoring Mission, as emphasized in the report of the Secretary-General of 5 and

7 January. They expressed their deep appreciation for the work done by members of the Mission and they called on the Yugoslav parties to ensure that members of the Mission and United Nations personnel be allowed to fulfil their role with the full cooperation of all sides.

E. Further reports of the Secretary-General pursuant to Security Council resolution 721 (1991)

Decision of 8 January 1992 (3028th meeting): resolution 727 (1992)

At its 3028th meeting, held on 8 January 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the Secretary-General's further report of 5 January.⁴⁸ The Council invited the representative of Yugoslavia at his request to participate in the discussion without the right to vote.

The President (United Kingdom) drew the attention of the Council members to a note by the President of the Security Council containing the text of his statement of 7 January 1992;⁴⁹ and a report of the Secretary-General on the implementation of paragraph 5 (a) of resolution 724 (1991),⁵⁰ concerning the measures instituted by States to give effect to the arms embargo on Yugoslavia. He also drew their attention to a draft resolution that had been prepared in the course of the Council's prior consultations,⁵¹ and noted that an oral amendment had been made to operative paragraph 6 of the draft resolution.

The draft resolution, as orally amended, was put to the vote and adopted unanimously as resolution 727 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, and 724 (1991) of 15 December 1991,

Taking note of the further report of the Secretary-General of 5 and 7 January 1992 submitted pursuant to Security Council resolution 721 (1991),

⁴⁸ S/23363 and Add.1.

⁴⁹ S/23389.

⁵⁰ S/23358.

⁵¹ S/23382.

⁴⁶ S/23363, para. 33.

⁴⁷ S/23389.

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Chapter VIII of the Charter, and noting the continuing role that the European Community will play in achieving a peaceful solution in Yugoslavia,

Deploing the tragic incident on 7 January 1992 which caused the death of five members of the European Community Monitoring Mission,

1. *Approves* the further report of the Secretary-General of 5 and 7 January 1992 and expresses its appreciation to the Secretary-General for it;

2. *Welcomes* the signing, under the auspices of the Personal Envoy of the Secretary-General for Yugoslavia, of an Implementing Accord at Sarajevo on 2 January 1992 concerning modalities for implementing the unconditional ceasefire agreed to by the parties at Geneva on 23 November 1991;

3. *Endorses* the intention of the Secretary-General, as a follow-up to the latest mission of his Personal Envoy, to send immediately to Yugoslavia a group of up to fifty military liaison officers to promote maintenance of the ceasefire; in this connection, takes note in particular of the views expressed in paragraphs 24, 25, 28, 29 and 30 of the Secretary-General's report and the criteria reflected in paragraphs 3 and 4 of resolution 724 (1991);

4. *Urges* all parties to honour the commitments made at Geneva and Sarajevo with a view to effecting a complete cessation of hostilities;

5. *Requests* all parties to take all necessary measures to ensure the safety of the personnel sent by the United Nations and of the members of the European Community Monitoring Mission;

6. *Reaffirms* the embargo applied in paragraph 6 of resolution 713 (1991) and in paragraph 5 of resolution 724 (1991), and decides that the embargo applies in accordance with paragraph 33 of the report of the Secretary-General;

7. *Encourages* the Secretary-General to pursue his humanitarian efforts in Yugoslavia;

8. *Decides* to remain actively seized of the matter until a peaceful solution is achieved.

**Decision of 7 February 1992 (3049th meeting):
resolution 740 (1992)**

On 4 February 1992, pursuant to resolution 721 (1991) and taking into account resolution 727 (1992), the Secretary-General submitted to the Council a further report on the possible establishment of a United Nations peacekeeping operation in

Yugoslavia.⁵² He stated that the ceasefire was generally holding and that he was persuaded that the level of alleged ceasefire violations was not sufficiently grave to preclude deployment of a United Nations peacekeeping force, if the other conditions for such deployment were fulfilled. As to the latter, he noted that two of the signatories of the Geneva Agreement of 23 November 1991 — President Milosevic of Serbia and General Adzic, the Acting Federal Secretary of Defence of the Socialist Federal Republic of Yugoslavia and Chief of Staff of the Yugoslav Army — maintained their full acceptance and support for the Secretary-General's plan for a United Nations force. He recalled that the plan contained two central elements: the withdrawal of the Yugoslav National Army from Croatia and the demilitarization of the United Nations Protected Areas; and the continuing functioning, on an interim basis, of the existing local authorities and police, pending the negotiation of an overall political solution to the crisis in the European Community Conference on Yugoslavia.⁵³ The local Serbian leaders in two of the three areas where the force would be deployed had also accepted the plan. However, a major obstacle remained to the deployment of a peacekeeping operation. One of the signatories of the Geneva Agreement — President Tudjman of Croatia — appeared to have rejected key elements of the plan, as had the Serbian leaders in what would be the Krajina United Nations Protected Area. The Secretary-General observed that if the envisaged peacekeeping operation were to be launched, action needed to be taken to convince the Government of Croatia and the Serbian leadership in Krajina that the early deployment of a United Nations force, accompanied by a resumption of the work of the Conference on Yugoslavia, was the best, and perhaps the only, available way to create the conditions for a peaceful resolution of the Yugoslav crisis. Noting the need for action to be taken quickly to forestall any tendency for the current ceasefire to unravel, he expressed concern at allegations, including in the media, that the arms embargo imposed in resolution 713 (1991) was not being observed. The Council would no doubt wish to keep the situation under careful scrutiny to ensure that the embargo was scrupulously respected.⁵⁴ The Secretary-General concluded that the circumstances described in his report did not permit

⁵² S/23513.

⁵³ *Ibid.*, para. 8.

⁵⁴ *Ibid.*, para. 21.

him to recommend the deployment of a United Nations peacekeeping force at that time. In the interim, noting that the United Nations military liaison officers already deployed in Yugoslavia had made an important contribution to the maintenance of the ceasefire, he recommended that the group remain in existence but that its authorized strength should be increased to 75 officers for technical reasons.

At its 3049th meeting, held on 7 February 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's further report of 4 February in its agenda. The Council invited the representative of Yugoslavia, at his request, to participate in the discussion without the right to vote.

The President (United States) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations,⁵⁵ as well as to a number of revisions thereto.

The draft resolution, the provisional text of which had been orally revised, was then put to the vote and adopted unanimously as resolution 740 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991 and 727 (1992) of 8 January 1992,

Taking note of the further report of the Secretary-General of 4 February 1992 submitted pursuant to Security Council resolution 721 (1991) and welcoming his report that the ceasefire has been generally observed thus removing one of the obstacles to the deployment of a peacekeeping operation,

Noting that the letter⁵⁶ from President Franjo Tudjman of 6 February 1992, in which he accepts fully and unconditionally the Secretary-General's concept and plan, which defines the conditions and areas where the United Nations forces would be deployed, removes a further obstacle in that respect,

Also noting that the implementation of the United Nations peacekeeping plan contained in the report of the Secretary-General of 11 December 1991 will facilitate the task of the Conference on Yugoslavia in reaching a political settlement,

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Chapter VIII of the Charter,

Expressing concern at the indications that the arms embargo established by the Council in resolution 713 (1991) is not being fully observed, as noted in paragraph 21 of the report of the Secretary-General,

1. *Reaffirms* its approval set out in resolution 724 (1991) of the United Nations peacekeeping plan contained in the report of the Secretary-General of 11 December 1991;

2. *Welcomes* the continuing efforts of the Secretary-General and his Personal Envoy for Yugoslavia to remove the remaining obstacle in the way of the deployment of a peacekeeping operation;

3. *Approves* the proposal by the Secretary-General to increase the authorized strength of the military liaison mission to a total of seventy-five officers;

4. *Requests* the Secretary-General to expedite his preparations for a United Nations peacekeeping operation so as to be prepared to deploy immediately after the Council decides to do so;

5. *Expresses its concern* that the United Nations peacekeeping plan has not yet been fully and unconditionally accepted by all in Yugoslavia on whose cooperation its success depends;

6. *Calls upon* all States to continue to take all appropriate steps to ensure that the Yugoslav parties implement their unqualified acceptance of the United Nations peacekeeping plan, fulfil their commitments in good faith and cooperate fully with the Secretary-General;

7. *Calls upon* the Yugoslav parties to cooperate fully with the Conference on Yugoslavia in its aim of reaching a political settlement consistent with the principles of the Conference on Security and Cooperation in Europe, and reaffirms that the United Nations peacekeeping plan and its implementation is in no way intended to prejudge the terms of a political settlement;

8. *Also calls upon* all States to cooperate fully with the Security Council Committee established by resolution 724 (1991) concerning Yugoslavia, including reporting any information brought to their attention concerning violations of the embargo;

9. *Decides* to remain actively seized of the matter until a peaceful solution is achieved.

**Decision of 21 February 1992 (3055th meeting):
resolution 743 (1992)**

On 15 February 1992, the Secretary-General submitted to the Council a further report, pursuant to resolution 721 (1991) and taking into account

⁵⁵ S/23534.

⁵⁶ S/23592, annex I.

resolution 740 (1992),⁵⁷ in which he recommended the immediate establishment of a peacekeeping force in Yugoslavia. He observed that almost all political groups in the country had expressed support for such an operation, although they differed in certain respects on where it should be deployed and what its functions should be; that many citizens of Yugoslavia had appealed for immediate United Nations deployment to their country as the only remaining hope for avoiding an even more destructive civil war than the one during the second half of 1991; and that many Member States had also urged him not to delay in recommending the deployment of a United Nations force in accordance with the peacekeeping plan of 11 December 1991.⁵⁸ He explained that he was only now proposing such a force because of the complexities and dangers of the Yugoslav situation and the consequent need to be as sure as possible that a United Nations force would succeed in consolidating the ceasefire and thus facilitate the negotiation of an overall political settlement. He reiterated that this required not only a working ceasefire but also clear and unconditional acceptance of the plan by all concerned, with clear assurances of their readiness to cooperate in its implementation. Although there remained a number of unanswered questions about the extent to which the force would in practice receive the necessary cooperation, the Secretary-General had come to the conclusion that the danger that a United Nations peacekeeping operation would fail because of lack of cooperation from the parties was less grievous than the danger that delay in its dispatch would lead to a breakdown of the ceasefire and to a new conflagration in Yugoslavia. That conclusion was based on the assumption, which he recognized could also be questioned, that the Yugoslav parties were ready to engage seriously in negotiating an overall settlement in the European Community Conference on Yugoslavia.

The Secretary-General elaborated as follows on the force, which would be known as the United Nations Protection Force (UNPROFOR). It would include military, police and civilian components, under the command of the United Nations, vested in the Secretary-General, under the authority of the Security Council. It would be deployed, as envisaged in the plan of 11 December, in three United Nations Protected

Areas, namely, Eastern Slavonia, Krajina and Western Slavonia, with military observers deployed in certain parts of Bosnia and Herzegovina adjacent to Croatia. Noting that the peacekeeping plan stated that, subject to the Council's agreement, the Force would remain in Yugoslavia until a negotiated settlement was achieved, the Secretary-General stressed that it would succeed only if there was confidence that this would indeed be the case; fears that it might be precipitously withdrawn before the underlying problems had been peacefully resolved would have a most unsettling effect in the United Nations Protected Areas. He suggested that the Council might therefore wish to decide to establish UNPROFOR for a period of 12 months in the first instance, with provision for its mandate to be renewed, if necessary, thereafter, in the event of a negotiated settlement not having been achieved; and to further build confidence by providing that the Force could be withdrawn before the initial 12-month period was completed only if the Council took a specific decision to that effect.⁵⁹ The Secretary-General accordingly recommended, on the basis of the plan of 11 December and his further comments, that the Council should decide to establish UNPROFOR with immediate effect and that it should instruct the Secretary-General to take the measures necessary to ensure the earliest possible deployment of the Force.

At its 3055th meeting, held on 21 February 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's further report of 15 February in its agenda. The Council invited the representative of Yugoslavia, at his request, to participate in the discussion without the right to vote.

The President (United States) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations,⁶⁰ as well as to a number of revisions thereto. He stated that the draft resolution, as orally revised, spoke for itself. The fact of its circulation as a presidential text reflected the unanimity of the Council's response to the situation in Yugoslavia, including its determination that the situation constituted a threat to international peace and security. Article 25 would apply to the decisions that the Council would be taking in the resolution. Speaking on

⁵⁷ S/23592 and Add.1 of 19 February 1992.

⁵⁸ As set out in the report of the Secretary-General of 11 December 1991 (S/23280).

⁵⁹ *Ibid.*, para. 30.

⁶⁰ S/23620.

behalf of all the members of the Council, the President expressed the hope that the Council's decisions that day would facilitate the attainment of a peaceful political settlement.⁶¹

The draft resolution, the provisional text of which had been orally revised, was then put to the vote and adopted unanimously as resolution 743 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992 and 740 (1992) of 7 February 1992,

Taking note of the further report of the Secretary-General of 15 and 19 February 1992 submitted pursuant to Security Council resolution 721 (1991) and the request of the Government of Yugoslavia of 26 November 1991 for a peacekeeping operation in Yugoslavia referred to in that resolution,

Noting in particular that the Secretary-General considers that the conditions permitting the early deployment of a United Nations Protection Force are met and welcoming his recommendation that this Force should be established with immediate effect,

Expressing its gratitude to the Secretary-General and his Personal Envoy for Yugoslavia for their contribution to the achievement of conditions facilitating the deployment of a United Nations Protection Force and their continuing commitment to this effort,

Concerned that the situation in Yugoslavia continues to constitute a threat to international peace and security as determined in resolution 713 (1991),

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Article 25 and Chapter VIII of the Charter,

Commending again the efforts undertaken by the European Community and its member States, with the support of the States participating in the Conference on Security and Cooperation in Europe, through the convening of a Conference on Yugoslavia, including the mechanisms set forth within it, to ensure a peaceful political settlement,

Convinced that the implementation of the United Nations peacekeeping plan will assist the Conference on Yugoslavia in reaching a peaceful political settlement,

1. *Approves* the further report of the Secretary-General of 15 and 19 February 1992 submitted pursuant to Security Council resolution 721 (1991);

2. *Decides* to establish, under its authority, a United Nations Protection Force in accordance with the above-mentioned report and the United Nations peacekeeping plan, and requests the Secretary-General to take the measures necessary to ensure its earliest possible deployment;

3. *Decides* that, in order to implement the recommendations in paragraph 30 of the report, the Force is established in accordance with paragraph 4 below, for an initial period of twelve months unless the Council subsequently decides otherwise;

4. *Requests* the Secretary-General immediately to deploy those elements of the Force which can assist in developing an implementation plan for the earliest possible full deployment of the Force for approval by the Council and a budget, which together will maximize the contribution of the Yugoslav parties to offsetting its costs and in all other ways secure the most efficient and cost-effective operation possible;

5. *Recalls* that, in accordance with paragraph 1 of the United Nations peacekeeping plan, the Force should be an interim arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis;

6. *Invites* accordingly the Secretary-General to report to the Security Council as appropriate and not less than every six months on progress towards a peaceful political settlement and the situation on the ground, and to submit a first report on the establishment of the Force within two months of the adoption of the present resolution;

7. *Undertakes*, in this connection, to examine without delay any recommendations that the Secretary-General may make in his reports concerning the Force, including the duration of its mission, and to adopt appropriate decisions;

8. *Urges* all parties and others concerned to comply strictly with the ceasefire agreements signed at Geneva on 23 November 1991 and at Sarajevo on 2 January 1992, and to cooperate fully and unconditionally in the implementation of the United Nations peacekeeping plan;

9. *Demands* that all parties and others concerned take all the necessary measures to ensure the safety of the personnel sent by the United Nations and of the members of the European Community Monitoring Mission;

10. *Calls again upon* the Yugoslav parties to cooperate fully with the Conference on Yugoslavia in its aim of reaching a political settlement consistent with the principles of the Conference on Security and Cooperation in Europe, and reaffirms that the United Nations peacekeeping plan and its implementation is in no way intended to prejudge the terms of a political settlement;

⁶¹ S/PV.3055, p. 3.

11. *Decides* within the same framework that the embargo imposed by paragraph 6 of resolution 713 (1991) shall not apply to weapons and military equipment destined for the sole use of the Force;

12. *Requests* all States to provide appropriate support to the Force, in particular to permit and facilitate the transit of its personnel and equipment;

13. *Decides* to remain actively seized of the matter until a peaceful solution is achieved.

F. Report of the Secretary-General pursuant to Security Council resolution 743 (1992)

Decision of 7 April 1992 (3066th meeting): resolution 749 (1992)

On 2 April 1992, the Secretary-General submitted to the Council his first report pursuant to resolution 743 (1992),⁶² on the establishment of the United Nations Protection Force. He stated that advance elements of the Force had carried out reconnaissance, with a view to preparing an implementation plan for deployment, and had conducted negotiations with the federal authorities of Yugoslavia, as well as with the authorities of Bosnia and Herzegovina and Croatia, concerning the conclusion of status-of-forces arrangements. All the Force Commander's interlocutors had emphasized the need for the earliest possible deployment of UNPROFOR. The Secretary-General observed that he shared their sense of urgency: the ceasefire remained fragile, with daily violations; and tensions had been aggravated by reports of expulsions of persons of various nationalities. There would be serious dangers in any further delay in the Force's full deployment. The proposed implementation plan for deployment, contained in annex I to his report, reflected difficulties which had arisen, largely for budgetary reasons, in making arrangements for transporting some of the more distant battalions and their equipment to Yugoslavia. As a result, UNPROFOR would not, in any case, be fully deployed until the middle of May 1992, assuming that the Council took a very early decision to authorize full deployment. In the meantime, negotiations continued with the various Yugoslav parties to persuade them to make additional goods and services available to

⁶² S/23777. For details concerning the composition and operations of UNPROFOR, see chap. V.

UNPROFOR free of charge. In the light of his report, the Secretary-General requested the urgent authority of the Council to proceed immediately to full deployment of UNPROFOR in accordance with the implementation plan.

At its 3066th meeting, held on 7 April 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda. The Council invited the representative of Yugoslavia, at his request, to participate in the discussion without the right to vote.

The President (Zimbabwe) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations,⁶³ and to several revisions thereto. The draft resolution, as orally revised in its provisional form, was then put to the vote and adopted unanimously as resolution 749 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992 and 743 (1992) of 21 February 1992,

Taking note of the report of the Secretary-General of 2 April 1992 submitted pursuant to Security Council resolution 743 (1992),

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Welcoming the progress made towards the establishment of the United Nations Protection Force and the continuing contacts by the Secretary-General with all parties and others concerned to stabilize the ceasefire,

Expressing its concern about reports on the daily violations of the ceasefire and the continuing tension in a number of regions even after the arrival of advance elements of the Force,

1. *Approves* the report of the Secretary-General of 2 April 1992 submitted pursuant to Security Council resolution 743 (1992);

2. *Decides* to authorize the earliest possible full deployment of the United Nations Protection Force;

3. *Urges* all parties and others concerned to make further efforts to maximize their contributions towards offsetting the costs of the Force, in order to help secure the most efficient and cost-effective operation possible;

⁶³ S/23788.

4. *Also urges* all parties and others concerned to take all action necessary to ensure complete freedom of aerial movement for the Force;

5. *Calls upon* all parties and others concerned not to resort to violence, particularly in any area where the Force is to be based or deployed;

6. *Appeals* to all parties and others concerned in Bosnia and Herzegovina to cooperate with the efforts of the European Community to bring about a ceasefire and a negotiated political solution.

**Decision of 10 April 1992 (3068th meeting):
statement by the President**

At its 3068th meeting, held on 10 April 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report of 2 April 1992⁶⁴ in its agenda.

The President (Zimbabwe) stated that, following consultations held earlier among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁶⁵

The Security Council, alarmed by reports on rapid deterioration of the situation in Bosnia and Herzegovina, reiterates the appeal in Security Council resolution 749 (1992) of 7 April 1992 to all parties and others concerned in Bosnia and Herzegovina to stop the fighting immediately. It invites the Secretary-General to dispatch urgently to the area his Personal Envoy for Yugoslavia to act in close cooperation with representatives of the European Community whose current efforts are aimed at stopping the fighting and at bringing about a peaceful solution to the crisis, and to report to the Council.

**G. Letter dated 23 April 1992 from the
Chargé d'affaires a.i. of the
Permanent Mission of Austria to the
United Nations addressed to the
President of the Security Council**

**Letter dated 24 April 1992 from the
Permanent Representative of France
to the United Nations addressed to the
President of the Security Council**

**Decision of 24 April 1992 (3070th meeting):
statement by the President**

By a letter dated 23 April 1992 addressed to the President of the Council,⁶⁶ the representative of Austria requested an urgent meeting of the Council to consider the deteriorating situation in Bosnia and Herzegovina which was endangering international peace and security.

By a letter dated 24 April 1992 addressed to the President of the Council,⁶⁷ the representative of France requested an urgent meeting of the Council to take such action as might be conducive to the re-establishment of peace in Bosnia and Herzegovina, including the deployment of a peacekeeping force.

At its 3070th meeting, on 24 April 1992, the Council included the letters from the representatives of Austria and France in its agenda.

The President (Zimbabwe) drew the attention of the Council members to a report of the Secretary-General of 24 April 1992,⁶⁸ submitted pursuant to resolution 749 (1992) and to the statement made by the President on 10 April 1992, on the seventh mission of his Personal Envoy to the region from 14 to 18 April. In his report, the Secretary-General observed that the situation in Bosnia and Herzegovina had deteriorated markedly since his Personal Envoy's last visit to the area early in March: it was characterized by massive mistrust among the communities of the Republic and an escalating cycle of violence. It was essential that a ceasefire on the basis of the agreement signed on 12 April in Sarajevo⁶⁹ should come into effect immediately. It was also essential that the work of the Conference on Yugoslavia continue with vigour and determination, together with European Community endeavours to bring about a peaceful settlement to the conflict in Bosnia and Herzegovina. The Secretary-General expressed concern, moreover, about the deteriorating humanitarian situation in Bosnia and Herzegovina: the fighting made it increasingly difficult to provide for the most basic needs of the innocent victims of the conflict and put at risk the personnel of international organizations. However, given the limitations on human, material and financial resources, and especially in view of the current widespread

⁶⁴ S/23777.

⁶⁵ S/23802.

⁶⁶ S/23833.

⁶⁷ S/23838.

⁶⁸ S/23836.

⁶⁹ *Ibid.*, annex II.

violence, he shared the view of his personal envoy that the deployment of a peacekeeping force in Bosnia and Herzegovina was not feasible. The present conditions there made it impossible to define a workable concept for such a force. He had decided, though, to advance the dispatch to Bosnia and Herzegovina of the 100 unarmed military observers that the concept paper⁷⁰ for UNPROFOR had envisaged would be deployed there after the demilitarization of the United Nations Protected Areas. Forty-one observers would be deployed immediately in the municipalities of Mostar, Capljina, Stolac and Trebinje.

The President also drew the Council members' attention to the following other documents: two letters dated 14 April and 21 April 1992 from the representatives of Belgium, France and the United Kingdom addressed to the President of the Council,⁷¹ transmitting statements on Bosnia and Herzegovina adopted by the European Community and its member States on 11 and 16 April, respectively; and a letter dated 22 April 1992 from the representative of Albania,⁷² transmitting his Government's declaration on the recognition of the independence of Bosnia and Herzegovina.

At the same meeting, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁷³

In advance of its consideration of the report of the Secretary-General of 24 April 1992 pursuant to Security Council resolution 749 (1992) the Council had an exchange of views in the course of which various proposals were made with regard to the situation in Bosnia and Herzegovina.

The Council notes with deep concern the rapid and violent deterioration of the situation in Bosnia and Herzegovina, which in addition to causing an increasing number of deaths of many innocent victims further risks compromising peace and security in the region.

The Council welcomes the recent efforts of the European Community and the Secretary-General aimed at prevailing upon the parties to respect fully the ceasefire signed on 12 April 1992 under the auspices of the European Community. It notes with satisfaction the decision of the Secretary-General to accelerate the deployment in Bosnia and Herzegovina of the 100 military observers from the United Nations Protection Force, 41 to be

deployed in the Mostar region immediately. The presence of these military observers, like that of the monitors of the European Community, should help the parties to implement their commitment, undertaken on 23 April 1992, to respect the ceasefire. The Council welcomes the support given by the Conference on Security and Cooperation in Europe to the efforts of the European Community and the United Nations.

The Council demands that all forms of interference from outside Bosnia and Herzegovina cease immediately. In this respect, it specifically calls upon Bosnia and Herzegovina's neighbours to exercise all their influence to end such interference. The Council condemns publicly and unreservedly the use of force, and calls upon all regular or irregular military forces to act in accordance with this principle. It emphasizes the value of close and continuous coordination between the Secretary-General and the European Community in order to obtain the necessary commitments from all parties and others concerned.

The Council urges all the parties to respect immediately and fully the ceasefire and condemns all breaches of the ceasefire from whatever quarter.

The Council supports the efforts undertaken by the European Community in the framework of the discussions on constitutional arrangements for Bosnia and Herzegovina under the auspices of the Conference on Yugoslavia. It urges the three communities in Bosnia and Herzegovina to participate actively and constructively in these talks and to conclude and implement the constitutional arrangements being developed at the tripartite talks.

The Council calls upon all parties and others concerned to facilitate humanitarian assistance and cooperate so that deliveries of humanitarian assistance reach their destination.

The Council has decided to remain actively seized of the matter and to continue its consideration of the further contribution that it can make to the restoration of peace and security in Bosnia and Herzegovina.

H. Statement issued by the President of the Security Council on 5 May 1992

Decision of 5 May 1992: statement by the President

On 5 May 1992, following consultations among the members of the Council, the President (Austria) issued the following statement on behalf of the Council:⁷⁴

The members of the Security Council take note of the fact that document S/23877⁷⁵ will be issued on 6 May 1992. They

⁷⁰ See S/23280, annex III, para. 13.

⁷¹ S/23812 and S/23830.

⁷² S/23832.

⁷³ S/23842.

⁷⁴ S/23878.

⁷⁵ Letter dated 27 April 1992 from the representative of

agree that this fact does not prejudge decisions that may be taken by appropriate United Nations bodies or their national positions on this matter.

I. Further report of the Secretary-General pursuant to Security Council resolution 749 (1992)

Decision of 15 May 1992 (3075th meeting): resolution 752 (1992)

On 12 May 1992, the Secretary-General submitted to the Council a further report pursuant to resolution 749 (1992),⁷⁶ on two separate subjects: Bosnia and Herzegovina and the deployment of UNPROFOR. He recalled that, following concerns expressed in informal consultations of the Council, he had written to the President of the Council on 29 April informing him of his decision to dispatch the Under-Secretary-General for Peacekeeping Operations, Mr. Marrack Goulding, to examine the evolving situation in Bosnia and Herzegovina and to look into the feasibility of a United Nations peacekeeping operation there.⁷⁷ While in the area, from 4 to 10 May, the Under-Secretary-General had also reviewed progress in the deployment of UNPROFOR.

The Secretary-General observed that the situation in Bosnia and Herzegovina was tragic, dangerous, violent and confused. The conditions in the capital, Sarajevo, continued to deteriorate and intense hostilities were taking place elsewhere in the Republic. All international observers agreed that what was happening was a concerted effort by the Serbs of Bosnia and Herzegovina, with the acquiescence of, and at least some support from, the Yugoslav army to create “ethnically pure” regions in the context of negotiations

Yugoslavia addressed to the President of the Council, transmitting a Declaration adopted on 27 April 1992 at the joint session of the Assembly of the Socialist Federal Republic of Yugoslavia, the National Assembly of the Republic of Serbia and the Assembly of the Republic of Montenegro. In the Declaration, the Federal Republic of Yugoslavia (Serbia and Montenegro) claimed, *inter alia*, to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the international organizations and institutions of which the Socialist Federal Republic of Yugoslavia was a member.

⁷⁶ S/23900.

⁷⁷ S/23860. By a letter dated 30 April 1992, the President of the Security Council informed the Secretary-General that the Council welcomed his decision (S/23861).

on the “cantonization” of the Republic in the European Community Conference on Bosnia and Herzegovina. The techniques used were the seizure of territory by military force and intimidation of the non-Serb population. The fighting and intimidation had led to massive displacement of the civilians. It had proved impossible to implement the ceasefire agreement signed on 12 April 1992 under European Community auspices. On the political front, European efforts to induce the leaders of the Croat, Muslim and Serb communities to agree on future constitutional arrangements for the Republic continued, although the most recent session of the European Community Conference on Bosnia and Herzegovina had been suspended because of the parties’ failure to honour the ceasefire.

The Secretary-General did not believe that in the present phase of the conflict it was feasible to undertake peacekeeping activities in Bosnia and Herzegovina beyond the existing limited involvement of UNPROFOR military observers in Sarajevo and the Mostar region, in both of which places the security of United Nations personnel was already precarious. Any successful peacekeeping operation had to be based on some agreement between the hostile parties. No such agreement was in sight. If, however, the European Community efforts on the ground in Sarajevo and in the constitutional talks succeeded, opportunities for United Nations peacekeeping might emerge, though it might in that case be more appropriate for the European Community, rather than the United Nations, to undertake the peacekeeping as well as the peacemaking. A successful peacekeeping operation also required the parties to respect the United Nations, its personnel and its mandate. None of the Bosnian parties could claim to satisfy this condition. Consideration had been given, alternatively, to the possibility of deploying an “intervention force”, as requested by President Izetbegovic of Bosnia and Herzegovina, which would be sent in, without the consent of all the parties, to enforce an end to the fighting. However, given the intensity and scale of the fighting, such a concept would require many tens of thousands of troops equipped for potential combat with heavily armed and determined adversaries. The Secretary-General did not, therefore, believe that such an enforcement action was a practicable proposition. Another option that had been explored was the feasibility of deploying United Nations peacekeeping forces in a more limited role requested by President

Izetbegovic — to control Sarajevo airport, protect humanitarian aid deliveries and keep open roads, bridges and border crossings. The Secretary-General stressed that, with regard to the protection of international humanitarian programmes, experience had shown that a mere United Nations presence was not sufficient to deter hostile action against them. The best form of protection was respect for agreements, binding on all the armed parties, to allow humanitarian supplies to be delivered without hindrance. He considered that if the other parties agreed to interim arrangements of this kind, there might be a role for UNPROFOR military observers in monitoring their implementation.⁷⁸

Concerning the deployment of UNPROFOR, the Secretary-General observed that developments since the Council's approval of the plan for the United Nations peacekeeping force in Croatia had raised new doubts about the practicability of that operation. The bulk of the Force's headquarters staff would be relocating temporarily from Sarajevo pending the restoration of calm in the city, and difficult questions had arisen concerning the boundaries of the United Nations Protected Areas. He now saw no alternative but for the Force to assume its responsibilities in the Protected Areas in accordance with the peacekeeping plan, while appealing to the Yugoslav federal army and the Serbian authorities to use their influence to calm the fears of the Serb communities who would find themselves outside the Areas and to ensure that the demilitarization of the Areas went according to the plan. The Secretary-General also drew the Council's attention to the decision of the Belgrade authorities, following the declaration on 27 April 1992 of the new Federal Republic of Yugoslavia, to withdraw Yugoslav People's Army personnel from republics other than Serbia and Montenegro and to renounce authority over those who remained.⁷⁹ He observed that this in effect removed a party to the peacekeeping plan whose cooperation was essential to its success, while substituting for it a new element or elements which were not formally bound by the Belgrade authorities' acceptance of the plan. Refusal by the much-enlarged local forces to demobilize would undermine the very basis of the plan that UNPROFOR had been mandated to implement.

⁷⁸ S/23900, para. 29.

⁷⁹ *Ibid.*, para. 24.

The Secretary-General concluded that, in these circumstances, the Council had to continue to lend its full support to the peacemaking activities of the European Community. Political solutions to these tragic and complex conflicts could only be achieved through a continuous and uninterrupted process of patient negotiation led by the European Community, which had already established agreed mechanisms for this purpose. The possibilities for an effective United Nations role would depend on the negotiators' success.

At its 3075th meeting, held on 15 May 1992 in accordance with the understanding reached during its prior consultations, the Council included the Secretary-General's further report of 12 May in its agenda.

The President (Austria) drew the attention of the members of the Council to a second report, submitted by the Secretary-General on 24 April 1992 on the progress made towards the full deployment of UNPROFOR.⁸⁰ In that report, he had observed that UNPROFOR would be ready to assume its full responsibilities in the United Nations Protected Areas by the middle of May; but that the first few weeks of its deployment had made clear the complexity of the challenge which confronted the Force and the United Nations as a whole.

The President also drew the Council members' attention to a number of other documents: (a) the exchange of letters of April 1992 between the Secretary-General and the President of the Council,⁸¹ concerning the dispatch of the Under-Secretary-General for Peacekeeping Operations to examine the evolving situation in Bosnia and Herzegovina and to look into the feasibility of a United Nations peacekeeping force; (b) a letter dated 24 April 1992 from the representatives of Austria and Hungary to the President of the Council,⁸² transmitting a joint declaration by the Ministers for Foreign Affairs of Austria, Croatia, Hungary and Slovenia, urging the Council to take appropriate action in Bosnia and Herzegovina in view of the seriousness of the situation; (c) letters dated 26 April to 12 May 1992 from the representatives of Hungary, Senegal, as Chairman of the Organization of the Islamic Conference, Turkey and Egypt addressed to the President of the Council or

⁸⁰ S/23844.

⁸¹ S/23860 and S/23861.

⁸² S/23840.

the Secretary-General,⁸³ to similar effect; and (d) joint letters dated 4 to 12 May 1992 from the representatives of Belgium, France and the United Kingdom to the President of the Council,⁸⁴ transmitting a statement on the death of a member of the European Community Monitoring Mission in Bosnia and Herzegovina and two declarations on the recent events in Sarajevo, adopted by the European Community and its member States.

The President drew attention in addition to a draft resolution that had been prepared in the course of the Council's prior consultations,⁸⁵ and made an oral revision to the draft resolution in its provisional form.

The draft resolution, as orally revised in its provisional form, was then put to the vote and adopted unanimously as resolution 752 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992, 743 (1992) of 21 February 1992 and 749 (1992) of 7 April 1992,

Expressing its appreciation for the reports of the Secretary-General of 24 April and 12 May 1992 submitted pursuant to Security Council resolution 749 (1992),

Deeply concerned about the serious situation in certain parts of the former Socialist Federal Republic of Yugoslavia, and in particular about the rapid and violent deterioration of the situation in Bosnia and Herzegovina,

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Chapter VIII of the Charter, and the continuing role that the European Community is playing in achieving a peaceful solution in Bosnia and Herzegovina, as well as in other republics of the former Socialist Federal Republic of Yugoslavia,

Having considered the announcement in Belgrade on 4 May 1992 described in paragraph 24 of the report of the Secretary-General of 12 May 1992 concerning the withdrawal of Yugoslav People's Army personnel from republics other than Serbia and Montenegro and the renunciation of authority over those who remain,

Noting the urgent need for humanitarian assistance and the various appeals made in this connection, in particular by the President of Bosnia and Herzegovina,

Deploring the tragic incident on 4 May 1992 which caused the death of a member of the European Community Monitoring Mission,

Deeply concerned about the safety of United Nations personnel in Bosnia and Herzegovina,

1. *Demands* that all parties and others concerned in Bosnia and Herzegovina stop the fighting immediately, respect immediately and fully the ceasefire signed on 12 April 1992, and cooperate with the efforts of the European Community to bring about urgently a negotiated political solution respecting the principle that any change of borders by force is not acceptable;

2. *Welcomes* the efforts undertaken by the European Community in the framework of the tripartite talks on constitutional arrangements for Bosnia and Herzegovina under the auspices of the Conference on Yugoslavia, urges that the discussions be resumed without delay, and urges the three communities in Bosnia and Herzegovina to participate actively and constructively in these discussions on a continuous basis as recommended by the Secretary-General and to conclude and implement the constitutional arrangements being developed at those discussions;

3. *Also demands* that all forms of interference from outside Bosnia and Herzegovina, including by units of the Yugoslav People's Army as well as elements of the Croatian Army, cease immediately, and that Bosnia and Herzegovina's neighbours take swift action to end such interference and respect the territorial integrity of Bosnia and Herzegovina;

4. *Demands also* that those units of the Yugoslav People's Army and elements of the Croatian Army now in Bosnia and Herzegovina must either be withdrawn, or be subject to the authority of the Government of Bosnia and Herzegovina, or be disbanded and disarmed with their weapons placed under effective international monitoring, and requests the Secretary-General to consider without delay what international assistance could be provided in this connection;

5. *Demands further* that all irregular forces in Bosnia and Herzegovina be disbanded and disarmed;

6. *Calls upon* all parties and others concerned to ensure that forcible expulsions of persons from the areas where they live and any attempts to change the ethnic composition of the population, anywhere in the former Socialist Federal Republic of Yugoslavia, cease immediately;

7. *Emphasizes* the urgent need for humanitarian assistance, material and financial, taking into account the large number of refugees and displaced persons and fully supports the current efforts to deliver humanitarian aid to all the victims of the conflict and to assist in the voluntary return of displaced persons to their homes;

⁸³ S/23845, S/23854, S/23874 and S/23905, respectively.

⁸⁴ S/23872, S/23892 and S/23906.

⁸⁵ S/23927.

8. *Calls on* all parties and others concerned to ensure that conditions are established for the effective and unhindered delivery of humanitarian assistance, including safe and secure access to airports in Bosnia and Herzegovina;

9. *Requests* the Secretary-General to keep under active review the feasibility of protecting international humanitarian relief programmes, including the option mentioned in paragraph 29 of his report of 12 May 1992, and of ensuring safe and secure access to Sarajevo airport, and to report to the Security Council by 26 May 1992;

10. *Also requests* the Secretary-General, having regard to the evolution of the situation and to the results of the efforts undertaken by the European Community, to continue to keep under review the possibility of deploying a peacekeeping mission in Bosnia and Herzegovina under the auspices of the United Nations;

11. *Demands* that all parties and others concerned cooperate fully with the United Nations Protection Force and the European Community Monitoring Mission, and respect fully their freedom of movement and the safety of their personnel;

12. *Notes* the progress made thus far in the deployment of the Force, welcomes the fact that the Force has assumed the full responsibility called for by its mandate in Eastern Slavonia, and requests the Secretary-General to ensure that it will assume its full responsibilities in all the United Nations Protected Areas as soon as possible and to encourage all parties and others concerned to resolve any problems remaining in this connection;

13. *Urges* all parties and others concerned to cooperate in every way with the Force in accordance with the United Nations peacekeeping plan and to comply strictly with the plan in all its aspects, in particular the disarming of all irregular forces, whatever their origin, in the United Nations Protected Areas;

14. *Decides* to remain actively seized of the matter and to consider further steps to achieve a peaceful solution in conformity with relevant resolutions of the Council.

J. Report of the Secretary-General pursuant to Security Council resolution 752 (1992)

Letter dated 26 May 1992 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council

Letter dated 27 May 1992 from the Minister for Foreign Affairs of Bosnia and Herzegovina addressed to the President of the Security Council

Decision of 30 May 1992 (3082nd meeting): resolution 757 (1992)

On 26 May 1992, the Secretary-General submitted to the Council a report pursuant to resolution 752 (1992),⁸⁶ on the feasibility of protecting international humanitarian relief programmes in Bosnia and Herzegovina, and of ensuring safe and secure access to Sarajevo airport. He analysed two main options: providing armed protection or protection through respect for agreements. He stated that it was for the Council to decide whether to deploy United Nations troops, in sufficient strength and with the necessary mandate, to undertake armed protection of international humanitarian aid; but observed that combat missions of the kind that would be required would be extremely difficult and expensive. Moreover, any mandate requiring United Nations troops to take hostile or coercive action against certain factions in Bosnia and Herzegovina could make it more difficult to secure the cooperation which UNPROFOR would need if it were to succeed in fulfilling its mandate in the United Nations Protected Areas in Croatia. The Secretary-General considered that more limited protection operations in Sarajevo — with United Nations troops providing armed protection for convoys of humanitarian supplies en route from the airport to distribution centres within that city — were a more feasible possibility, provided that there were reasonable guarantees that hostile action would not be taken against the airport while humanitarian supplies were being delivered. He believed, however, that a more promising course would be to make a determined effort to persuade the warring parties to conclude and honour agreements permitting the unimpeded delivery of relief supplies to all suffering civilians in Bosnia and Herzegovina. The Secretary-General expressed some optimism that conditions might now be more propitious for the conclusion of such agreements than they had been recently, and said that the Chief Military Observer of UNPROFOR would continue his efforts to arrange the necessary negotiations and assist them to reach a successful conclusion.

⁸⁶ S/24000.

By a letter dated 26 May 1992 addressed to the President of the Council,⁸⁷ the representative of Canada requested an urgent formal meeting of the Council with a view to imposing economic, trade and oil sanctions against the authorities in Belgrade and to consider steps that would allow United Nations-escorted relief convoys to reach civilians in Bosnia and Herzegovina and to open Sarajevo airport for humanitarian reasons.

By a letter dated 27 May 1992 addressed to the President of the Council,⁸⁸ the representative of Bosnia and Herzegovina reluctantly urged the Council to enact comprehensive economic sanctions under Chapter VII of the Charter against the authorities in Belgrade. He also urged the Council to take concrete measures and to empower Member States and appropriate regional organizations to take necessary steps to address the desperate humanitarian tragedy in his country, by, inter alia, placing Sarajevo airport under international control and ensuring the distribution of relief supplies and humanitarian aid from the airport under effective international security.

At its 3082nd meeting, held on 30 May 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the Secretary-General's report of 26 May, and the letters from the representatives of Canada and Bosnia and Herzegovina.

The President (Austria) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, Hungary, Morocco, the United Kingdom and the United States.⁸⁹

He also drew their attention to the following documents: (a) a letter dated 22 May 1992 from the representative of Bulgaria to the Secretary-General,⁹⁰ expressing concern that the military activities in Bosnia and Herzegovina might spill over into other territories of the former Yugoslavia, risking peace and security in the Balkans, including his country, and requesting the deployment of United Nations observers along the border between Bulgaria and the former Yugoslavia, in order to avert any possible expansion of the conflict; (b) a joint letter from the representatives of Indonesia and Yugoslavia, on behalf of the

Movement of Non-Aligned Countries, to the Secretary-General,⁹¹ appealing for the deployment of United Nations peacekeeping forces in Bosnia and Herzegovina in order to restore peace and security; (c) four letters dated 27 to 30 May 1992 from the representative of Yugoslavia to the Secretary-General,⁹² in which he, inter alia, expressed concern and disappointment at the proposed sanctions against his country; denied allegations that it was involved in aggression against Bosnia and Herzegovina; suggested an urgent visit by Council members to the area to obtain a more complete and objective picture of the situation; invited the deployment of United Nations observers along the border of the Federal Republic of Yugoslavia and the Republic of Bosnia and Herzegovina; and proposed, instead of sanctions, the convening of an international conference on Yugoslavia to resolve the crisis, including the situation in Bosnia and Herzegovina; (d) a letter dated 27 May 1992 from the representative of Slovenia to the Secretary-General,⁹³ proposing that the Council adopt without delay the necessary decisions to terminate the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations; (e) a letter dated 29 May 1992 from the representative of New Zealand to the Secretary-General,⁹⁴ condemning the continued aggression against Bosnia and Herzegovina, and expressing support for the European Community in its peacemaking role and the United Nations in its peacekeeping role as well as for the imposition of trade and other sanctions on Serbia and Montenegro, if adopted; and (f) a letter dated 27 May 1992 from the representative of Canada to the Secretary-General,⁹⁵ transmitting a recent address by the Prime Minister of Canada in which he had spoken about the situation in the former Yugoslav republics, including Bosnia and Herzegovina, and the measures Canada would be urging the Council to take and those it would be taking itself against the Belgrade regime.

The Council then commenced the voting procedure on the draft resolution before it. Speaking before the vote, the representative of Cape Verde deplored the failure of the Security Council to act in the face of escalating violence in Bosnia and

⁸⁷ S/23997.

⁸⁸ S/24024.

⁸⁹ S/24037.

⁹⁰ S/23996.

⁹¹ S/23998.

⁹² S/24007, S/24027, S/24039 and S/24043.

⁹³ S/24028.

⁹⁴ S/24034.

⁹⁵ S/24011.

Herzegovina. He stressed that the defence and security of a small country like Cape Verde were based entirely on the Council's ability to play its role of maintaining international peace and security. In his country's view, the Council should act to prevent bloodshed, rather than react to atrocities and destruction, and should build on its deterrent role. His country would support the draft resolution, believing that the sanctions contemplated were warranted.⁹⁶

The representative of China expressed regret that Security Council resolution 752 (1992) and the relevant agreements for the withdrawal of troops had not been complied with. While he was in favour of the international community taking measures for an early settlement of the crisis, he expressed concern that sanctions would probably lead to further deterioration of the situation and have serious consequences for the people in the region and the economy of the neighbouring States. He expressed hope that all the relevant regional organizations would continue their constructive efforts, and supported the Secretary-General playing his proper role as a mediator.⁹⁷

The representative of Zimbabwe stressed the complexity of the Yugoslav question and commended the peace efforts since the inception of the crisis. Zimbabwe had hoped that the process of negotiation undertaken within the framework of the European Conference on Yugoslavia would succeed in containing the crisis and lead to a comprehensive peaceful settlement. It was its view that the principles that had been established to guide that Conference had taken into account the complexity of the situation. Of particular importance was the declaration of the European Community of 8 November 1991, which stated that "the prospect of recognition of the independence of those [Yugoslav] republics wishing it can only be envisaged in the framework of an overall settlement". In his report of 11 December 1991, the Secretary-General had warned that any departure from that principle could hold very serious dangers not only for the republics of Yugoslavia but also for all its peoples and for peace and security in the region. In the words he used in his letter to the President of the Council of Ministers of the European Community, any such departure would be a "potential time-bomb". What had happened since was history. The speaker

⁹⁶ S/PV.3082, pp. 6-8.

⁹⁷ *Ibid.*, pp. 8-11.

stated that the time might have come for the Council to put its weight behind the Secretary-General in a peacemaking role. His country would like to see the Secretary-General actively involved in efforts to bring about a negotiated settlement in Bosnia and Herzegovina in cooperation with the efforts currently under way. Zimbabwe was not opposed to sanctions in principle, but it was concerned about their possible impact at that stage of the crisis. Would they encourage the parties to negotiate, promote confidence-building among them, improve the security and humanitarian situation in Bosnia and Herzegovina? What would be their implications for UNPROFOR? Those questions remained unanswered. That was why Zimbabwe believed that, instead of taking the Chapter VII route at this point in time, the Council should mandate the Secretary-General to seek a negotiated settlement.⁹⁸

The representative of Hungary stressed that the aggression against Bosnia and Herzegovina, which was raging on, was now being committed against a State Member of the United Nations. The efforts to create so-called nation States, incorporating all people belonging to the same ethnic background, and the blatant use of force to achieve this aim through territorial conquests contradicted everything for which the United Nations stood. The time had come for the Security Council to live up to its responsibilities enshrined in the Charter and send the appropriate message to the aggressor. Hungary had accordingly co-sponsored the draft resolution providing for mandatory sanctions against Serbia and Montenegro under Chapter VII of the Charter. Although the sanctions would affect other countries in and outside the region, they would enhance the credibility of the Council and contribute to containing aggression and restoring peace and stability in the region.⁹⁹

The representative of Ecuador considered that the imposition of sanctions was one way of achieving a negotiated settlement, in exceptional cases. He stressed that any political solution of the crisis must be based on strict compliance with the principle of territorial integrity of States, respect for the rights of ethnic minorities and for the right to self-determination which should be accorded to the political entities that could

⁹⁸ *Ibid.*, pp. 12-14.

⁹⁹ *Ibid.*, pp. 14-17.

assert it rather than to minorities in those political entities.¹⁰⁰

The representative of India recalled that, among the examples given by the Secretary-General of the violence raging in the new Member State of Bosnia and Herzegovina was the enormous displacement of peoples, unprecedented in magnitude since the Second World War. There was thus, he said, a clear threat to international peace and security that the Council must address. He observed that Council resolution 752 (1992), which spelled out the basic requirements to be met by all parties to the conflict, remained unimplemented and expressed concern at the continuing and rapid deterioration of the situation. Action was needed to stop the tragedy. Many of India's concerns, such as the exemption of food and medicine from the sanctions, and the inclusion of a paragraph reaffirming the Council's responsibility in terms of Article 50 of the Charter, had been taken into account in the draft resolution. The draft had also been modified with a view to respecting the demarcation, as enshrined in the Charter, of the responsibilities between the General Assembly and the Security Council in regard to membership in the United Nations. Mindful, however, of the possible implications of Chapter VII measures for a peaceful settlement of the conflict and for the cooperation from all parties which was indispensable for UNPROFOR to fulfil its mandate, India had suggested that a period of warning, however brief, might have been helpful and have enabled the Secretary-General to add his enormous influence to the efforts of the European Community. It had not pressed that point but continued to believe that the Council could not afford not to make use of the services of the Secretary-General in the search for a peaceful solution.¹⁰¹

The representative of Morocco stated that the entire Islamic community and the members of the Organization of the Islamic Conference saw the sanctions as an expression of unreserved condemnation of the inhuman acts committed every day against Bosnia and Herzegovina, an independent country and Member of the United Nations. The sanctions were the firm and unequivocal demand on the part of all

communities, of all races and religions, to put an end to blindness and intolerance.¹⁰²

The representative of Venezuela stated that the international community had delayed too long in bringing this matter before the Security Council. His delegation had carefully analysed the implications of the draft resolution to be adopted and had concluded that it was the last recourse in a lengthy process of negotiations frustrated by the intransigence and violence of the Belgrade authorities. The sanctions were the responsibility of the leaders in Belgrade who had flouted international opinion and widened their attacks on Bosnia and Herzegovina and on Croatia. The resolution would condemn the conduct of a State that had abused its military power and trampled the sovereignty of a State Member of the United Nations. This was no longer a domestic problem for the former Yugoslavia. The resolution would also send an important message to States that thought they could still solve their differences with other States by force of arms.¹⁰³

The draft resolution was then put to the vote. It was adopted by 13 votes in favour, none against and two abstentions (China and Zimbabwe), as resolution 757 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992, 743 (1992) of 21 February 1992, 749 (1992) of 7 April 1992 and 752 (1992) of 15 May 1992,

Noting that in the very complex context of events in the former Socialist Federal Republic of Yugoslavia all parties bear some responsibility for the situation,

Reaffirming its support for the Conference on Yugoslavia, including the efforts undertaken by the European Community in the framework of the discussions on constitutional arrangements for Bosnia and Herzegovina, and recalling that no territorial gains or changes brought about by violence are acceptable and that the borders of Bosnia and Herzegovina are inviolable,

Deploring the fact that the demands in resolution 752 (1992) have not been complied with, including its demands that:

- All parties and others concerned in Bosnia and Herzegovina stop the fighting immediately,
- All forms of interference from outside Bosnia and Herzegovina cease immediately,

¹⁰⁰ Ibid., pp. 17-20.

¹⁰¹ Ibid., pp. 22-23.

¹⁰² Ibid., pp. 24-26.

¹⁰³ Ibid., pp. 26-30.

- Bosnia and Herzegovina's neighbours take swift action to end all interference and respect the territorial integrity of Bosnia and Herzegovina,
- Action be taken as regards units of the Yugoslav People's Army in Bosnia and Herzegovina, including the disbanding and disarming with weapons placed under effective international monitoring of any units that are neither withdrawn nor placed under the authority of the Government of Bosnia and Herzegovina,
- All irregular forces in Bosnia and Herzegovina be disbanded and disarmed,

Deploring also that its call for the immediate cessation of forcible expulsions and attempts to change the ethnic composition of the population has not been heeded, and reaffirming in this context the need for the effective protection of human rights and fundamental freedoms, including those of ethnic minorities,

Dismayed that conditions have not yet been established for the effective and unhindered delivery of humanitarian assistance, including safe and secure access to and from Sarajevo and other airports in Bosnia and Herzegovina,

Deeply concerned that those United Nations Protection Force personnel remaining in Sarajevo have been subjected to deliberate mortar and small-arms fire, and that the United Nations Military Observers deployed in the Mostar region have had to be withdrawn,

Deeply concerned also at developments in Croatia, including persistent ceasefire violations and the continued expulsion of non-Serb civilians, and at the obstruction of and lack of cooperation with the Force in other parts of Croatia,

Deploring the tragic incident on 18 May 1992 which caused the death of a member of the International Committee of the Red Cross team in Bosnia and Herzegovina,

Noting that the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted,

Expressing its appreciation for the report of the Secretary-General of 26 May 1992 submitted pursuant to Security Council resolution 752 (1992),

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Recalling also the provisions of Chapter VIII of the Charter, and the continuing role that the European Community is playing in working for a peaceful solution in Bosnia and Herzegovina, as well as in other republics of the former Socialist Federal Republic of Yugoslavia,

Recalling further its decision in resolution 752 (1992) to consider further steps to achieve a peaceful solution in

conformity with its relevant resolutions, and affirming its determination to take measures against any party or parties which fail to fulfil the requirements of resolution 752 (1992) and its other relevant resolutions,

Determined in this context to adopt certain measures with the sole objective of achieving a peaceful solution and encouraging the efforts undertaken by the European Community and its member States,

Recalling the right of States, under Article 50 of the Charter, to consult the Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures,

Determining that the situation in Bosnia and Herzegovina and in other parts of the former Socialist Federal Republic of Yugoslavia constitutes a threat to international peace and security,

Acting under Chapter VII of the Charter,

1. *Condemns* the failure of the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro), including the Yugoslav People's Army, to take effective measures to fulfil the requirements of resolution 752 (1992);

2. *Demands* that any elements of the Croatian Army still present in Bosnia and Herzegovina act in accordance with paragraph 4 of resolution 752 (1992) without further delay;

3. *Decides* that all States shall adopt the measures set out below, which shall apply until the Council decides that the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro), including the Yugoslav People's Army, have taken effective measures to fulfil the requirements of resolution 752 (1992);

4. *Decides also* that all States shall prevent:

(a) The import into their territories of all commodities and products originating in the Federal Republic of Yugoslavia (Serbia and Montenegro) exported therefrom after the date of the present resolution;

(b) Any activities by their nationals or in their territories which would promote or are calculated to promote the export or trans-shipment of any commodities or products originating in the Federal Republic of Yugoslavia (Serbia and Montenegro); and any dealings by their nationals or their flag vessels or aircraft or in their territories in any commodities or products originating in the Federal Republic of Yugoslavia (Serbia and Montenegro) and exported therefrom after the date of the present resolution, including in particular any transfer of funds to the Federal Republic of Yugoslavia (Serbia and Montenegro) for the purposes of such activities or dealings;

(c) The sale or supply by their nationals or from their territories or using their flag vessels or aircraft of any commodities or products, whether or not originating in their territories — but not including supplies intended strictly for medical purposes and foodstuffs notified to the Security Council

Committee established pursuant to resolution 724 (1991) on Yugoslavia — to any person or body in the Federal Republic of Yugoslavia (Serbia and Montenegro) or to any person or body for the purposes of any business carried on in or operated from the Federal Republic of Yugoslavia (Serbia and Montenegro), and any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply of such commodities or products;

5. *Decides further* that no State shall make available to the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) or to any commercial, industrial or public utility undertaking in the Federal Republic of Yugoslavia (Serbia and Montenegro), any funds or any other financial or economic resources and shall prevent their nationals and any persons within their territories from removing from their territories or otherwise making available to those authorities or to any such undertaking any such funds or resources and from remitting any other funds to persons or bodies within the Federal Republic of Yugoslavia (Serbia and Montenegro), except payments exclusively for strictly medical or humanitarian purposes and foodstuffs;

6. *Decides* that the prohibitions in paragraphs 4 and 5 shall not apply to the trans-shipment through the Federal Republic of Yugoslavia (Serbia and Montenegro) of commodities and products originating outside the Federal Republic of Yugoslavia (Serbia and Montenegro) and temporarily present in the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro) only for the purpose of such trans-shipment, in accordance with guidelines approved by the Security Council Committee established by resolution 724 (1991);

7. *Decides* that all States shall:

(a) Deny permission to any aircraft to take off from, land in or overfly their territory if it is destined to land in or has taken off from the territory of the Federal Republic of Yugoslavia (Serbia and Montenegro), unless the particular flight has been approved, for humanitarian or other purposes consistent with the relevant resolutions of the Council, by the Security Council Committee established by resolution 724 (1991);

(b) Prohibit, by their nationals or from their territory, the provision of engineering and maintenance servicing of aircraft registered in the Federal Republic of Yugoslavia (Serbia and Montenegro) or operated by or on behalf of entities in the Federal Republic of Yugoslavia (Serbia and Montenegro) or components for such aircraft, the certification of airworthiness for such aircraft, and the payment of new claims against existing insurance contracts and the provision of new direct insurance for such aircraft;

8. *Decides also* that all States shall:

(a) Reduce the level of the staff at diplomatic missions and consular posts of the Federal Republic of Yugoslavia (Serbia and Montenegro);

(b) Take the necessary steps to prevent the participation in sporting events on their territory of persons or groups representing the Federal Republic of Yugoslavia (Serbia and Montenegro);

(c) Suspend scientific and technical cooperation and cultural exchanges and visits involving persons or groups officially sponsored by or representing the Federal Republic of Yugoslavia (Serbia and Montenegro);

9. *Decides further* that all States, and the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro), shall take the necessary measures to ensure that no claim shall lie at the instance of the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro), or of any person or body in the Federal Republic of Yugoslavia (Serbia and Montenegro), or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures imposed by the present resolution and related resolutions;

10. *Decides* that the measures imposed by the present resolution shall not apply to activities related to the United Nations Protection Force, to the Conference on Yugoslavia or to the European Community Monitoring Mission, and that States, parties and others concerned shall cooperate fully with the Force, the Conference and the Mission and respect fully their freedom of movement and the safety of their personnel;

11. *Calls upon* all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to the date of the present resolution;

12. *Requests* all States to report to the Secretary-General by 22 June 1992 on the measures they have instituted for meeting the obligations set out in paragraphs 4 to 9;

13. *Decides* that the Security Council Committee established by resolution 724 (1991) shall undertake the following tasks additional to those in respect of the arms embargo established by resolutions 713 (1991) and 727 (1992):

(a) To examine the reports submitted pursuant to paragraph 12 above;

(b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the measures imposed by paragraphs 4 to 9;

(c) To consider any information brought to its attention by States concerning violations of the measures imposed by paragraphs 4 to 9 and, in that context, to make recommendations to the Council on ways to increase their effectiveness;

(d) To recommend appropriate measures in response to violations of the measures imposed by paragraphs 4 to 9 and to

provide information on a regular basis to the Secretary-General for general distribution to Member States;

(e) To consider and approve the guidelines referred to in paragraph 6 above;

(f) To consider and decide upon expeditiously any applications for the approval of flights for humanitarian or other purposes consistent with the relevant resolutions of the Council in accordance with paragraph 7 above;

14. *Calls upon* all States to cooperate fully with the Security Council Committee established by Security Council resolution 724 (1991) in the fulfilment of its tasks, including supplying such information as may be sought by the Committee in pursuance of the present resolution;

15. *Requests* the Secretary-General to report to the Security Council, not later than 15 June 1992 and earlier if he considers it appropriate, on the implementation of resolution 752 (1992) by all parties and others concerned;

16. *Decides* to keep under continuous review the measures imposed by paragraphs 4 to 9 with a view to considering whether such measures might be suspended or terminated following compliance with the requirements of resolution 752 (1992);

17. *Demands* that all parties and others concerned create immediately the necessary conditions for unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Herzegovina, including the establishment of a security zone encompassing Sarajevo and its airport and respecting the agreements signed at Geneva on 22 May 1992;

18. *Requests* the Secretary-General to continue to use his good offices in order to achieve the objectives contained in paragraph 17 above, and invites him to keep under continuous review any further measures that may become necessary to ensure unimpeded delivery of humanitarian supplies;

19. *Urges* all States to respond to the Revised Joint Appeal for humanitarian assistance of early May 1992 issued by the United Nations High Commissioner for Refugees, the United Nations Children's Fund and the World Health Organization;

20. *Reiterates* the call in paragraph 2 of resolution 752 (1992) that all parties continue their efforts in the framework of the Conference on Yugoslavia and that the three communities in Bosnia and Herzegovina resume their discussions on constitutional arrangements for Bosnia and Herzegovina;

21. *Decides* to remain actively seized of the matter and to consider immediately, whenever necessary, further steps to achieve a peaceful solution in conformity with its relevant resolutions.

Speaking after the vote, the representative of Belgium stated that the Council's resolution was the outcome of lengthy negotiations initiated by the three members of the European Community sitting on the

Council, joined by the United States. It represented the end of a long process during which the European Community, the Conference on Security and Cooperation in Europe and the United Nations had spared no effort to try to reach a peaceful settlement of the grave crisis in Bosnia and Herzegovina. In view of the failure of all earlier attempts, the members of the European Community had seen the imposition of sanctions against Serbia and Montenegro as the only recourse and had recently imposed a trade embargo against that country while calling upon the Council to take similar action. Belgium welcomed the Council having acted along those lines and urged the Serbian authorities to comply fully with the requirements of resolution 752 (1992).¹⁰⁴

The representative of the United States maintained that the aggression of the Serbian regime against Bosnia and Herzegovina represented a clear threat to international peace and security and a grave challenge to the values and principles underlying the Helsinki Final Act, the Charter of Paris and the Charter of the United Nations. He stressed that the international community would not tolerate the use of force and terror to settle political or territorial disputes. The Chapter VII measures just adopted were serious and comprehensive and the United States was determined to see them through and, if necessary, to seek further measures, until the Serbian regime changed its course. The speaker insisted that Belgrade must, *inter alia*, clearly and unequivocally demonstrate respect for the independence, borders, territorial integrity and legitimate sovereign governments of Bosnia and Herzegovina, Croatia and other former Yugoslav republics.¹⁰⁵

The representative of the Russian Federation maintained that the expansion of the ethnic strife into a broader conflict involving groups and forces from republics bordering Bosnia and Herzegovina constituted a real threat to the countries of the region and to international peace and security. In voting for the sanctions, the Russian Federation was discharging its obligations as a permanent member of the Security Council for the maintenance of international law and order. At the same time, it believed that the Council must go further and shoulder the responsibility for a settlement in Bosnia and Herzegovina and a settlement

¹⁰⁴ *Ibid.*, pp. 33.

¹⁰⁵ *Ibid.*, pp. 33-34.

of the Yugoslav crisis as a whole, making use of all the measures for the restoration of peace provided for in the Charter of the United Nations. The speaker appealed to all peoples living in the republics of the former Yugoslavia and their representatives to refrain from the use of force in solving their problems and to engage in a quest for a comprehensive settlement through peaceful political means that would take account of the legitimate interests of the various national communities. The Russian Federation believed that the opportunity for such a settlement was to be found in direct negotiations by the parties, within the framework of an international conference on Bosnia and Herzegovina under the auspices of the European Community. The speaker suggested that the Security Council — perhaps in consultation with CSCE — could work out a list of criteria on the basis of which the Secretary-General might bring up for consideration by the Council the question of sanctions against those who bore major responsibility for bloodshed, and other decisive actions that might be taken by the international community.¹⁰⁶

The representative of France observed that the demands put forward by the Council in its resolution 752 (1992), designed to promote the cessation of hostilities and the continuation of peace efforts, had not been met. A firm reaction by the international community was essential. The resolution just adopted posited the principle of the application, under Chapter VII of the Charter, of measures against any party that did not heed the demands put forward by the Security Council. It also called for the immediate implementation of a set of measures against Serbia and Montenegro. These measures were very broad in scope because they were designed to respond to an extremely grave situation, but the Council was determined to avoid their leading to total isolation of the populations concerned and to limit their impact on them. Thus, the trade embargo established in the resolution provided for exceptions in regard to medical supplies and foodstuffs. The speaker added that, although France had voted in favour of the resolution, it disassociated itself from the provision for freezing sports contacts because the envisaged measure was derisory, vexatious and inappropriate, having been borrowed from measures adopted in another context — the struggle against apartheid. He concluded by expressing full support for the Council's appeal to the Secretary-

¹⁰⁶ Ibid., pp. 36-39.

General to study ways to permit the distribution of aid, in particular the reopening of Sarajevo airport.¹⁰⁷

The representative of the United Kingdom regretted that the efforts through the European Community, the Peace Conference, the monitoring missions and the constitutional conference in Bosnia and Herzegovina had so far been to no avail. He observed that, just as peacekeepers found difficulty in keeping the peace if there was no peace to keep, the peacemakers found difficulty in making peace if there was not a minimum of cooperation with their efforts, as in this case. The United Nations had had the same experience, but he firmly supported the continued deployment of UNPROFOR. Noting that the responsibility for the events in Yugoslavia was shared among many, he welcomed the Council's expressed intention in the resolution to ensure that there was compliance by all with the principles set out in resolution 752 (1992). However, he stated that there was really no doubt where the principal responsibility for the current situation now lay: with the civil and military authorities in Belgrade. That is what had brought the Council to the matter of sanctions. They were designed, as the resolution stated, purely and simply to bring about a peaceful solution and to bring the parties back to the negotiating table.¹⁰⁸

The President, speaking in his capacity as the representative of Austria, stated that the decision of the Council to impose comprehensive mandatory sanctions against Serbia and Montenegro was harsh but necessary. He recalled his Foreign Minister's statement in the Council as early as 25 September 1991, in which he had outlined the principles upon which relations among the peoples of the former Yugoslavia should be based in the future. Those principles — among them the strict observance of the principle of non-use of force, respect for human rights, protection of all minorities, and effective guarantees for equal participation in the political process by all population groups — remained valid. He stressed that the parties and others concerned had to comply with the Council's demand to create immediately the necessary conditions for unimpeded delivery of humanitarian supplies. If that compliance were not forthcoming, the Council

¹⁰⁷ Ibid., pp. 39-41.

¹⁰⁸ Ibid., pp. 42-43.

would shortly have to consider further measures to achieve that objective.¹⁰⁹

K. Report of the Secretary-General pursuant to Security Council resolution 757 (1992)

Decision of 8 June 1992 (3083rd meeting): resolution 758 (1992)

On 6 June 1992, the Secretary-General submitted to the Council a report pursuant to resolution 757 (1992),¹¹⁰ on the progress made through the use of his good offices to secure the necessary conditions for unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Herzegovina. He reported that on 5 June an agreement had been signed by all the parties in Bosnia and Herzegovina providing for the reopening of Sarajevo airport for the delivery of humanitarian supplies, under the exclusive authority of the United Nations.¹¹¹ The agreement envisaged that UNPROFOR would take over full operational responsibility for the functioning and security of the airport. The Secretary-General noted that the addition of these functions to the UNPROFOR mandate would require the consent of the Council, which would also have to approve a corresponding increase in the Force's strength. Noting that the agreement represented a significant breakthrough in the conflict in Bosnia and Herzegovina — although only a first step towards the implementation of resolution 757 (1992) — he expressed the view that the opportunity should be seized and said he had accepted the concept of operations proposed by the Force Commander. This envisaged, in the first phase, the deployment of United Nations military observers to Sarajevo to create security conditions for the reopening of the airport.¹¹² He added that he had asked the Force Commander to pursue negotiation of a broader security zone encompassing the city of Sarajevo as a whole, as a second phase of the negotiations. The proposed operation would involve significant risks, since many earlier agreements in Bosnia and Herzegovina had been broken. However, the Secretary-General considered that successful implementation of the agreement of

5 June, which reaffirmed the existing ceasefire agreement as well as providing for the reopening of the airport, would serve both the humanitarian and the political objectives. He accordingly recommended that the Council take the decision to enlarge the mandate and strength of UNPROFOR, as proposed. He hoped that this would be the first stage of a process that would restore peace to Bosnia and Herzegovina.

At its 3083rd meeting, held on 8 June 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda.

The President (Belgium) drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's consultations.¹¹³

He also drew their attention to two letters dated 5 June 1992 from the representative of Yugoslavia addressed to the Secretary-General.¹¹⁴ The first letter claimed that the attitude of Slovenia with regard to the question of the membership of the Federal Republic of Yugoslavia in international organizations was an act of political interference in the internal affairs of another State. The second letter affirmed that Yugoslavia was honouring all its international obligations and was firmly resolved to fulfil all the requirements emanating from resolutions 752 (1992) and 757 (1992).

The draft resolution was then put to the vote and adopted unanimously as resolution 758 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992, 743 (1992) of 21 February 1992, 749 (1992) of 7 April 1992, 752 (1992) of 15 May 1992 and 757 (1992) of 30 May 1992,

Noting that the Secretary-General has secured the evacuation of the Marshal Tito barracks in Sarajevo,

Noting also the agreement of all parties in Bosnia and Herzegovina to the reopening of Sarajevo airport for humanitarian purposes, under the exclusive authority of the United Nations, and with the assistance of the United Nations Protection Force,

¹⁰⁹ Ibid., pp. 44-46.

¹¹⁰ S/24075 and Add.1.

¹¹¹ S/24075, annex.

¹¹² S/24075, para. 5.

¹¹³ S/24078.

¹¹⁴ S/24073 and S/24074.

Noting further that the reopening of Sarajevo airport for humanitarian purposes would constitute a first step in establishing a security zone encompassing Sarajevo and its airport,

Deploring the continuation of the fighting in Bosnia and Herzegovina which is rendering impossible the distribution of humanitarian assistance in Sarajevo and its environs,

Stressing the imperative need to find an urgent negotiated political solution for the situation in Bosnia and Herzegovina,

1. *Approves* the report of the Secretary-General of 6 June 1992 submitted pursuant to Security Council resolution 757 (1992);

2. *Decides* to enlarge the mandate and strength of the United Nations Protection Force, established under resolution 743 (1992), in accordance with the report of the Secretary-General;

3. *Authorizes* the Secretary-General to deploy, when he judges it appropriate, the military observers and related personnel and equipment required for the activities referred to in paragraph 5 of his report;

4. *Requests* the Secretary-General to seek Security Council authorization for the deployment of the additional elements of the Force, after he has reported to the Council that all the conditions necessary for them to carry out the mandate approved by the Council, including an effective and durable ceasefire, have been fulfilled;

5. *Strongly condemns* all those parties and others concerned that are responsible for violations of the ceasefire reaffirmed in paragraph 1 of the agreement of 5 June 1992 annexed to the report of the Secretary-General;

6. *Calls upon* all parties and others concerned to comply fully with the above-mentioned agreement and in particular to respect strictly the ceasefire reaffirmed in paragraph 1 thereof;

7. *Demands* that all parties and others concerned cooperate fully with the Force and international humanitarian agencies and take all necessary steps to ensure the safety of their personnel;

8. *Demands also* that all parties and others concerned create immediately the necessary conditions for unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Herzegovina, including the establishment of a security zone encompassing Sarajevo and its airport and respecting the agreements signed at Geneva on 22 May 1992;

9. *Requests* the Secretary-General to continue to use his good offices in order to achieve the objectives contained in paragraph 8 above, and invites him to keep under continuous review any further measures that may become necessary to ensure unimpeded delivery of humanitarian supplies;

10. *Also requests* the Secretary-General to report to the Security Council on his efforts no later than seven days after the adoption of the present resolution;

11. *Decides* to remain actively seized of the matter.

L. Report of the Secretary-General pursuant to paragraph 15 of Security Council resolution 757 (1992) and paragraph 10 of resolution 758 (1992)

Decision of 18 June 1992 (3086th meeting): resolution 760 (1992)

On 15 June 1992, the Secretary-General submitted to the Council a report pursuant to resolution 757 (1992), on the implementation of resolution 752 (1992) by all parties and others concerned, and pursuant to resolution 758 (1992), on his efforts to reopen Sarajevo airport in order to facilitate the unimpeded delivery of humanitarian supplies.¹¹⁵ He stated that there was only limited progress to report regarding implementation of the international community's efforts to control and resolve the dreadful conflict in Bosnia and Herzegovina. Nevertheless, he believed that the international community should remain firm in its determination to put into effect the mechanisms and procedures which it had already established to relieve the human suffering, to bring the fighting under control and to negotiate a just and lasting political settlement of the conflict. What was lacking was willingness on the part of the opposing sides to honour agreements they had signed. Although it was encouraging in this respect that the parties had reaffirmed a new ceasefire as from 15 June, which appeared to be holding, he was aware of how often in the past similar hopes had been dashed. The Secretary-General observed that the picture in Croatia was less sombre as UNPROFOR moved towards assumption of its full responsibilities in all four sectors of the United Nations Protected Areas, though daily breaches of the ceasefire and violations of human rights still occurred there as well as instances of non-cooperation with UNPROFOR.

As for his efforts to reopen Sarajevo airport, the Secretary-General reported that the ceasefire had allowed an initial reconnaissance to be carried out, and that significant progress had been made in discussions

¹¹⁵ S/24100 and Corr.1.

on the withdrawal of heavy weapons from within range of the airport. Despite this progress, however, it was clear that considerable work still needed to be done to get the airport functioning again.

The Secretary-General assured the Council that, for its part, the United Nations would continue to do all it could to implement both the original mandate of UNPROFOR in Croatia and the new one entrusted to it in Bosnia and Herzegovina. These efforts were intended to create the conditions in which effective international action could be taken to ease the suffering of the civilian population and in which the negotiations of political solutions could proceed under the auspices of the European Community. He stressed that it was political negotiation which offered the only real hope of restoring peace in the former republics of the Socialist Federal Republic of Yugoslavia. He therefore joined Lord Carrington, the Chairman of the European Community Conference on Yugoslavia, in appealing to all concerned to return to the negotiating table over which he and Ambassador Cutileiro presided, and suggested that the Council might again wish to reaffirm its unqualified support for their efforts.

At its 3086th meeting, held on 18 June 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda.

The President (Belgium) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's consultations.¹¹⁶

He also drew their attention to the following documents: (a) a letter dated 11 June 1992 from the representative of Czechoslovakia, on behalf of his country's chairmanship of CSCE, addressed to the Secretary-General,¹¹⁷ transmitting the decisions adopted by the Committee of Senior Officials of CSCE on the situation in Bosnia and Herzegovina and in other parts of the former Socialist Federal Republic of Yugoslavia; (b) a letter dated 15 June 1992 from the Foreign Minister of Bosnia and Herzegovina to the President of the Security Council,¹¹⁸ observing that Council's resolutions 757 (1992) and 758 (1992) had not yet stemmed the aggression by the Serbian regime or permitted the delivery of desperately needed

humanitarian assistance, and requesting the Council to invoke Article 42 of Chapter VII, which called for coordinated military action to restore international peace and security when the means provided for in Article 41 proved to be inadequate; and (c) a letter dated 16 June 1992 from the representatives of Belgium, France and the United Kingdom addressed to the President of the Security Council,¹¹⁹ transmitting a declaration on the situation in Yugoslavia adopted by the European Community and its member States on 15 June.

The draft resolution was then put to the vote and adopted unanimously as resolution 760 (1992), which reads:

The Security Council,

Recalling its resolutions 752 (1992) of 15 May 1992, 757 (1992) of 30 May 1992, and 758 (1992) of 8 June 1992, and in particular paragraph 7 of resolution 752 (1992), in which it emphasized the urgent need for humanitarian assistance and fully supported the current efforts to deliver humanitarian aid to all the victims of the conflict,

Acting under Chapter VII of the Charter of the United Nations,

Decides that the prohibitions in paragraph 4 (c) of resolution 757 (1992) concerning the sale or supply to the Federal Republic of Yugoslavia (Serbia and Montenegro) of commodities or products, other than medical supplies and foodstuffs, and the prohibitions against financial transactions related thereto contained in resolution 757 (1992) shall not apply, with the approval of the Security Council Committee established by resolution 724 (1991) on Yugoslavia under the simplified and accelerated "no objection" procedure, to commodities and products for essential humanitarian need.

M. Oral reports of the Secretary-General on 26 and 29 June 1992 pursuant to Security Council resolution 758 (1992)

Decision of 29 June 1992 (3087th meeting): resolution 761 (1992)

At its 3087th meeting, held on 29 June 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda two oral reports made by the Secretary-General to the Council on 26 and 29 June pursuant to resolution 758 (1992), on the situation in and around Sarajevo

¹¹⁶ S/24114.

¹¹⁷ S/24093.

¹¹⁸ S/24099.

¹¹⁹ S/24104.

airport.¹²⁰ In his statement of 26 June, the Secretary-General expressed regret that the situation in Sarajevo had deteriorated considerably that day, with the increased bombardment by the Bosnian Serb forces of a suburb of Sarajevo close to the airport. That action was occurring, he said, despite an agreement by the Serb side to stop shelling civilian areas and to abide by a unilateral ceasefire. It was also incompatible with the agreement of 5 June on the basis of which UNPROFOR had endeavoured to open the airport. Unless the military offensive by the Serb side ceased and there was evidence over the next 48 hours of the relocation of heavy weaponry into areas of concentration to be supervised by UNPROFOR, the Secretary-General said that he would have no choice but to reassess the feasibility of UNPROFOR implementing the agreement. It would then be up to the Council to determine what other means would be required to bring relief to the suffering people of Sarajevo.

In his statement of 29 June, the Secretary-General informed the Council that considerable progress had since been made towards the assumption by UNPROFOR of responsibility for the airport: Serb forces had been withdrawing from the airport and both sides had begun to concentrate their heavy weapons in locations to be supervised by UNPROFOR. Although an absolute ceasefire had not yet been achieved, he endorsed the recommendation of his Force Commander that UNPROFOR must seize the opportunity offered by these developments. He therefore requested the Council to grant the authorization foreseen in paragraph 4 of resolution 758 (1992) to deploy the additional elements of UNPROFOR necessary to secure the airport and make it operational. He suggested that the Council might also wish to call strongly on all parties to make the ceasefire absolute. In particular, in view of the pattern of recent fighting in Sarajevo, he requested the Council to join him in appealing to the Presidency of the Government of Bosnia and Herzegovina to exercise the utmost restraint in this situation and not to seek any military advantage from the Serb withdrawal from the airport. It was important that the humanitarian objectives of the UNPROFOR action be kept firmly in mind by all parties.

¹²⁰ Statements by the Secretary-General to the Security Council on 26 and 29 June 1992 (S/24201).

At the same meeting, the President (Belgium) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.¹²¹

He also drew their attention to a letter dated 29 June 1992 from the representatives of Belgium, France and the United Kingdom, addressed to the President of the Security Council,¹²² transmitting a declaration on the former Yugoslavia adopted by the European Community and its member States at a summit meeting held on 26 and 27 June. The declaration stated, inter alia, that States members of the European Community would propose that the Security Council take, without delay, all necessary measures for the reopening of Sarajevo airport and the effective delivery of humanitarian assistance to Sarajevo and neighbouring areas. It added that, while giving priority to peaceful means, the European Council did not exclude support for the use of military means by the United Nations to achieve these humanitarian objectives.

The draft resolution was then put to the vote and adopted unanimously as resolution 761 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992, 743 (1992) of 21 February 1992, 749 (1992) of 7 April 1992, 752 (1992) of 15 May 1992, 757 (1992) of 30 May 1992, 758 (1992) of 8 June 1992 and 760 (1992) of 18 June 1992,

Noting the considerable progress reported by the Secretary-General towards securing the evacuation of Sarajevo airport and its reopening by the United Nations Protection Force and feeling the need to maintain this favourable momentum,

Underlining the urgency of a quick delivery of humanitarian assistance to Sarajevo and its environs,

1. *Authorizes* the Secretary-General to deploy immediately additional elements of the United Nations Protection Force to ensure the security and functioning of Sarajevo airport and the delivery of humanitarian assistance in accordance with his report of 6 June 1992;

2. *Calls upon* all parties and others concerned to comply fully with the agreement of 5 June 1992 and in particular to maintain an absolute and unconditional ceasefire;

¹²¹ S/24199.

¹²² S/24200.

3. *Appeals* to all sides to cooperate fully with the Force in the reopening of the airport, to exercise the utmost restraint and not to seek any military advantage in this situation;

4. *Demands* that all parties and others concerned cooperate fully with the Force and international humanitarian agencies and organizations and take all necessary steps to ensure the safety of their personnel; in the absence of such cooperation, the Security Council does not exclude other measures to deliver humanitarian assistance to Sarajevo and its environs;

5. *Calls upon* all States to contribute to the international humanitarian efforts in Sarajevo and its environs;

6. *Decides* to remain actively seized of the matter.

N. Further report of the Secretary-General pursuant to Security Council resolution 752 (1992)

Decision of 30 June 1992 (3088th meeting): resolution 762 (1992)

On 26 June 1992, the Secretary-General submitted to the Council a further report pursuant to resolution 752 (1992),¹²³ on his efforts to ensure that UNPROFOR would assume its full responsibilities in all the United Nations Protected Areas as soon as possible and to encourage all parties and others concerned to resolve any problems remaining in that connection. The Secretary-General recalled that in his previous reports, of 24 April and 12 May 1992, he had alluded to the problem of certain areas of Croatia that were then controlled by the Yugoslav People's Army and populated largely by Serbs, but which were outside the agreed boundaries of the Protected Areas. The Belgrade authorities had pressed strongly for these areas, which had come to be known as the "pink zones", to be included in the Protected Areas. Otherwise, they said, the Serbs resident in them would forcibly resist the restoration of Croatian authority after the withdrawal of the Yugoslav People's Army. The Croatian authorities had, equally strongly, resisted any changes in the boundaries of those Areas as the peacekeeping plan approved by the Security Council did not provide for any such boundary changes. Endorsing this interpretation, the Secretary-General had concluded that the Croatian authorities were under no obligation to agree to an adjustment of the agreed boundaries in those sectors where the problem was particularly acute, in order to circumvent it. In the

circumstances, UNPROFOR had been instructed to deploy in all Protected Areas in accordance with the plan. UNPROFOR had assumed its full responsibilities in Sectors East and West. Difficulties had, however, been encountered by the Force in Sectors North and South, delaying its assumption of responsibility there.

In view of the foregoing and the exhaustive discussions that had taken place during the previous three months with all parties concerned, the UNPROFOR Force Commander had arrived at certain conclusions, which the Secretary-General fully endorsed and which he felt necessary to place before the Security Council for its consideration. First, the restoration of Croatian authority in the "pink zones" without effective preparation and the re-establishment of confidence among its inhabitants did not now appear achievable without a serious danger of the resumption of armed conflict. Secondly, the instability caused within Sectors North and South by the "pink zones" situation had been increased by the conflict that was raging in the adjacent areas of Bosnia and Herzegovina. Thirdly, the assumption of responsibility in the Sectors by UNPROFOR and the implementation of the plan approved by the Security Council had little likelihood of success if the question of the "pink zones" remained unresolved.

In these circumstances, and on the basis of a recommendation from the Force Commander, the Secretary-General proposed, *inter alia*, that (a) a joint commission be established under the chairmanship of UNPROFOR, consisting of representatives of the Government of Croatia and the local authorities in the region, with the participation of the European Community Monitoring Mission, to oversee and monitor the process of the restoration of authority in the "pink zones" by the Croatian Government; (b) an appropriate number of United Nations military observers be deployed along the line of confrontation and within the "pink zones"; and (c) United Nations civilian police be deployed throughout the "pink zones" in order to monitor the maintenance of law and order by the existing police forces, with particular regard to the well-being of any minority groups in the area.¹²⁴ The Secretary-General indicated that implementation of these measures would require the strengthening of UNPROFOR by the addition of some 60 military observers and 120 civilian police.

¹²³ S/24188; see also S/24188/Add.1 of 14 July 1992.

¹²⁴ S/24188, para. 16.

Observing that the collapse of the plan approved by the Security Council in Sectors North and South would have grave consequences not only in the other Protected Areas but also throughout the region,¹²⁵ he recommended that the Council lend its support to his proposed course of action and that it appeal to all parties to cooperate fully with UNPROFOR in its implementation.

At its 3088th meeting, held on 30 June 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's further report of 26 June in its agenda.

The President (Belgium) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.¹²⁶

The draft resolution was put to the vote and adopted unanimously as resolution 762 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992, 743 (1992) of 21 February 1992, 749 (1992) of 7 April 1992, 752 (1992) of 15 May 1992, 757 (1992) of 30 May 1992, 758 (1992) of 8 June 1992, 760 (1992) of 18 June 1992 and 761 (1992) of 29 June 1992,

Noting the further report of the Secretary-General of 26 June 1992 submitted pursuant to Security Council resolution 752 (1992),

Recalling its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security,

Welcoming the progress made as a result of the assumption of responsibilities by the United Nations Protection Force in Sectors East and West, and concerned about the difficulties encountered by the Force in Sectors North and South,

Commending again the efforts undertaken by the European Community and its member States, with the support of the States participating in the Conference on Security and Cooperation in Europe, through the convening of a Conference on Yugoslavia, including the mechanisms set forth within it, to ensure a peaceful political settlement,

¹²⁵ *Ibid.*, para. 18.

¹²⁶ S/24207.

1. *Approves* the further report of the Secretary-General of 26 June 1992 submitted pursuant to Security Council resolution 752 (1992);

2. *Urges* all parties and others concerned to honour their commitments to effect a complete cessation of hostilities and to implement the United Nations peacekeeping plan;

3. *Also urges*, in accordance with paragraph 4 of resolution 727 (1992), the Government of Croatia to withdraw its army to the positions held before the offensive of 21 June 1992 and to cease hostile military activities within or adjacent to the United Nations Protected Areas;

4. *Urges* the remaining units of the Yugoslav People's Army, the Serb territorial defence forces in Croatia and others concerned to comply strictly with their obligations under the United Nations peacekeeping plan, in particular with regard to the withdrawal and the disarming of all forces in accordance with the plan;

5. *Urges* the Government of Croatia and others concerned to follow the course of action outlined in paragraph 16 of the report of the Secretary-General and appeals to all parties to assist the Force in its implementation;

6. *Recommends* the establishment of the Joint Commission described in paragraph 16 of the report of the Secretary-General, which should consult, as may be necessary or appropriate, with the Belgrade authorities in performing its functions;

7. *Authorizes* the strengthening of the Force by the addition of up to sixty military observers and one hundred and twenty civilian police to perform the functions envisaged in paragraph 16 of the report of the Secretary-General, with the agreement of the Government of Croatia and others concerned;

8. *Reaffirms* the embargo applied in paragraph 6 of resolution 713 (1991), paragraph 5 of resolution 724 (1991) and paragraph 6 of resolution 727 (1992);

9. *Supports* the views expressed in paragraph 18 of the report of the Secretary-General about the grave consequences which the collapse of the United Nations peacekeeping plan would have throughout the region;

10. *Encourages* the Secretary-General to pursue his efforts to fulfil as soon as possible the terms of paragraph 12 of resolution 752 (1992);

11. *Calls again upon* all parties concerned to cooperate fully with the Conference on Yugoslavia and its aim of reaching a political settlement consistent with the principles of the Conference on Security and Cooperation in Europe and reaffirms that the United Nations peacekeeping plan and its implementation is in no way intended to prejudge the terms of a political settlement;

12. *Decides* to remain actively seized of the matter until a peaceful solution is achieved.

O. Statement by the President of the Security Council

Decision of 9 July 1992: statement by the President

On 9 July 1992, following consultations among the members of the Council, the President (Cape Verde) issued the following statement on behalf of the Council:¹²⁷

The members of the Security Council take note of the fact that document S/24258¹²⁸ will be issued on 11 July 1992. They agree that this fact does not prejudice decisions that may be taken by appropriate United Nations bodies or their national positions on this matter.

P. Further report of the Secretary-General pursuant to Security Council resolutions 757 (1992), 758 (1992) and 761 (1992)

Decision of 13 July 1992 (3093rd meeting): resolution 764 (1992)

On 10 July 1992, the Secretary-General submitted to the Council a further report pursuant to Security Council resolutions 757 (1992), 758 (1992) and 761 (1992),¹²⁹ on progress relating to the reopening of Sarajevo airport under the auspices of UNPROFOR. He stated that the airport had reopened effectively, under UNPROFOR control, for the delivery of humanitarian assistance. However, as the operation had taken shape, it had become apparent that the strength of UNPROFOR was inadequate. He recommended that it be increased by some 1,600 additional personnel, to ensure the security and functioning of the airport and the delivery of humanitarian assistance.¹³⁰ The Secretary-General also warned that, despite an encouraging start, the Sarajevo

airport operation was based upon a foundation of the utmost fragility. Three of the basic conditions stipulated in the airport agreement of 5 June had not been complied with by either side: a ceasefire; the complete concentration of heavy weaponry under UNPROFOR monitoring; and the establishment of security corridors. The continuing military conflict in the area could, moreover, at any moment encroach upon the airport and disrupt the arrival and distribution of relief goods. Meanwhile, the provision of humanitarian aid to the rest of the country was sparse, intermittent and hazardous. In conclusion, the Secretary-General stressed that only urgent efforts by the international community to address the basic causes of the conflict, including negotiations with all the parties involved in it, could resolve what had emerged as one of the worst humanitarian emergencies of the time.

At its 3093rd meeting, held on 13 July 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's further report of 10 July in its agenda. The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (Cape Verde) drew the attention of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations,¹³¹ and made an oral correction to paragraph 8 of the draft resolution to reinstate a phrase that had been agreed upon in the Council's prior consultations.

The draft resolution, as orally corrected, was put to the vote and adopted unanimously as resolution 764 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992, 743 (1992) of 21 February 1992, 749 (1992) of 7 April 1992, 752 (1992) of 15 May 1992, 757 (1992) of 30 May 1992, 758 (1992) of 8 June 1992, 760 (1992) of 18 June 1992, 761 (1992) of 29 June 1992 and 762 (1992) of 30 June 1992,

Noting with appreciation the further report of the Secretary-General of 10 July 1992 submitted pursuant to Security Council resolutions 757 (1992), 758 (1992) and 761 (1992),

¹²⁷ S/24257.

¹²⁸ Letter dated 4 July 1992 from the representative of Yugoslavia addressed to the President of the Council, transmitting a letter of the same date from the President of the Federal Republic of Yugoslavia to the President of the Council. The President of the Federal Republic of Yugoslavia, inter alia, maintained his country's claim to be the continuation of the former Yugoslavia, asserting that it was "a founding and active Member of the United Nations".

¹²⁹ S/24263 and Add.1.

¹³⁰ S/24363, para. 12.

¹³¹ S/24267.

Disturbed by the continuing violation of the Sarajevo airport agreement of 5 June 1992, in which the parties agreed, inter alia:

- That all anti-aircraft weapon systems would be withdrawn from positions from which they could engage the airport and its air approaches,
- That all artillery, mortar, ground-to-ground missile systems and tanks within range of the airport would be concentrated in areas agreed by the United Nations Protection Force and subject to its observation at the firing line,
- To establish security corridors between the airport and the city, under the Force's control, to ensure the safe movement of humanitarian aid and related personnel,

Deeply concerned about the safety of the Force's personnel,

Cognizant of the magnificent work being done in Sarajevo by the Force and its leadership, despite the conditions of great difficulty and danger,

Aware of the enormous difficulties in the evacuation by air of cases of special humanitarian concern,

Deeply disturbed by the situation which now prevails in Sarajevo and by many reports and indications of deteriorating conditions throughout Bosnia and Herzegovina,

Commending the determination and courage of all those who are participating in the humanitarian effort,

Deploring the continuation of the fighting in Bosnia and Herzegovina which is rendering difficult the provision of humanitarian assistance in Sarajevo and its environs, as well as in other areas of the Republic,

Noting that the reopening of Sarajevo airport for humanitarian purposes constitutes a first step in establishing a security zone encompassing Sarajevo and its airport,

Recalling the obligations under international humanitarian law, in particular the Geneva Conventions of 12 August 1949,

Stressing once again the imperative need to find an urgent negotiated political solution for the situation in Bosnia and Herzegovina,

1. *Approves* the further report of the Secretary-General of 10 July 1992 on the implementation of Security Council resolutions 757 (1992), 758 (1992) and 761 (1992);

2. *Authorizes* the Secretary-General to deploy immediately additional elements of the United Nations Protection Force to ensure the security and functioning of Sarajevo airport and the delivery of humanitarian assistance, in accordance with paragraph 12 of his report;

3. *Reiterates its call* on all parties and others concerned to comply fully with the agreement of 5 June 1992

and to cease immediately any hostile military activity in Bosnia and Herzegovina;

4. *Commends* the untiring efforts and the bravery of the Force for its role in securing humanitarian relief in Sarajevo and its environs;

5. *Demands* that all parties and others concerned cooperate fully with the Force and international humanitarian agencies to facilitate the evacuation by air of cases of special humanitarian concern;

6. *Calls on* all parties and others concerned to cooperate with the Force and international humanitarian agencies to facilitate the provision of humanitarian aid to other areas of Bosnia and Herzegovina which remain in desperate need of assistance;

7. *Reiterates* its demand that all parties and others concerned take the necessary measures to secure the safety of Force personnel;

8. *Calls again* on all parties concerned to resolve their differences through a negotiated political solution to the problems in the region and to that end to cooperate with the renewed efforts of the European Community and its member States, with the support of the States participating in the Conference on Security and Cooperation in Europe, within the framework of the Conference on Yugoslavia, and in particular to respond positively to the invitation of the Chairman of the Conference to talks on 15 July 1992;

9. *Requests* the Secretary-General to keep close contact with the developments within the framework of the Conference on Yugoslavia and to assist in finding a negotiated political solution for the conflict in Bosnia and Herzegovina;

10. *Reaffirms* that all parties are bound to comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Convention are individually responsible in respect of such breaches;

11. *Requests* the Secretary-General to keep under continuous review any further measures that may be required to ensure unimpeded delivery of humanitarian assistance;

12. *Decides* to remain actively seized of the matter.

Q. Letter dated 11 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council

Letter dated 12 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council

Letter dated 13 July 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council

Letter dated 13 July 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Slovenia to the United Nations addressed to the President of the Security Council

Letter dated 17 July 1992 from the Permanent Representatives of Belgium, France and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council

Decision of 17 July 1992 (3097th meeting): statement by the President

By letters dated 11 and 12 July 1992 addressed to the President of the Security Council,¹³² the Minister for Foreign Affairs of Croatia and the President of Croatia, respectively, stated that the Serbian and Montenegrin aggressors, taking advantage of the focus of world attention on Sarajevo, were escalating their attacks in all other parts of Bosnia and Herzegovina and in part of Croatia. Croatia was facing insurmountable difficulties in its efforts to care for the recent avalanche of refugees set in motion by these events. Observing that all efforts made so far by the international community to halt this aggression by political and economic means and to bring about a peaceful resolution of the crisis had failed, Croatia

¹³² S/24264 and S/24265, respectively.

called upon the Security Council to meet immediately and approve an international military intervention.

By a letter dated 13 July 1992 addressed to the President of the Council,¹³³ the representative of Bosnia and Herzegovina drew attention to the continuing barbaric attack by the Belgrade regime on the town of Gorazde, which was under siege, and its attacks on other population centres around the country. He requested that the Council take “all steps necessary, including air power”, to stop this “humanitarian nightmare” from deepening. He also recommended that the Council initiate flights to Tuzla, a city north of Sarajevo, whose airport and environs were under Government control and could be used as an efficient distribution point for the delivery of relief to Gorazde and other desperate towns nearby.

By a letter also dated 13 July 1992 addressed to the President of the Council,¹³⁴ the Chargé d'affaires a.i. of Slovenia stated that his country joined the initiative calling for an emergency meeting of the Council to contend with the aggression in Bosnia and Herzegovina. It urged the Council to take the necessary measures to put an end to the aggression, armed terror and so-called ethnic purification, and to ensure respect for the sovereignty, territorial integrity and independence of Bosnia and Herzegovina and its recognized borders.

By a letter dated 17 July 1992 addressed to the President of the Council,¹³⁵ the representatives of Belgium, France and the United Kingdom transmitted the text of an agreement between the parties in Bosnia and Herzegovina, signed at London on 17 July 1992. In it, the parties, inter alia, agreed to a ceasefire throughout the entire territory of Bosnia and Herzegovina for a period of 14 days; asked the Security Council to make arrangements for the international supervision of all heavy weapons; agreed to the return of refugees and to freedom of movement for civilians caught up in or trapped by the military situation; and welcomed the planned resumption of the talks on future constitutional arrangements for Bosnia and Herzegovina in London on 27 July 1992.

At its 3097th meeting, on 17 July 1992, the Council included the five letters described above in its agenda. The Council invited the representative of

¹³³ S/24266.

¹³⁴ S/24270.

¹³⁵ S/24305.

Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (Cape Verde) drew the attention of the members of the Council to a number of other documents:¹³⁶

At the same meeting, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹³⁷

The Security Council welcomes the agreement between the parties in Bosnia and Herzegovina, signed in London on 17 July 1992 within the framework of the Conference on Yugoslavia.

The Council calls on the parties to comply fully with the agreement in all its aspects. In particular, it calls on all parties and others concerned to observe scrupulously the ceasefire throughout the entire territory of Bosnia and Herzegovina.

The Council has decided in principle to respond positively to the request for the United Nations to make arrangements for the supervision by the United Nations Protection Force of all heavy weapons (combat aircraft, armour, artillery, mortars, rocket-launchers, etc.) in accordance with the London agreement. It calls on the parties to declare immediately to the Force Commander the locations and quantities of the heavy weapons to be placed under supervision. It requests the Secretary-General to report by 20 July 1992 on the implementation and resource implications of this decision.

The Council welcomes the provisions in the London agreement concerning the return of all refugees and freedom of movement for civilians caught up in or trapped by the military situation. It also welcomes the efforts being made to mobilize international assistance in handling the refugee problem under the aegis of the Office of the United Nations High Commissioner for Refugees. It invites the Secretary-General and the United Nations humanitarian agencies concerned to make

the maximum use of the ceasefire now proclaimed to bring humanitarian relief and supplies to all parts of Bosnia and Herzegovina.

The Council expresses its satisfaction that the talks on future constitutional arrangements for Bosnia and Herzegovina are to resume in London on 27 July 1992, and urges the parties to contribute actively and positively to these talks so that a peaceful solution is achieved as soon as possible.

The Council stresses the need for full compliance with all the requirements of the relevant resolutions of the Council towards which the London agreement is an important step. It reaffirms its decision to remain actively seized of the matter and to consider immediately, whenever necessary, further steps to achieve a peaceful solution in conformity with those resolutions.

R. Report of the Secretary-General on the situation in Bosnia and Herzegovina

Decision of 24 July 1992 (3100th meeting): statement by the President

On 21 July 1992, pursuant to the request made in the presidential statement of 17 July, the Secretary-General submitted to the Council a report on the implementation and resource implications of its decision in principle to respond positively to the request for UNPROFOR to supervise the heavy weapons in Bosnia and Herzegovina in accordance with the London Agreement.¹³⁸ He also submitted a proposed concept of operations for such supervision. However, he observed that, having carefully considered the London Agreement and the circumstances in which it was concluded, as well as the advice of the Force Commander, he had concluded that the conditions did not exist for him to recommend that the Council accept the request of the three parties in Bosnia and Herzegovina that the United Nations supervise the heavy weapons which they had agreed to place under international supervision. This was for a variety of reasons — some relating to principle; others, to practical considerations. In the first place, the request raised the question of the relationship between the United Nations and regional organizations in the maintenance of international peace and security. He noted that Chapter VIII of the Charter of the United Nations underlined the primary responsibility of the Council in such matters, providing, for instance, that in certain circumstances it could “utilize” regional organizations or agencies. There was no provision for

¹³⁶ Letters dated 7 July 1992 from the representative of Bosnia and Herzegovina to the President of the Council (S/24250 and S/24251); letter dated 9 July 1992 from the representative of Croatia to the President of the Council (S/24253); letter dated 12 July 1992 from the representative of Egypt to the Secretary-General (S/24272); letter dated 13 July 1992 from the representative of Yugoslavia to the President of the Council (S/24279); note verbale dated 8 July 1992 from the representative of the United Kingdom to the Secretary-General (S/24280); letter dated 15 July 1992 from the representative of Bosnia and Herzegovina to the Secretary-General (S/24297); and letter dated 15 July 1992 from the representatives of Belgium, France and the United Kingdom to the President of the Council (S/24299).

¹³⁷ S/24307.

¹³⁸ S/24333.

the reverse to occur. In other instances when the United Nations and a regional organization had both been involved in an international peace and security situation, care had been taken to ensure that the primacy of the world Organization had not been compromised. A second concern was that the United Nations had not participated in the negotiation of the London Agreement. The Secretary-General observed that it was most unusual for the United Nations to be asked to help to implement a politico-military agreement in whose negotiation it had played no part. As a matter of principle, he believed that Secretariat staff should be involved in the negotiation of any agreement which was likely to give rise to a peacekeeping role for the United Nations. His concern on these two points was heightened by the lack of clarity concerning the respective roles of the United Nations and the European Community in implementation of the London Agreement.

The Secretary-General noted, thirdly, that it was well established that certain conditions had to exist before a successful peacekeeping operation could be established. These included the consent and cooperation of the parties and a practicable mandate. Neither existed in the present case. Fourthly, the additional function that UNPROFOR was being asked to assume was simply beyond the existing operational and logistical capability of the United Nations. Fifthly, there was a question of priorities. The United Nations was already massively engaged in the former Yugoslavia. The Secretary-General expressed concern that, if the Council continued to concentrate its attention and resources to such an extent on Yugoslav problems, this would be at the expense of the Organization's ability to help resolve equally cruel and dangerous conflicts elsewhere, e.g. in Somalia.

At its 3100th meeting, held on 24 July 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report of 21 July in its agenda.

The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (Cape Verde) drew the attention of the members of the Council to two other documents. The first was a letter dated 20 July from the representative of Bosnia and Herzegovina addressed to

the Secretary-General,¹³⁹ stating that, in spite of the London Agreement and the promises of the Prime Minister of the Federal Republic of Yugoslavia, the attacks of the aggressor had continued in almost all areas of Bosnia and Herzegovina and in some places had intensified. Unless the international community, and above all the Security Council, took more decisive measures to stop this aggression, it would dangerously escalate. The second document was a letter dated 21 July 1992 from the representatives of Belgium, France and the United Kingdom addressed to the President of the Council,¹⁴⁰ transmitting a declaration on Yugoslavia adopted by the European Community and its member States on 20 July. The Community and its member States, inter alia, welcomed prompt action by the Security Council, working in close cooperation with the European Community Conference on Yugoslavia, to put into effect the supervision of the heavy weaponry specified in the London Agreement.

At the same meeting, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁴¹

The Security Council recalls the statement of its President of 17 July 1992 concerning the agreement signed in London on 17 July 1992 by the parties in Bosnia and Herzegovina.

The Council takes note with appreciation of the report of the Secretary-General of 21 July 1992 on the situation in Bosnia and Herzegovina that he submitted to it, in response to its request of 17 July 1992, together with a Concept of Operations.

The Council concurs with the Secretary-General's view that the conditions do not yet exist for the United Nations to supervise the heavy weapons in Bosnia and Herzegovina as envisaged in the London agreement.

The Council invites the Secretary-General to contact all Member States, particularly the member States of the relevant regional organizations in Europe, to ask them to make urgently available to the Secretary-General information about the personnel, equipment and logistic support which they would be prepared to contribute, individually or collectively, to the supervision of heavy weapons in Bosnia and Herzegovina as described in the Secretary-General's report.

In the light of the outcome of these contacts, the Secretary-General will undertake the further preparatory work needed on the supervision of the heavy weapons in Bosnia and Herzegovina.

¹³⁹ S/24331.

¹⁴⁰ S/24328.

¹⁴¹ S/24346.

Recalling the provisions of Chapter VIII of the Charter of the United Nations, the Council invites the European regional arrangements and agencies concerned, and particularly the European Community, to enhance their cooperation with the Secretary-General in their efforts to help to resolve the conflicts that continue to rage in the former Yugoslavia. In particular, it would welcome the participation of the Secretary-General in any negotiations under European Community auspices.

The Council further invites the European Community in cooperation with the Secretary-General of the United Nations to examine the possibility of broadening and intensifying the present Conference with a view to providing a new momentum in the search for negotiated settlements of the various conflicts and disputes in the former Yugoslavia.

The Council underlines the importance of the parties to the Agreement signed at London on 17 July 1992 honouring fully the terms of that agreement and calls on others concerned also to respect the agreement. It emphasizes in particular the need for the parties to respect and maintain a ceasefire throughout the entire territory of Bosnia and Herzegovina, and for them to declare immediately to the United Nations Protection Force Commander the locations and quantities of the heavy weapons to be placed under supervision. It further demands that the parties and others concerned cooperate fully with the Force and the humanitarian agencies and take all necessary steps to ensure the safety of their personnel.

The Council stresses the need for full compliance with all the requirements of its relevant resolutions and stands ready to consider immediately, whenever necessary, further steps to achieve a peaceful solution in conformity with its relevant resolutions.

The Council requests the Secretary-General to report back to it on the further work being undertaken and remains actively seized of the matter.

**S. Letter dated 4 August 1992 from the
Chargé d'affaires a.i. of the Permanent
Mission of the United States of America
to the United Nations addressed to the
President of the Security Council**

**Letter dated 4 August 1992 from the
Permanent Representative of
Venezuela to the United Nations
addressed to the President of the
Security Council**

**Decision of 4 August 1992 (3103rd meeting):
statement by the President**

By separate letters dated 4 August 1992 addressed to the President of the Security Council,¹⁴² the representatives of the United States and Venezuela drew attention to reports of abuses of civilian prisoners in camps throughout the former Yugoslavia, and requested an urgent meeting of the Security Council to discuss the matter.

At its 3103rd meeting, on 4 August 1992, the Council included the letters from the representatives of the United States and Venezuela in its agenda.

The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (China) also drew the attention of the members of the Council to a letter dated 29 July 1992 from the representative of Bosnia and Herzegovina addressed to the President of the Council,¹⁴³ attaching lists of concentration camps and prisons in Bosnia and Herzegovina and in Serbia and Montenegro, under the control of the Belgrade regime and "its surrogates", in which tens of thousands of innocent citizens of Bosnia and Herzegovina were held captive. The representative of Bosnia and Herzegovina requested the Security Council to take all necessary steps to secure the safety and provide for the basic needs of these innocent victims, so that they could eventually return to their homes, as agreed in the London Agreement of 17 July.

At the same meeting, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁴⁴

The Security Council is deeply concerned at the continuing reports of widespread violations of international humanitarian law and in particular reports of the imprisonment and abuse of civilians in camps, prisons and detention centres within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina. The Council condemns any such violations and abuses and demands that relevant international organizations, and in particular the International Committee of the Red Cross, be granted immediate, unimpeded and continued access to all such places and calls upon all parties to do all in their power to facilitate such access. The Council further calls

¹⁴² S/24376 and S/24377.

¹⁴³ S/24365.

¹⁴⁴ S/24378.

upon all parties, States, international organizations and non-governmental organizations to make immediately available to the Council any further information they might possess regarding these camps and access to them.

The Council reaffirms that all parties are bound to comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches.

The Council will remain actively seized of this issue.

T. Statement by the President of the Security Council

Decision of 4 August 1992: statement by the President

On 4 August 1992, following consultations among the members of the Council, the President made the following statement to the media on behalf of the Council:¹⁴⁵

The members of the Security Council condemn the recent cowardly attack on United Nations Protection Force positions in Sarajevo resulting in loss of life and injuries among the Ukrainian servicemen. The members of the Council note that the Force has already commenced investigation of this incident.

The members of the Council express their condolences to the family of the officer killed and to the Government of Ukraine.

The members of the Council also express their condolences to the families of the two French officers of the Force killed in Croatia and to the Government of France.

The members of the Council call upon all parties to ensure that those responsible for these intolerable acts are quickly called to account.

The members of the Council reiterate their demand that all parties and others concerned take the necessary measures to secure the safety of Force personnel.

¹⁴⁵ S/24379; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, pp. 22-23.

U. Report of the Secretary-General pursuant to Security Council resolution 762 (1992)

Decision of 7 August 1992 (3104th meeting): resolution 769 (1992)

On 27 July 1992, the Secretary-General submitted to the Council a report pursuant to resolution 762 (1992),¹⁴⁶ on the progress made by UNPROFOR in implementing the mandate entrusted to it in Croatia under the United Nations peacekeeping plan. The report also brought to the Council's notice some of the major concerns facing UNPROFOR in the United Nations Protected Areas and adjoining areas following the Force's assumption of its responsibilities. The Secretary-General observed that UNPROFOR had achieved a number of successes since its assumption of responsibility in the various sectors, due, in large part, to the cooperation extended by the various parties. The principal achievement had been the elimination of ceasefire violations involving the use of heavy weapons. There had also been a considerable lessening of tension in all three Protected Areas, though occasional ceasefire violations, mostly involving small-arms fire, continued to occur. Another major achievement had been the withdrawal of the Yugoslav People's Army from all sectors, as called for in the plan, except for an infantry battalion which was to be withdrawn within the next few days. Both the Government of Croatia and the Serb authorities in the area had, moreover, accepted the concept of the establishment of a Joint Commission, as described in the Secretary-General's report of 26 June 1992,¹⁴⁷ to oversee and monitor the process of restoration of the Croatian Government's authority in the so-called "pink zones".

Problems nevertheless remained, especially with regard to two matters: the excessive armament of the local police in the Protected Areas; and the continuing persecution of non-Serbs in some areas, aimed at forcing them to leave their homes, and the destruction of Serb property in others.¹⁴⁸ Conditions did not therefore exist for the voluntary return of displaced persons to their homes, an important aspect of the United Nations peacekeeping plan. Another

¹⁴⁶ S/24353; see also S/24353/Add.1 of 6 August 1992.

¹⁴⁷ S/24188.

¹⁴⁸ S/24353, paras. 14-16.

development of concern related to the control of international borders. Since the peacekeeping plan had been accepted by the parties and approved by the Council, the Republics in the area had acquired an international legal personality and three had become States Members of the United Nations. The Croatian authorities had raised the issue of the control of the boundaries of the Protected Areas where these coincided with what were now international borders.¹⁴⁹ The economic sanctions imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro) by resolution 757 (1992) had added a new dimension to the issue.

In the Force Commander's judgement, the existing UNPROFOR mandate needed to be further enlarged in two respects if it were to succeed in establishing peaceful, just and stable conditions in the Protected Areas, pending the negotiation of an overall political settlement. He had recommended that UNPROFOR should be given authority to control the entry of civilians into the Area and that it should have powers to perform immigration and customs functions at the Areas borders where these coincided with international frontiers. He had also recommended an increase in the strength of the UNPROFOR civil affairs component.

The Secretary-General observed that the Force Commander's latest recommendations illustrated the extent to which the evolution of the situation in the former Socialist Federal Republic of Yugoslavia was drawing UNPROFOR into quasi-governmental functions which went beyond normal peacekeeping practice, had major resource implications and might stimulate demands for yet deeper United Nations involvement in this troubled region. As he had noted in his report of 21 July,¹⁵⁰ he viewed this trend with some misgiving, in the light of the many other demands on the Organization's attention and resources. However, the Force Commander had made a strong case in support of his recommendations and, on balance, the Secretary-General believed that they must be accepted if the effort already invested by the Council in Croatia was not to be undermined as a result of the UNPROFOR mandate being limited to control of

military movements only or as a result of the Force lacking the necessary civilian staff resources.

At its 3104th meeting, held in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report of 27 July in its agenda.

The Council invited the representative of Croatia, at his request, to participate in the discussion without the right to vote.

The President (China) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.¹⁵¹

He also drew their attention to two letters dated 3 and 7 August 1992 from the representative of Croatia addressed to the Secretary-General and the President of the Security Council, respectively.¹⁵² The Government of Croatia conveyed its acceptance of the Secretary-General's report of 27 July 1992, but expressed its view that the suggested expansion of the UNPROFOR mandate should be viewed as a temporary solution for the control of the boundaries of the United Nations Protected Areas where these coincided with international borders of Croatia, until the conditions for their full control by Croatian authorities were fulfilled. On this basis, the Government would support the adoption of a Council resolution authorizing the expansion of the UNPROFOR mandate in Croatia.

The draft resolution was then put to the vote and adopted unanimously as resolution 769 (1992), which reads:

The Security Council,

Reaffirming its resolution 743 (1992) of 21 February 1992 and all subsequent resolutions relating to the United Nations Protection Force,

Having examined the report of the Secretary-General of 27 July 1992 and 6 August 1992 submitted pursuant to Security Council resolution 762 (1992) in which he recommended certain enlargements in the mandate and strength of the Force,

Taking note of the letter dated 7 August 1992 from the Deputy Prime Minister of the Republic of Croatia to the President of the Security Council,

¹⁴⁹ Sector East shared borders with Hungary and Serbia; the other three sectors shared borders with Bosnia and Herzegovina.

¹⁵⁰ S/24333.

¹⁵¹ S/24382.

¹⁵² S/24371 and S/24390.

1. *Approves* the report of the Secretary-General of 27 July and 6 August 1992 submitted pursuant to Security Council resolution 762 (1992);

2. *Authorizes* the enlargements of the mandate and strength of the United Nations Protection Force recommended by the Secretary-General in his report;

3. *Reiterates* its demand that all parties and others concerned cooperate with the Force in implementing the mandate entrusted to it by the Council;

4. *Condemns resolutely* the abuses committed against the civilian population, particularly on ethnic grounds, as referred to in paragraphs 14 to 16 of the report of the Secretary-General.

V. Letter dated 10 August 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council

Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the President of the Security Council

Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council

Letter dated 11 August 1992 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the Security Council

Letter dated 11 August 1992 from the Permanent Representative of Senegal to the United Nations addressed to the President of the Security Council

Letter dated 11 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council

Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to the President of the Security Council

Letter dated 11 August 1992 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Security Council

Letter dated 12 August 1992 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council

Letter dated 13 August 1992 from the Permanent Representative of the United Arab Emirates to the United Nations addressed to the President of the Security Council

Letter dated 13 August 1992 from the Permanent Representative of Bahrain to the United Nations addressed to the President of the Security Council

Letter dated 13 August 1992 from the Permanent Representative of the Comoros to the United Nations addressed to the President of the Security Council

Letter dated 13 August 1992 from the Permanent Representative of Qatar to the United Nations addressed to the President of the Security Council

**Decisions of 13 August 1992 (3106th meeting):
resolutions 770 (1992) and 771 (1992)**

By a letter dated 10 August 1992 addressed to the President of the Security Council,¹⁵³ the representative of Bosnia and Herzegovina requested an urgent emergency meeting of the Council, with a formal debate, to consider the grave and deteriorating situation in his country, entailing serious violations of human rights and international law and involving acts of interference and armed intervention by a foreign country, threatening international peace and security. He also requested that the Council take appropriate collective measures under Chapter VII of the Charter to restore peace and stability in the region.

By separate letters dated 10 to 13 August 1992 addressed to the President of the Council,¹⁵⁴ the representatives of Turkey, the Islamic Republic of Iran, Malaysia, Kuwait, Pakistan, Egypt, the United Arab Emirates, Bahrain, the Comoros and Qatar supported the request made by Bosnia and Herzegovina for an urgent meeting of the Council to consider the situation and to take appropriate measures under Chapter VII. By letters dated 11 August 1992,¹⁵⁵ the representatives of Senegal and Saudi Arabia requested an urgent meeting of the Council to consider the serious situation and to find an immediate solution to restoring peace and stability.

At its 3106th meeting, on 13 August 1992, the Council included the above-mentioned letters in its agenda. The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (China) drew the attention of the members of the Council to two draft resolutions,¹⁵⁶ both submitted jointly by Belgium, France, the Russian Federation, the United Kingdom and the United States.

He also drew their attention to the following documents: (a) a letter dated 10 August 1992 from the representative of Ukraine,¹⁵⁷ requesting the Security Council to ensure maximum safety of the troops of the Ukrainian contingent of UNPROFOR in Sarajevo,

which had suffered new losses, and to investigate incidents of 31 July and 7 August 1992; and (b) letters dated 5 and 7 August 1992 from the representative of Bosnia and Herzegovina,¹⁵⁸ submitting, in response to the statement by the President of the Council of 4 August, further information regarding concentration camps and ethnic cleansing.

The President noted, further, that the Council members had received copies of letters dated 13 August 1992 addressed to the President of the Security Council from the representatives of the Islamic Republic of Iran, Bosnia and Herzegovina, Pakistan and Egypt,¹⁵⁹ transmitting the texts of the statements they would have made had there been a formal debate on the situation in Bosnia and Herzegovina during the Security Council's consideration of the matter that day. In their statements, they called for Bosnia and Herzegovina to be exempted from the arms embargo imposed under Security Council resolution 713 (1991) against the entire former Yugoslavia, on the grounds that, as the victim of aggression and a Member of the United Nations, it was entitled to exercise its inherent right of self-defence under Article 51 of the Charter. They also urged the Council to take measures under Chapter VII of the Charter, including the use of military force under Article 42, to halt and reverse the consequences of the Serbian aggression. Although welcoming the two draft resolutions, the representatives of Bosnia and Herzegovina and Pakistan did not consider that they were sufficient in the circumstances.

The Council then commenced the voting procedure on the draft resolutions before it. Speaking before the vote, the representative of Cape Verde noted that the world had been horrified by the recent events in Bosnia and Herzegovina. Cities were being bombed and fired upon indiscriminately. Bosnian Muslims were being expelled from their homes to give way to "ethnically pure" areas, in total disregard of humanitarian law and creating a serious and difficult refugee situation. Concentration camps and mass detention centres had once again made an appearance as evidence of the inhumane nature of the conflict. The Council itself, on whose action the security of many small nations was supposed to rest, had not gone beyond appeals for peace, which had been to no avail. Observing that the conflict in the Balkans had the

¹⁵³ S/24401.

¹⁵⁴ S/24409, S/24410, S/24412, S/24416, S/24419, S/24423, S/24431, S/24433, S/24439 and S/24440, respectively.

¹⁵⁵ S/24413 and S/24415, respectively.

¹⁵⁶ S/24421 and S/24422.

¹⁵⁷ S/24403.

¹⁵⁸ S/24404 and S/24405, respectively.

¹⁵⁹ S/24432, S/24434, S/24437 and S/24438, respectively.

potential to be a major source of destabilization of international peace and security if it were not controlled and contained, the speaker considered that the Council should assert its powers under the Charter to bring the conflict to an end and repel the aggression against Bosnia. In that context, he welcomed, as a step in the right direction, the first draft resolution's call upon States and others to take all measures necessary to facilitate the delivery of humanitarian assistance in Bosnia. He also welcomed the second draft resolution, dealing with the humanitarian law aspect of the conflict.¹⁶⁰

The representative of Ecuador observed that the Council was meeting in response to the collective outcry of the international community and the express request of Bosnia and Herzegovina. Although he hoped that the first draft resolution they were about to adopt could be implemented without the use of coercion, the Council had not wished to overlook the possibility that circumstances might make the use of such measures necessary; in that light, it had resolved to authorize States to proceed to take even measures of that nature to ensure the delivery of humanitarian assistance. The speaker stressed that the situation was a threat to international peace and security and that the provision of humanitarian assistance was a basic condition for the restoration of peace and security in the region. The States that answered the Council's call would, accordingly, be authorized to use every means necessary to achieve the specific aim in question because of the exceptionally grave and urgent circumstances. The second draft resolution, relating to the violation of international humanitarian law, was the minimum response that the international community should make to policies of forcible expulsion, deportation of civilians, imprisonment, torture and death in concentration camps. The perpetrators of such abuses must correct their behaviour immediately, allow free and full access by international humanitarian organizations to places of detention, and realize that the Council firmly intended to adopt new measures under Chapter VII of the Charter if the resolution about to be adopted did not produce immediate and satisfactory results.¹⁶¹

The representative of India maintained that any action authorized by the Security Council should be

¹⁶⁰ S/PV.3106, pp. 4-7.

¹⁶¹ *Ibid.*, pp. 7-10.

carried out in strict conformity with the provisions of the Charter and that, if the use of force was to be authorized under Chapter VII, the provisions of that Chapter had to be respected. In the present instance, it was imperative that the envisaged operation, which could involve the use of force, should be under the command and control of the United Nations. The speaker also expressed concern about the safety of UNPROFOR personnel in Sarajevo and elsewhere in Bosnia who might get caught in the crossfire or become the targets of reprisals. Should the Council permit a situation to be created, albeit unintentionally, in which United Nations peacekeepers' lives would be placed in jeopardy? Although India agreed with the objectives as well as the principal feature of the first draft resolution authorizing the use of force, it could not, therefore, support the resolution as it stood. With regard to the second draft resolution, the speaker shared the concern and joined in the condemnation of any violation of international humanitarian law, including those involving the practice of "ethnic cleansing". However, his delegation believed that the Commission on Human Rights was the right forum in which to take up such issues and had, accordingly, supported the convening of an extraordinary session of that body to consider the situation in the former Yugoslavia. It had reservations about bringing compliance with international humanitarian law within the competence of the Security Council, and even more so about making it the subject of Chapter VII action. However, the sponsors of the second draft resolution had accommodated some of India's concerns. Therefore, taking into account the enormity of the alleged crimes, his delegation, while maintaining its reservations, would join in the adoption of the resolution.¹⁶²

The representative of Zimbabwe said his country was of the view that any necessary measures taken to deal with the present crisis had to be taken as a collective enforcement measure under the full control of, and with full accountability to, the United Nations through the Security Council, as provided for by the Charter of the United Nations. His delegation had serious difficulties with the first draft resolution, which sought to authorize any State to use military force in any part of Bosnia and Herzegovina in the name of the United Nations but without any control from or accountability to the Organization; and which left it

¹⁶² *Ibid.*, pp. 12-15.

entirely to the individual States so intervening to define the scope of the humanitarian operation. The Security Council would thus be authorizing unidentified States to use military force after which it was likely to assume the role of helpless spectator in a military operation it had so authorized. Zimbabwe viewed the situation in Bosnia and Herzegovina as essentially a civil war. There was a danger, therefore, that action by individual States or groups of States undertaking a humanitarian mission backed by military force could be perceived as intervention on behalf of one side or another, which would intensify hostilities and exacerbate the suffering of innocent civilians. Zimbabwe was also seriously concerned that the presence of UNPROFOR in the same area where the envisaged operations that would inevitably entail the use of force in the name of the United Nations were to be carried out would leave UNPROFOR personnel exposed to the danger of retaliation from the warring groups in the region. In its view, an appropriate arrangement in this case would be the deployment of a security force to protect humanitarian operations, fully controlled by and fully accountable to the United Nations, as that contemplated for Somalia. The speaker concluded that his delegation would not be able to support the first draft resolution. However, it would support the second draft resolution.¹⁶³

The representative of Morocco maintained that the question before them was not that of a civil war, but of an invasion of one State by another, which had planned genocide and taken action to destroy a young, independent State because that State wished to have a democratic structure. The measures the Council proposed to adopt that day must not make it forget the reality and core of the problem. The speaker hoped for the success of the London talks and the joint efforts of the European Community and the United Nations. However, the international community and the Council must remain vigilant and tolerate no more procrastination. His delegation would vote in favour of the first draft resolution because its adoption would make Serbian leaders think, but he hoped that it would not give those leaders yet another opportunity to kill more innocent persons and prolong the suffering of a whole people which was still placing all its hopes in the international community and the Council.¹⁶⁴

¹⁶³ *Ibid.*, pp. 16-18.

¹⁶⁴ *Ibid.*, pp. 19-21.

The representative of Japan supported both draft resolutions, but wished to emphasize the importance of finding a political, not a military, solution to the situation. His delegation commended the efforts being made by the European countries and by Lord Carrington, and hoped that the resolutions about to be adopted would contribute to expediting the peace process.¹⁶⁵

The representative of Austria firmly supported the adoption and prompt implementation of the two draft resolutions before them, which addressed two crucial humanitarian concerns. He expressed regret, however, that the international community had not acted earlier to create security corridors for the delivery of humanitarian assistance. Blocking food and humanitarian deliveries was regarded by the aggressor as a highly efficient means of forcing the non-Serbian population to flee and give up their property, which was precisely the Serbian aim in the conflict: to “cleanse” parts of the country of the non-Serbian population. In Austria’s view, the international community had a clear obligation to assist displaced persons in returning to their homes and regaining their property. Noting that the second text to be adopted strongly condemned the repugnant violations of international humanitarian law, the speaker added that his country favoured the idea of bringing to trial the individuals responsible for such barbaric acts. He observed that Austria regretted one aspect of the language of the draft resolutions: namely, the attempt carefully to maintain impartiality towards all parties to the conflict. In other relevant international forums, especially CSCE, less ambiguous wording had been used. Could the Council be equally distant from the victim and the aggressor? In its endeavour to display impartiality, the Council should not lose sight of what was causing the conflict — in the words of the President of the European Commission — “the destructive, anti-humanistic ideology of the Belgrade regime”. What was happening in Bosnia and Herzegovina was primarily an aggression against the legitimate government of a State Member of the United Nations. An insurrection, instigated, nurtured and heavily supported with materiel and personnel by Serbia and Montenegro, was threatening the very existence of the Government and State of Bosnia and Herzegovina, and of those citizens loyal to their Government. If there were to be a “new world order”,

¹⁶⁵ *Ibid.*, pp. 21-22.

the international community had to counter the Serbian aggression speedily and decisively. In the event that the international community could not, or did not want to, live up to that task, at least the exercise of the inherent right of individual or collective self-defence under Article 51 of the Charter must be granted to Bosnia and Herzegovina.¹⁶⁶

At the same meeting, the President put the first draft resolution¹⁶⁷ to the vote. It was adopted by 12 votes in favour, none against and 3 abstentions (China, India, Zimbabwe) as resolution 770 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992, 743 (1992) of 21 February 1992, 749 (1992) of 7 April 1992, 752 (1992) of 15 May 1992, 757 (1992) of 30 May 1992, 758 (1992) of 8 June 1992, 760 (1992) of 18 June 1992, 761 (1992) of 29 June 1992, 762 (1992) of 30 June 1992, 764 (1992) of 13 July 1992 and 769 (1992) of 7 August 1992,

Noting the letter dated 10 August 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council,

Underlining once again the imperative need for an urgent negotiated political solution to the situation in Bosnia and Herzegovina to enable that country to live in peace and security within its borders,

Reaffirming the need to respect the sovereignty, territorial integrity and political independence of the Republic of Bosnia and Herzegovina,

Recognizing that the situation in Bosnia and Herzegovina constitutes a threat to international peace and security and that the provision of humanitarian assistance in Bosnia and Herzegovina is an important element in the Council's effort to restore international peace and security in the area,

Commending the United Nations Protection Force for its continuing action in support of the relief operation in Sarajevo and other parts of Bosnia and Herzegovina,

Deeply disturbed by the situation that now prevails in Sarajevo, which has severely complicated the Force's efforts to fulfil its mandate to ensure the security and functioning of Sarajevo airport and the delivery of humanitarian assistance in Sarajevo and other parts of Bosnia and Herzegovina pursuant to resolutions 743 (1992), 749 (1992), 761 (1992) and 764 (1992) and the reports of the Secretary-General cited therein,

Dismayed by the continuation of conditions that impede the delivery of humanitarian supplies to destinations within Bosnia and Herzegovina and the consequent suffering of the people of that country,

Deeply concerned by reports of abuses against civilians imprisoned in camps, prisons and detention centres,

Determined to establish as soon as possible the necessary conditions for the delivery of humanitarian assistance wherever needed in Bosnia and Herzegovina, in conformity with resolution 764 (1992),

Acting under Chapter VII of the Charter of the United Nations,

1. *Reaffirms* its demand that all parties and others concerned in Bosnia and Herzegovina stop the fighting immediately;

2. *Calls upon* States to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina;

3. *Demands* that unimpeded and continuous access to all camps, prisons and detention centres be granted immediately to the International Committee of the Red Cross and other relevant humanitarian organizations and that all detainees therein receive humane treatment, including adequate food, shelter and medical care;

4. *Calls upon* States to report to the Secretary-General on measures they are taking in coordination with the United Nations to implement the present resolution, and invites the Secretary-General to keep under continuous review any further measures that may be necessary to ensure unimpeded delivery of humanitarian supplies;

5. *Requests* all States to provide appropriate support for the actions undertaken in pursuance of the present resolution;

6. *Demands* that all parties and others concerned take the necessary measures to ensure the safety of United Nations and other personnel engaged in the delivery of humanitarian assistance;

7. *Requests* the Secretary-General to report to the Security Council on a periodic basis on the implementation of the present resolution;

8. *Decides* to remain actively seized of the matter.

The President then put the second draft resolution¹⁶⁸ to the vote. He noted that the blank spaces at the end of the first preambular paragraph should be filled in so as to read "770 (1992) of

¹⁶⁶ Ibid., pp. 22-25.

¹⁶⁷ S/24421.

¹⁶⁸ S/24423.

13 August 1992". The draft resolution was adopted unanimously as resolution 771 (1992), which reads:

The Security Council,

Reaffirming its resolutions 713 (1991) of 25 September 1991, 721 (1991) of 27 November 1991, 724 (1991) of 15 December 1991, 727 (1992) of 8 January 1992, 740 (1992) of 7 February 1992, 743 (1992) of 21 February 1992, 749 (1992) of 7 April 1992, 752 (1992) of 15 May 1992, 757 (1992) of 30 May 1992, 758 (1992) of 8 June 1992, 760 (1992) of 18 June 1992, 761 (1992) of 29 June 1992, 762 (1992) of 30 June 1992, 764 (1992) of 13 July 1992, 769 (1992) of 7 August 1992 and 770 (1992) of 13 August 1992,

Noting the letter dated 10 August 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations,

Expressing grave alarm at continuing reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina, including reports of mass forcible expulsion and deportation of civilians, imprisonment and abuse of civilians in detention centres, deliberate attacks on non-combatants, hospitals and ambulances, impeding the delivery of food and medical supplies to the civilian population, and wanton devastation and destruction of property,

Recalling the statement of the President of the Council of 4 August 1992,

1. *Reaffirms* that all parties to the conflict are bound to comply with their obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches;

2. *Strongly condemns* any violations of international humanitarian law, including those involved in the practice of "ethnic cleansing";

3. *Demands* that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, immediately cease and desist from all breaches of international humanitarian law including from actions such as those described above;

4. *Also demands* that relevant international humanitarian organizations, and in particular the International Committee of the Red Cross, be granted immediate, unimpeded and continued access to camps, prisons and detention centres within the territory of the former Yugoslavia, and calls upon all parties to do all in their power to facilitate such access;

5. *Calls upon* States and, as appropriate, international humanitarian organizations to collate substantiated information in their possession or submitted to them relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions, being committed in the territory of the

former Yugoslavia and to make this information available to the Council;

6. *Requests* the Secretary-General to collate the information submitted to the Council under paragraph 5 and to submit a report to the Council summarizing the information and recommending additional measures that might be appropriate in response to the information;

7. *Decides*, acting under Chapter VII of the Charter of the United Nations, that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, shall comply with the provision of the present resolution, failing which the Council will need to take further measures under the Charter;

8. *Decides* to remain actively seized of the matter.

Speaking after the vote, the representative of the Russian Federation stated that, as a sponsor of the resolutions just adopted, his country wished to emphasize their carefully thought-out and balanced nature and clearly defined humanitarian aim of securing compliance with the Council's demands by all parties to the Yugoslav crisis. They reflected the responsibility with which the Council had consistently carried out, with respect to that crisis, its duties under the Charter to maintain international peace and security. Like the other sponsors, the Russian Federation trusted that the delivery of foodstuffs and medicines would take place unimpeded and without the use of extreme measures. The complexity and ambiguity of the situation required the world community to act on the basis of clearly established facts and with an objective approach to the activities of each of the parties to the crisis. A key role in ensuring such an approach fell to the United Nations, in coordination with which all parties and organizations must act in facilitating the delivery of humanitarian assistance. The Security Council had, quite rightly, condemned the practice of "ethnic cleansing" in the strongest terms. In requesting information regarding all breaches of the norms of international humanitarian law, it stressed the need to establish the truth of each report. On the basis of confirmed data, it was prepared to take the necessary measures, including those of the most severe kind, against those guilty of such breaches, regardless of which party was responsible. In the meantime, the Russian Federation insisted that all those involved in the conflict must understand that there was simply no alternative to a solution of the conflict by political means. It hoped that all the parties would seriously and responsibly make use of the new opportunity for peace provided by the forthcoming London conference, which

was to be held with an expanded membership, with the United Nations Secretary-General as a co-Chairman.¹⁶⁹

The representative of Hungary maintained that the situation in Bosnia and Herzegovina continued to pose a threat to regional and international peace and security. He recalled that, since the beginning of the Yugoslav crisis, his country had advocated a peaceful settlement of the conflict through negotiations, on the basis of democratic values, respect for the right of nations to self-determination, as well as the human and minority rights of the population. Hungary rejected any aspiration to change borders by force and condemned the changing of the ethnic composition of the population by force. It welcomed the adoption of the two resolutions as an example of the strong commitment of the Security Council to human rights and humanitarian issues. To act urgently was not only a moral obligation for the Council: it was indispensable for the preservation of the credibility of the United Nations. Only a credible Organization and Security Council could perform their basic function — maintaining international peace and security. The speaker emphasized once again the urgent need for a negotiated political solution to the situation in Bosnia and Herzegovina. The cessation of all military activity was certainly one of the most important steps towards creating a climate conducive to a peaceful settlement. Hungary suggested that isolation of the illegal military forces, including the irregular Serbian forces, which were not operating under the control of any sovereign Government, would help to put an end to the hostilities in Bosnia and Herzegovina. It believed that international control over those forces would meet the concerns of all interested parties and contribute to easing the situation. To strengthen this process, it suggested that the Security Council should also consider establishing United Nations control over the border between Serbia and Montenegro and Bosnia and Herzegovina, to prevent the transport of arms and ammunition from Serbia and Montenegro to Bosnia and Herzegovina. Hungary hoped that the interested parties would give favourable consideration to such an arrangement.¹⁷⁰

The representative of the United Kingdom noted that the first resolution just adopted called upon States to use any measures necessary for the delivery of humanitarian relief, including military measures, but it

¹⁶⁹ *Ibid.*, pp. 27-30.

¹⁷⁰ *Ibid.*, pp. 31-33.

did not prescribe the use of force. That was as it should be. The use of force was not desirable, but might be necessary. The aim was to develop a system of protective support, as necessary, to supplement and expand the existing humanitarian operations. The United Kingdom had begun consulting closely with partners and allies to decide how best to follow up the resolution, a process that would now be intensified. Close coordination with the United Nations would be put in hand. In deciding whether and how far military measures were needed, the United Kingdom would give great weight to the views of the United Nations authorities and the humanitarian agencies. As to the second resolution, the speaker deplored the violations of international humanitarian law committed by the parties to the conflict, and insisted that the perpetrators of those criminal acts — whoever they were — had to realize that they would be brought to account. The detention camps were only one aspect of a wholly unacceptable policy of the Serbs, both in Belgrade and in Bosnia, to extend Serb control of Bosnian territory by attacking and expelling other communities. The resolution rightly made special reference to the odious practice of “ethnic cleansing”. Noting that sanctions were already in place against Serbia and Montenegro, the speaker said that the authorities in Belgrade needed to realize that the international political and economic penalties already imposed on their country would continue and would be intensified unless decisive action was taken by them to reverse these policies. Like others, he stressed that peace in the former Yugoslavia could only come from a ceasefire that was respected and a negotiated settlement. He noted that the broadened international conference to be held in London on 26 August, and co-chaired by the President of the Council of Ministers of the European Community and the Secretary-General of the United Nations, offered a real opportunity to engage in a meaningful peace process, which he hoped would be taken.¹⁷¹

The representative of the United States said his Government believed that the world community should do everything necessary in response to Bosnia and Herzegovina’s call to ensure the delivery of humanitarian assistance there. In adopting the two resolutions, the Security Council had demonstrated that it too shared the belief that the provision of humanitarian assistance was not only an urgent

¹⁷¹ *Ibid.*, pp. 34-37.

humanitarian concern but also an important element of the effort to restore peace and security in the region. It had also demanded that barbaric human rights violations must stop. The speaker emphasized, in this connection, that conquest of territory would not be tolerated by the international community. The Council had also addressed the most troubling of the many disturbing accounts currently coming out of the former Yugoslavia, concerning the detention centres in Bosnia and Herzegovina. After quoting from a report of the International Committee of the Red Cross, the speaker stated that the international community demanded to know the truth behind those camps and to see that any and all abuses were brought to an end. His country viewed leadership by the United Nations as key to resolving the humanitarian problems in Bosnia and believed that a continued United Nations presence there was indispensable. It strongly urged all sides to work together through the Conference on Yugoslavia to find a negotiated settlement to the crisis.¹⁷²

The representative of Venezuela stated that his country's decision to vote in favour of the first resolution had been a difficult one since the resolution, while it specifically mentioned implementation by all means necessary to ensure humanitarian assistance in Bosnia and Herzegovina, implicitly presupposed the use of force if circumstances should call for it. Indeed, this was the first time that the Security Council had taken a decision of this sort to provide humanitarian assistance in a country. Venezuela hoped that the use of force would be unnecessary and that the decisions just taken would serve as sufficient warning to all those involved in the conflict, and would contribute to a process that would allow the establishment of an appropriate framework for negotiation. The expanded conference to be held in London on 26 August should serve as such a forum and bear the ultimate responsibility for achieving a comprehensive political solution in the territory of the former Yugoslavia.¹⁷³

The representative of Belgium, commenting on the first resolution, stressed that the taking of all necessary measures was limited to the end of ensuring the distribution of humanitarian assistance to the people of Sarajevo and other parts of Bosnia and Herzegovina and to that end alone. The escorting of convoys should, therefore, discourage those who

continued to impede the distribution of humanitarian assistance. He added that the possibility of using all necessary measures should be carefully coordinated, pointing out that the resolution called upon States to take measures in coordination with the United Nations and to report to the Secretary-General and, through him, to the Security Council on a periodic basis. In Belgium's view, such action was supplemental to the efforts of UNPROFOR, which should continue to carry out its mandate. As for the second resolution, the speaker noted that, since the Council's statement of 4 August, it had been possible to visit a few camps. However, as such visits should not be discretionary, the resolution demanded that there be immediate, unimpeded and continuous access to all camps by humanitarian organizations. It also reminded those responsible for abuses and torture that they could not escape their individual responsibility.¹⁷⁴

The representative of France considered that, faced with the serious obstacles to aid distribution, raised particularly by the forces fighting in the field, and the mounting suffering of the population, the international community was duty-bound to take action to allow humanitarian assistance to reach those for whom it was intended in Bosnia and Herzegovina. It was in this spirit that France had co-sponsored the draft resolution just adopted as resolution 770 (1992). The speaker's delegation hoped that the parties to the conflict would meet the demands of the Council and stop fighting. If the obstacles to the provision of assistance remained, however, the resolution allowed for all measures necessary, including the use of force, to be taken by States in coordination with the United Nations to ensure that it was delivered. France was determined to lend all its assistance to ensure that the actions envisaged in the resolution were taken, intending to provide such assistance as part of the Western European Union whose member States had already begun to consider how to implement the resolution. It was crucial that all efforts be coordinated: those of the United Nations, particularly of UNPROFOR; those of United Nations humanitarian bodies and other humanitarian organizations; and those of Member States. With regard to resolution 771 (1992), on the extremely serious violations of international humanitarian law in the former Yugoslavia and the detention camps there, the speaker stressed that the international community had to act immediately to

¹⁷² *Ibid.*, pp. 38-40.

¹⁷³ *Ibid.*, pp. 43-44.

¹⁷⁴ *Ibid.*, pp. 44-46.

shed full light upon those violations and put an end to them. He recalled that his Government had quickly agreed to the convening of a special session of the Commission on Human Rights to consider this matter. France welcomed the fact that the Security Council, which had already taken action on this question in the presidential statement of 4 August, had formally reiterated in the resolution just adopted the demands that an immediate end be put to these very serious violations of humanitarian law and that immediate access to all places of detention be given to the competent humanitarian organizations. The speaker reiterated the importance — above and beyond these serious humanitarian questions — of pursuing the efforts to reach a political solution to the situation in Bosnia and Herzegovina with the greatest determination. He expressed hope that the expanded international conference to be held in London at the end of August would give new impetus to the efforts to settle the conflict.¹⁷⁵

The President, speaking in his capacity as the representative of China, explained his delegation's abstention in the voting on resolution 770 (1992). Although China endorsed the objective of facilitating the humanitarian relief work, it could not agree to the resolution's authorization of the use of force by Member States, as it was precisely the continuous armed conflicts that were hindering the delivery of humanitarian assistance. Once Member States resorted to force, armed conflicts would be expanded and prolonged, further hampering the humanitarian relief work. China was concerned, moreover, that a Council resolution authorizing the use of force would create difficulties for the efforts aimed at a political solution to the problem, which it thought should be given more time and a chance to succeed. It also considered that the broad authorization given to all States by the resolution to take all necessary measures was tantamount to issuing a blank cheque, and might lead to the loss of control over the situation, with serious consequences for which the United Nations and the Security Council would be held responsible. A further concern was that the resolution failed to make arrangements for the mandate of UNPROFOR and its future in the light of the new situation which might arise once military activities were undertaken. With regard to resolution 771 (1992), the speaker stated that China had voted in favour solely out of humanitarian

¹⁷⁵ Ibid., pp. 46-49.

considerations. However, it deemed it inappropriate to invoke Chapter VII of the Charter in this resolution, and wished to place its reservation on record. Chapter VII could be invoked only in situations that seriously threatened international peace and security, not under other circumstances. In China's view, the invoking of Chapter VII in this resolution should not, therefore, constitute a precedent. The speaker concluded by reiterating his Government's appeal to all parties in Bosnia and Herzegovina to work out an immediate ceasefire and to resolve their differences through negotiations and by peaceful means.¹⁷⁶

W. Letter dated 28 August 1992 from the Secretary-General addressed to the President of the Security Council

Decision of 2 September 1992 (3111th meeting): statement by the President

By a letter dated 28 August 1992 addressed to the President of the Security Council,¹⁷⁷ the Secretary-General transmitted the documents of the London stage of the International Conference on the former Yugoslavia held on 26 and 27 August 1992, which he had co-chaired with the Prime Minister of the United Kingdom, President of the Council of Ministers of the European Community.

At its 3111th meeting, held on 2 September 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's letter in its agenda. The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (Ecuador) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁷⁸

The Security Council takes note with appreciation of the letter from the Secretary-General, dated 28 August 1992, conveying the documents of the London stage of the International Conference on the Former Yugoslavia, held on 26 and 27 August 1992, which the Secretary-General co-chaired with the Prime Minister of the United Kingdom of Great Britain

¹⁷⁶ Ibid., pp. 50-52 (China).

¹⁷⁷ Informal communication; referred to in S/24510.

¹⁷⁸ S/24510.

and Northern Ireland, President of the Council of Ministers of the European Community.

The Council expresses its full support for the Statement of Principles adopted and the other agreements reached at the Conference held in London.

The Council shares the Secretary-General's hope that the political will shown in London will speedily be transformed into the concrete actions foreseen in the documents adopted in London by the International Conference on the former Yugoslavia.

The Council reaffirms all its previous resolutions related to the former Yugoslavia and calls for their complete implementation.

The Council notes with satisfaction that the Conference held in London has established the framework within which an overall political settlement of the crisis in the former Yugoslavia in all its aspects may be achieved through a continuous and uninterrupted effort.

The Council welcomes the establishment, under the overall direction of the Permanent Co-Chairmen of the International Conference on the former Yugoslavia of the Steering Committee. It also welcomes the appointment of the two Co-Chairmen of the Steering Committee who will direct the working groups and prepare the basis for a general settlement and associated measures. It notes with satisfaction that they will commence their work this week which will be pursued in continuous session at the United Nations Office in Geneva.

The Council notes the commitments entered into by the parties and others concerned within the framework of the Conference held in London. It underlines the importance it attaches to the full implementation of these commitments as rapidly as possible.

The Council notes the urgency of the situation in Bosnia and Herzegovina and calls on the parties to cooperate fully with the Co-Chairmen of the Steering Committee in achieving a comprehensive settlement.

The Council requests the Secretary-General to keep it informed on an ongoing basis of developments and to make recommendations to the Council as may be appropriate.

X. The situation in Bosnia and Herzegovina

Decision of 9 September 1992 (3113th meeting): statement by the President

At its 3113th meeting, held on 9 September 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled "The situation in Bosnia and Herzegovina".

The President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁷⁹

The Security Council has noted with deep concern the attack which cost the lives of two French soldiers of the United Nations Protection Force near Sarajevo, during which five other soldiers were wounded. It conveys its deep-felt sympathy and condolences to the Government of France and to the bereaved families. It strongly condemns this deliberate attack against UNPROFOR personnel.

The Council invites the Secretary-General to inform it as soon as possible on the findings of the inquiry into the circumstances of this attack as well as other similar incidents involving the United Nations activities in Bosnia and Herzegovina, in particular the incident which cost the lives of four Italian airmen in charge of the transportation of humanitarian relief to Sarajevo airport. It invites him also to pass on to it any information which he could gather on the responsibility for these incidents.

These serious incidents underline the urgent need for reinforcing the security and protection of the Force personnel as well as of all personnel involved in the United Nations activities in Bosnia and Herzegovina. The Council expresses its readiness to adopt without delay measures to this end.

Y. Report of the Secretary-General on the situation in Bosnia and Herzegovina

Decision of 12 September 1992: letter from the President of the Security Council to the Secretary-General

On 10 September 1992, the Secretary-General submitted to the Council a report on the situation in Bosnia and Herzegovina,¹⁸⁰ in which he presented proposals, developed in consultation with a number of the sponsors of resolution 770 (1992), on how the delivery of humanitarian assistance to Sarajevo and other parts of Bosnia and Herzegovina could be facilitated through the provision of protective support by UNPROFOR. The proposals envisaged that this function could be added to the UNPROFOR mandate and carried out by military personnel, under the command of the Force Commander. Some of the Member States concerned had indicated that they were ready to provide the necessary military personnel, equipment and logistic support at no cost to the United

¹⁷⁹ S/24539.

¹⁸⁰ S/24540.

Nations. The task of UNPROFOR, under its enlarged mandate, would be to support the efforts of the Office of the United Nations High Commissioner for Refugees (UNHCR) to deliver humanitarian relief throughout Bosnia and Herzegovina and, in particular, to provide protection, at the request of UNHCR, where and when UNHCR considered such protection necessary. In providing support to UNHCR-organized convoys, the UNPROFOR troops concerned would follow normal peacekeeping rules of engagement. They would thus be authorized to use force in self-defence, which, in this context, was deemed to include situations in which armed persons attempted by force to prevent United Nations troops from carrying out their mandate. The Secretary-General suggested that UNPROFOR could also be authorized to provide protection to convoys of released detainees, if the International Committee of the Red Cross so requested and if the Force Commander agreed that the request was practicable.¹⁸¹ He also envisaged that UNPROFOR could undertake supervision of the parties' heavy weapons, should the Security Council assign this further task to the Force.¹⁸² The Secretary-General observed that the concept described in his report seemed to provide the best possibility for ensuring increased deliveries of humanitarian relief to the suffering people of Bosnia and Herzegovina. It would ensure the Security Council's control of the operation, while at the same time avoiding the imposition of additional financial burdens on the Organization. He therefore recommended that the Council approve the expansion of the UNPROFOR mandate and strength on the basis of the plan, to provide protective support for UNHCR-organized humanitarian convoys throughout Bosnia and Herzegovina.

By a letter dated 10 September 1992 addressed to the President of the Security Council,¹⁸³ the Secretary-General indicated that, pending the Council's approval of the recommendation in his report that UNPROFOR should be given authority to protect convoys of released detainees, his Personal Envoy had requested that UNPROFOR be authorized to use its existing resources to protect detainees expected to be released shortly from two Serbian detention camps in the northern part of Bosnia and Herzegovina and

transferred, in accordance with their wishes and with the agreement of the Croatian authorities, to transit facilities in Croatia. In the light of the urgent need, on humanitarian grounds, for the detainees to be enabled to leave Bosnia and Herzegovina in safety, the Secretary-General proposed to instruct the Force Commander to proceed accordingly.

By a letter dated 12 September 1992 addressed to the Secretary-General,¹⁸⁴ the President of the Council informed him that the members of the Council were in agreement with the proposal contained in his letter.

Decision of 14 September 1992 (3114th meeting): resolution 776 (1992)

At its 3114th meeting, held on 14 September 1992 in accordance with the understanding reached in its prior consultations, the Security Council included the Secretary-General's report of 10 September in its agenda. The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (Ecuador) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, the Russian Federation, the United Kingdom and the United States.¹⁸⁵

The Council then commenced the voting procedure on the draft resolution. Speaking before the vote, the representatives of Zimbabwe and India stated that, although they supported the recommendations made by the Secretary-General, they regretted that they could not support the draft resolution in its present form. They took exception to the inclusion, in operative paragraph 2, of the reference to the fact that the present enlargement of UNPROFOR was being made in implementation of paragraph 2 of resolution 770 (1992). The inclusion of this controversial provision of resolution 770 (1992) raised the same problems their delegations had faced at the time that that resolution was dealt with by the Council. They reiterated their view that any necessary measures taken, or arrangements made, to deal with the grave crisis in question had to be undertaken as a collective measure under the full control of, and with full accountability to, the United Nations.¹⁸⁶

¹⁸¹ *Ibid.*, para. 11.

¹⁸² *Ibid.*, para. 12.

¹⁸³ S/24549.

¹⁸⁴ S/24550.

¹⁸⁵ S/24554.

¹⁸⁶ S/PV.3114, pp. 3-4 (Zimbabwe); and pp. 6-8 (India).

The draft resolution was then put to the vote. It received 12 votes in favour, none against and 3 abstentions (China, India, Zimbabwe) and was adopted as resolution 776 (1992), which reads:

The Security Council,

Reaffirming its resolution 743 (1992) of 21 February 1992 and all subsequent resolutions relating to the United Nations Protection Force,

Expressing its full support for the Statement of Principles adopted and other agreements reached at the London stage of the International Conference on the former Yugoslavia, held on 26 and 27 August 1992, including the agreement of the parties to the conflict to collaborate fully in the delivery of humanitarian relief by road throughout Bosnia and Herzegovina,

Having examined the report of the Secretary-General of 10 September 1992 on the situation in Bosnia and Herzegovina,

Noting with appreciation the offers made by a number of States, following the adoption of its resolution 770 (1992) of 13 August 1992, to make available military personnel to facilitate the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina, such personnel to be made available to the United Nations without cost to the Organization,

Reaffirming its determination to ensure the protection and security of personnel of the Force and of the personnel of the United Nations,

Stressing in this context the importance of air measures, such as the ban on military flights to which all parties to the Conference held in London committed themselves, whose rapid implementation could, inter alia, reinforce the security of humanitarian activities in Bosnia and Herzegovina,

1. *Approves* the report of the Secretary-General of 10 September 1992 on the situation in Bosnia and Herzegovina;

2. *Authorizes*, in implementation of paragraph 2 of resolution 770 (1992), the enlargement of the mandate and strength in Bosnia and Herzegovina of the United Nations Protection Force, recommended by the Secretary-General in that report, to perform the functions outlined in his report, including the protection of convoys of released detainees if requested by the International Committee of the Red Cross;

3. *Urges* Member States to provide the Secretary-General, nationally or through regional agencies or arrangements, with such financial or other assistance as he deems appropriate to assist in the performance of the functions outlined in his report;

4. *Decides* to remain actively seized of the matter in particular with a view to considering, as required, what further steps might be necessary to ensure the security of the Force and to enable it to fulfil its mandate.

Speaking after the vote, the representative of China observed that the resolution just adopted aimed at enlarging the mandate of UNPROFOR in an effort to provide military support for the delivery of humanitarian assistance to Bosnia and Herzegovina. Although the Chinese delegation did not, in principle, object to the strengthening of humanitarian assistance activities, it could not accept the link the resolution established between the enlargement of the UNPROFOR mandate and the implementation of resolution 770 (1992). It had abstained in the vote on resolution 770 (1992), which authorized countries to use force in Bosnia and Herzegovina, and could not, therefore, endorse any actions related to the implementation of that resolution. China also believed that UNPROFOR should, as a United Nations peacekeeping operation, follow the generally recognized guidelines established in past such operations in implementing its mandate. However, the resolution just adopted contained disturbing elements which departed from those guidelines. Noting that resolution 770 (1992) was a mandatory action taken under Chapter VII of the Charter, the speaker expressed concern that linking the new resolution with resolution 770 (1992) would change the non-mandatory nature of UNPROFOR as a United Nations peacekeeping operation. On the one hand, the new resolution recognized that UNPROFOR should observe the normal rules of engagement of United Nations peacekeeping operations in implementing its new mandate, namely the use of force only in self-defence. On the other hand, it approved the use of force in self-defence when troops were blocked by armed forces. UNPROFOR would thus run the risk of plunging into armed conflict. The speaker also noted that enlargement of the mandate had not received the express consent of the parties concerned in Bosnia and Herzegovina, and that the resolution did not provide for any periodic reports to the Council on the implementation of the UNPROFOR mandate. In view of these concerns, his delegation had abstained in the vote on the resolution just adopted.¹⁸⁷

Several other Council members, while welcoming the decision just taken as an important stage in the stepping up of the United Nations action in Bosnia and Herzegovina, considered that the Council should adopt additional measures which had been the subject of agreement among the participants in the London

¹⁸⁷ Ibid., pp. 11-12.

Conference. They suggested, variously, the supervision by UNPROFOR of heavy weapons, as had been mentioned by the Secretary-General in paragraph 12 of his report; and a ban on military flights over Bosnia and Herzegovina.¹⁸⁸

Z. Draft resolution contained in document S/24570

Decision of 19 September 1992 (3116th meeting): resolution 777 (1992)

At its 3116th meeting, held on 19 September 1992 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the item entitled “Draft resolution contained in document S/24570”.

The President (Ecuador) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, Morocco, the United Kingdom and the United States.¹⁸⁹

The Council then commenced the voting procedure on the draft resolution. Speaking before the vote, the representative of the Russian Federation stated that his delegation supported the draft resolution agreed upon by members of the Council in the course of their consultations, on the basis of the fact that the prevailing view in the international community was that none of the republics that had emerged in the place of the former Socialist Federal Republic of Yugoslavia could claim automatic continued membership in the United Nations. The Federal Republic of Yugoslavia (Serbia and Montenegro), like other former Yugoslav republics, would have to apply for membership in the United Nations, and the Russian Federation would support such an application. It was unable, however, to agree with the proposal put forward by some States that the Federal Republic of Yugoslavia should be excluded, formally or de facto, from membership in the United Nations, because such a decision would have negative consequences for the process of the political settlement of the Yugoslav crisis. Although the compromise that had been reached — that the Federal Republic of Yugoslavia should not participate in the work of the General Assembly — might seem

unsatisfactory to some, the Russian Federation was prepared to agree to this gesture of condemnation by the world community on the understanding that, in order to make a full contribution to the solution of the world problems discussed in the General Assembly, the Federal Republic of Yugoslavia must take all possible measures to bring about an early cessation of the fratricidal conflict in its region. The speaker noted that the decision to suspend the participation of the Federal Republic of Yugoslavia in the work of the General Assembly would in no way affect its participation in the work of other organs of the United Nations, in particular the Security Council. Nor would it affect the issuance of documents to it, the functioning of its Permanent Mission to the United Nations or the keeping of the nameplate with the name Yugoslavia in the General Assembly Hall and the rooms in which the Assembly’s organs met. He stressed that the decision about to be taken by the Council did not provide for the expulsion of the Federal Republic of Yugoslavia from the United Nations and that the measures taken with regard to that country had to remain strictly within the limits of that decision.¹⁹⁰

The representative of India expressed two concerns with the draft resolution, one substantive and one constitutional. His delegation was seriously concerned about the effect of the proposed decision on the functioning of UNPROFOR, whose success depended on the cooperation of all the parties concerned. The practical impact of the draft resolution on the attitude of at least one of the parties involved towards UNPROFOR was not likely to be helpful since UNPROFOR was not a Chapter VII operation, at least in Croatia. Indeed, the Council might be placing the entire process of peacemaking and peacekeeping in the former Yugoslavia in jeopardy. On the constitutional aspect of the resolution, the speaker stressed that questions of membership and privileges of participation were matters of fundamental importance, which made it all the more essential to adhere to the provisions of the Charter. The draft resolution was flawed in this respect, as it did not conform either to Article 5 or to Article 6, the only two Articles that dealt with the issue under consideration. The Security Council, under the Charter, was competent to recommend either suspension or expulsion of a State, but it had no authority to recommend to the General Assembly that a country’s participation in the

¹⁸⁸ Ibid., p. 13 (France); p. 16 (Austria); p. 17 (Hungary); p. 18 (United States); and p. 19 (Belgium).

¹⁸⁹ S/24570.

¹⁹⁰ S/PV.3116, pp. 2-6.

Assembly be withdrawn or suspended. That authority belonged to the General Assembly, which did not need any recommendation to that effect from the Security Council. Indeed, the General Assembly was under no legal obligation to act on any such recommendation. For these reasons, the Indian delegation would not be in a position to support the draft resolution.¹⁹¹

The representative of Zimbabwe expressed the view that the principles governing the admission to and suspension or expulsion of States from membership of the United Nations were clearly and unambiguously set out in Articles 4, 5 and 6 of the Charter. Where membership of, and participation in, the Organization were concerned, those principles should be uniformly applied in the quest for universality. The speaker noted that, in the past, the question of succession by the constituent members of a State that had undergone reconfiguration or changed its borders had been regarded as extraneous to the question of membership in the United Nations, and had never been raised in the Council. This was not surprising, since the Charter did not provide that the resolution of succession matters was a condition for membership in the United Nations. Zimbabwe regretted that the draft resolution sought to deprive two republics of the former Socialist Federal Republic of Yugoslavia, which now constituted the Federal Republic of Yugoslavia, of their right to participate in the General Assembly. It also considered that the elementary principles of fairness demanded that, when the Council was about to take such a momentous decision on the fate of a State, that State should at least be afforded the opportunity to state its case. The speaker further noted that the text of the draft resolution made no reference to any provisions of the Charter under which this action was being taken. Strict adherence to the provisions of the Charter had always been a source of protection for small States, and the increasing disregard for, or mutation of, Charter provisions caused Zimbabwe great concern. It seemed that those provisions were consistently ignored or applied selectively in the Council's deliberations, a tendency which was bound to undermine the Council's prestige and moral authority. Zimbabwe maintained that the Council and the United Nations should concentrate on the attainment of a negotiated political solution so as to bring lasting peace. It therefore welcomed the initiative of the Secretary-General to involve the United Nations directly in the peacemaking

¹⁹¹ Ibid., pp. 6-7.

process. It was doubtful, on the other hand, that the draft resolution would contribute to the success of that process. Zimbabwe regretted that, for these reasons, it would not be able to support the draft resolution.¹⁹²

The draft resolution was then put to the vote. It received 12 votes in favour, none against, and 3 abstentions (China, India, Zimbabwe) and was adopted as resolution 777 (1992), which reads:

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

Considering that the State formerly known as the Socialist Federal Republic of Yugoslavia has ceased to exist,

Recalling in particular its resolution 757 (1992) of 30 May 1992 in which it noted that "the claim by the Federal Republic of Yugoslavia (Serbia and Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted",

1. *Considers* that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations, and therefore recommends to the General Assembly that it decide that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership in the United Nations and that it shall not participate in the work of the General Assembly;

2. *Decides* to consider the matter again before the end of the main part of the forty-seventh session of the General Assembly.

Speaking after the vote, the representative of France welcomed the adoption of resolution 777 (1992), on the status of Yugoslavia in the United Nations. The text responded both to the requirements of the Charter and the needs of the moment. It respected the apportioning of competence established by the Charter between the Council and the General Assembly. Moreover, it adopted a pragmatic approach in keeping with the political situation following upon the London Conference, confirming and translating into reality the international community's rejection of the automatic continuation in the United Nations of the membership of the former Socialist Federal Republic of Yugoslavia by the Federal Republic of Yugoslavia. At the same time, it preserved the future. Non-participation in the work of the General Assembly by the Federal Republic of Yugoslavia did not call into

¹⁹² Ibid., pp. 7-11.

question the necessary continuation of dialogue at Geneva, within the framework of the implementation of the London Conference; in the field; or in New York.¹⁹³

The representative of the United States noted that the situation was unprecedented, in that the United Nations was for the first time facing the dissolution of one of its Members without agreement by the successor States on the status of the original United Nations seat. Moreover, none of the former republics of the former Yugoslavia was so clearly a predominant portion of the original State as to be entitled to be treated as a continuation of that State. In the absence of agreement among the former republics on this issue, the United States could not accept the claim of Serbia and Montenegro to the former Yugoslavia's seat in the United Nations. The United States was gratified that the resolution endorsed that view and recommended that the General Assembly take action to confirm that the membership of the Socialist Federal Republic of Yugoslavia had expired and that, because Serbia and Montenegro was not the continuation of the Socialist Federal Republic of Yugoslavia, it must apply for membership if it wished to participate in the United Nations. As for the recommendation that Serbia and Montenegro not participate in the work of the General Assembly, the speaker stated that this flowed inevitably from the determination by the Council and the General Assembly that Serbia and Montenegro was not the continuation of the former Yugoslavia and must apply for membership in the United Nations. He added that the resolution's call to have the Security Council review the matter once again before the end of the main part of the session of the General Assembly simply referred to a willingness on the part of the Council to consider an expected application from Serbia and Montenegro. The resolution made it clear that, in the view of the Council, that State, like any other new State, must apply for membership in the United Nations and be held to the criteria in the Charter of the United Nations if it did so. The criteria required that the applicant be both willing and able to fulfil United Nations obligations, including compliance with Chapter VII Security Council resolutions. In conclusion, the United States believed that other bodies in the United Nations system should be guided by the

¹⁹³ Ibid., p. 12.

action of the Council and the General Assembly on this matter.¹⁹⁴

The representative of China maintained that the continuation of the membership in the United Nations of the former Socialist Federal Republic of Yugoslavia should be settled properly through consultations and negotiations among all parties of the former Yugoslavia. China held that the former Yugoslav republics should all be Members of the United Nations and that none of them should be excluded. Such questions should be dealt with cautiously. Any action taken by the United Nations with regard to membership of the former Yugoslavia in the United Nations should contribute to the relaxation of tension in that region and promote a political settlement brought about by genuine negotiations among the various parties concerned. To isolate any of them would not be conducive to the settlement of the question. Based on that position, the Chinese delegation had abstained on the resolution just adopted. The speaker pointed out that the resolution did not mean the expulsion of Yugoslavia from the United Nations. The nameplate "Yugoslavia" would be kept in the General Assembly Hall. The Federal Republic of Yugoslavia would continue to participate in the work of United Nations bodies other than the General Assembly and would continue to issue its documents in the United Nations. It was China's understanding that this was only a transitional arrangement, and it hoped that the membership of Yugoslavia would be settled in a proper manner and that the Federal Republic of Yugoslavia would eventually have its place in the United Nations family.¹⁹⁵

The representative of Venezuela supported the Council's recommendation, on the understanding that neither it nor any later decision of the General Assembly should prejudge in any way diplomatic recognition of those States arising from the dissolution of the former Yugoslavia, including the Federal Republic of Yugoslavia, and diplomatic relations between them and Member States.¹⁹⁶

The representative of Austria maintained that there was no legal basis for an automatic continuation of the legal existence of the former, now defunct, Socialist Federal Republic of Yugoslavia by the new

¹⁹⁴ Ibid., pp. 12-14.

¹⁹⁵ Ibid., pp. 14-15.

¹⁹⁶ Ibid., p. 15.

federation of Serbia and Montenegro. The latter could not, therefore, be considered to continue Yugoslavia's membership in the United Nations. For eventual international recognition of the Federal Republic of Yugoslavia, the criteria contained in the guidelines on the recognition of new States adopted by the Council of the European Communities on 16 December 1991 should be applied, notably the requirements concerning the protection of human rights and the rights of ethnic groups.¹⁹⁷

The representative of Hungary welcomed the adoption of resolution 777 (1992), which reflected his country's position. He added that the Federal Republic of Yugoslavia's application for membership in the United Nations should be studied and decided upon in accordance with the same criteria applied in the admission to the United Nations of all the other successor States of the former Yugoslav Federation.¹⁹⁸

AA. Further report of the Secretary-General pursuant to Security Council resolutions 743 (1992) and 762 (1992)

Decision of 6 October 1992 (3118th meeting): resolution 779 (1992)

On 28 September 1992, the Secretary-General submitted to the Council a further report pursuant to resolutions 743 (1992) and 762 (1992),¹⁹⁹ to update it on the progress made by UNPROFOR in implementing its mandate in Croatia under the United Nations peacekeeping plan²⁰⁰ and in implementing resolution 762 (1992), which called for the establishment of a Joint Commission to oversee the return of Croatian authority to certain areas of Croatia known as the "pink zones". He observed that it had not been possible for UNPROFOR to achieve full implementation of the United Nations plan in the three United Nations Protected Areas or to restore a degree of normality and inter-ethnic tolerance there before winter set in. This was due to the failure of the parties, especially the authorities of the so-called Republic of Serbia Krajina (the "Krin authorities"), to give UNPROFOR the full and sustained cooperation that was necessary for it to carry out its various mandates. The Krin authorities

had created new paramilitary forces, an action inconsistent with the demilitarization of the United Nations Protected Areas and thus a blatant violation of the United Nations plan. These so-called "police units" had revived some of the worst features of Serb behaviour during the war in Croatia, including "ethnic cleansing", and had created conditions of near anarchy, especially in one sector. The deteriorating security situation had made it impossible for UNPROFOR and UNHCR to start major programmes for the return of refugees and displaced persons to their homes. The Secretary-General suggested that the Security Council might wish to consider whether it should take action in response to the many cases in which persons had been coerced into signing away their property and rights of residence. To that end, it might consider declaring that such acts of renunciation, undertaken under duress, were null and void and created no legal rights or obligations. The situation in the "pink zones" had also been a cause of considerable concern although the most recent developments had been somewhat more positive. A particularly disagreeable feature of the situation there was the readiness of both sides, but especially of the Serb side, to cut power and water supplies as a means of putting pressure on their opponents. This was a problem that also afflicted other parts of the former Yugoslavia, especially the city of Sarajevo, and the Secretary-General suggested that the Council might wish to support the current efforts of the Co-Chairmen of the Steering Committee of the International Conference on the former Yugoslavia on this issue by calling upon all concerned to work together to restore power and water supplies before the coming winter.²⁰¹ Noting a more positive development, the Secretary-General observed that an agreement had been reached on the withdrawal of the remaining elements of the Yugoslav Army from Croatia and the demilitarization of the Prevlaka peninsula. Detailed arrangements for the implementation of that agreement were being finalized. In the meantime, he recommended that the Security Council authorize UNPROFOR to assume responsibility for monitoring the agreed arrangements, the additional resources required for which would not be large. In conclusion, the Secretary-General stated that the situation described in his report had to be corrected urgently; otherwise there would be a real danger of a renewal of widespread conflict in and around the United Nations

¹⁹⁷ Ibid., p. 16.

¹⁹⁸ Ibid., pp. 16-17.

¹⁹⁹ S/24600.

²⁰⁰ S/23280, annex III.

²⁰¹ S/24600, para. 38.

Protected Areas. He and the Force Commander would continue to do everything they could to persuade the parties to honour their commitments and accept the will of the Security Council, and he trusted that they would have the Council's full support in those endeavours.

At its 3118th meeting, held on 6 October 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's further report of 28 September in its agenda. The Council invited the representative of Croatia, at his request, to participate in the discussion without the right to vote.

The President drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations,²⁰² and made an oral revision²⁰³ to the text in its provisional form.

He also drew their attention to a letter dated 1 October 1992 from the representative of Croatia addressed to the President of the Security Council,²⁰⁴ transmitting a Joint Declaration signed at Geneva on 30 September 1992 by the Presidents of the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro).

The draft resolution, as orally revised in its provisional form, was then put to the vote and adopted unanimously as resolution 779 (1992), which reads:

The Security Council,

Reaffirming its resolution 743 (1992) of 21 February 1992 and all subsequent resolutions relating to the activities of the United Nations Protection Force in Croatia,

Having examined the further report of the Secretary-General of 28 September 1992 submitted pursuant to resolutions 743 (1992) and 762 (1992),

Concerned about the difficulties encountered by the Force in the implementation of resolution 762 (1992) of 30 June 1992, owing to ceasefire violations and in particular to the creation of paramilitary forces in the United Nations Protected Areas in violation of the United Nations peacekeeping plan,

Expressing grave alarm at continuing reports of "ethnic cleansing" in the United Nations Protected Areas and of forcible expulsion of civilians and deprivation of their rights of residence and property,

Welcoming the Joint Declaration signed at Geneva on 30 September 1992 by the Presidents of the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro),

Welcoming in particular the agreement, reaffirmed in the Joint Declaration, concerning the demilitarization of the Prevlaka peninsula,

Recalling the provisions of Chapter VIII of the Charter of the United Nations,

1. *Approves* the further report of the Secretary-General of 28 September 1992 submitted pursuant to Security Council resolution 743 (1992) of 21 February 1992 including the steps taken to ensure the control of the Peruca dam by the United Nations Protection Force;

2. *Authorizes* the Force to assume responsibility for monitoring the arrangements agreed for the complete withdrawal of the Yugoslav Army from Croatia, the demilitarization of the Prevlaka peninsula and the removal of heavy weapons from neighbouring areas of Croatia and Montenegro, in cooperation, as appropriate, with the European Community Monitoring Mission, looks forward to the report of the Secretary-General on how this is to be implemented, and calls on all parties and others concerned to cooperate fully with the Force in its performance of this new task;

3. *Calls* on all parties and others concerned to improve their cooperation with the Force in the performance of the tasks it is already undertaking in the United Nations Protected Areas and in the adjacent areas;

4. *Urges* all parties and others concerned in Croatia to comply with their obligations under the United Nations peacekeeping plan, especially with regard to the withdrawal and the disarming of all forces, including paramilitary forces;

5. *Endorses* the principles agreed by the Presidents of the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro) on 30 September 1992 that all statements or commitments made under duress, particularly those relating to land and property, are wholly null and void and that all displaced persons have the right to return in peace to their former homes;

6. *Strongly supports* the current efforts of the Co-Chairmen of the Steering Committee of the International Conference on the former Yugoslavia to ensure the restoration of power and water supplies before the coming winter, as mentioned in paragraph 38 of the report of the Secretary-General, and calls on all the parties and others concerned to cooperate in this regard;

7. *Decides* to remain actively seized of the matter until a peaceful solution is achieved.

²⁰² S/24617.

²⁰³ For the revision see S/PV.3118, pp. 2-3.

²⁰⁴ S/24476.

BB. Letter dated 10 August 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council

Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the President of the Security Council

Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council

Letter dated 11 August 1992 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the Security Council

Letter dated 11 August 1992 from the Permanent Representative of Senegal to the United Nations addressed to the President of the Security Council

Letter dated 11 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council

Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to the President of the Security Council

Letter dated 11 August 1992 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Security Council

Letter dated 12 August 1992 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council

Letter dated 13 August 1992 from the Permanent Representative of the United Arab Emirates to the United Nations addressed to the President of the Security Council

Letter dated 13 August 1992 from the Permanent Representative of Bahrain to the United Nations addressed to the President of the Security Council

Letter dated 13 August 1992 from the Permanent Representative of the Comoros to the United Nations addressed to the President of the Security Council

Letter dated 13 August 1992 from the Permanent Representative of Qatar to the United Nations addressed to the President of the Security Council

Letter dated 5 October 1992 from the Permanent Representatives of Egypt, the Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey to the United Nations addressed to the President of the Security Council

Decision of 6 October 1992 (3119th meeting): resolution 780 (1992)

By letters dated 10 to 13 August 1992 addressed to the President of the Council,²⁰⁵ the representatives of 13 States Members of the United Nations had requested an urgent meeting of the Security Council,

²⁰⁵ Letters from Bosnia and Herzegovina, Turkey, Islamic Republic of Iran, Malaysia, Senegal, Saudi Arabia, Kuwait, Pakistan, Egypt, United Arab Emirates, Bahrain, Comoros and Qatar (S/24401, S/24409, S/24410, S/24412, S/24413, S/24415, S/24416, S/24419, S/24423, S/24431, S/24433, S/24439 and 24440, respectively).

with a formal debate, to consider the grave and deteriorating situation in Bosnia and Herzegovina and the taking of appropriate measures, with many calling for action under Chapter VII of the Charter.

By a letter dated 5 October 1992 addressed to the President of the Council,²⁰⁶ the representatives of Egypt, the Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey, as members of the Contact Group of the Organization of the Islamic Conference (OIC), drew attention to the dire humanitarian situation in Bosnia and Herzegovina as winter approached. They noted that the international community was unable to deliver sufficient humanitarian assistance to the victims of the conflict; that the situation was made worse by the continued aggression of the Serbian elements who, through their attacks on civilian targets, continued to violate the principles of the Charter of the United Nations, international humanitarian law and the basic norms of civilized behaviour; and that “ethnic cleansing” persisted, principally against the Muslims, whose very existence in their ancestral lands was being threatened. The Contact Group called for an immediate meeting of the Council to consider taking the following urgent action: to establish safe corridors and take effective measures to stop anyone from hindering the delivery of humanitarian assistance; to ensure the effective enforcement of the “no-fly zone” over Bosnia and Herzegovina; and to take steps to bring before an international tribunal those responsible for the practice of “ethnic cleansing”, mass killings and other grave breaches of international humanitarian law.

At its 3119th meeting, held on 6 October 1992 in accordance with the understanding reached in its prior consultations, the Council included the 14 letters referred to above in its agenda. The Council invited the representatives of Bosnia and Herzegovina and Croatia, at their request, to participate in the discussion without the right to vote.

The President (France) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, Hungary, Morocco, the United Kingdom, the United States and Venezuela.²⁰⁷

He also drew their attention to a number of other letters,²⁰⁸ as well as to a note by the Secretary-General

²⁰⁶ S/24620.

²⁰⁷ S/24618.

²⁰⁸ Letter dated 17 August 1992 from the representative of Bolivia to the President of the Council (S/24473); letters

dated 3 September 1992,²⁰⁹ transmitting a report on the situation of human rights in the territory of the former Yugoslavia submitted by Mr. Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights.

The Council then commenced the voting procedure on the draft resolution before it. Speaking before the vote, the representative of Venezuela stated that the Security Council was duty-bound to address firmly and swiftly the situation in Bosnia and Herzegovina, where war crimes were being perpetrated against the defenceless civilian population. He expressed support for the proposed decision to establish a commission of experts to investigate all such violations of international humanitarian law, which would be inspired by the commission that was set up in 1943 for similar purposes and later served as the basis for the proceedings of the Nuremberg trial. In Venezuela’s view, this would not only serve to establish responsibility and punish the guilty, but would also constitute an important deterrent in the context of the process the United Nations had undertaken to bring peace to the population of the former Yugoslavia, and especially to Bosnia and Herzegovina. Its understanding was that the commission would collect the information that would make it possible to prosecute those responsible for the criminal acts perpetrated against thousands of citizens of Bosnia and Herzegovina.²¹⁰

The draft resolution was then put to the vote and adopted unanimously as resolution 780 (1992), which reads:

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

Recalling paragraph 10 of its resolution 764 (1992) of 13 July 1992, in which it reaffirmed that all parties are bound to

dated 24 August 1992 and 4 and 5 September 1992 from the representative of Bosnia and Herzegovina to the President of the Council (S/24478, S/24525 and S/24537); letter dated 24 August 1992 from the representative of Singapore to the Secretary-General (S/24489); letter dated 26 August 1992 from the representative of Malaysia to the Secretary-General (S/24494); letter dated 22 September 1992 from the representative of the United States to the Secretary-General (S/24583).

²⁰⁹ S/24516.

²¹⁰ S/PV.3119, pp. 7-8.

comply with the obligations under international humanitarian law and in particular the Geneva Conventions of 12 August 1949, and that persons who commit or order the commission of grave breaches of the Conventions are individually responsible in respect of such breaches,

Recalling also its resolution 771 (1992) of 13 August 1992, in which, inter alia, it demanded that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, immediately cease and desist from all breaches of international humanitarian law,

Expressing once again its grave alarm at continuing reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina, including reports of mass killings and the continuance of the practice of “ethnic cleansing”,

1. *Reaffirms* its call, in paragraph 5 of resolution 771 (1992), upon States and, as appropriate, international humanitarian organizations to collate substantiated information in their possession or submitted to them relating to the violations of humanitarian law, including grave breaches of the Geneva Conventions of 12 August 1949 being committed in the territory of the former Yugoslavia, and requests States, relevant United Nations bodies, and relevant organizations to make this information available within thirty days of the adoption of the present resolution and as appropriate thereafter, and to provide other appropriate assistance to the Commission of Experts referred to in paragraph 2 below;

2. *Requests* the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse the information submitted pursuant to resolution 771 (1992) and the present resolution, together with such further information as the Commission may obtain through its own investigations or through the efforts, of other persons or bodies pursuant to resolution 771 (1992), with a view to providing the Secretary-General with its conclusions on the evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the territory of the former Yugoslavia;

3. *Also requests* the Secretary-General to report to the Security Council on the establishment of the Commission of Experts;

4. *Further requests* the Secretary-General to report to the Council on the conclusions of the Commission of Experts and to take account of these conclusions in any recommendations for further appropriate steps called for by resolution 771 (1992);

5. *Decides* to remain actively seized of the matter.

Speaking after the vote, the representative of the United States stated that the resolution just adopted sent a clear message that those responsible for the atrocities and gross violations of international

humanitarian law, including violations involved in the process of “ethnic cleansing” and other war crimes in the former Yugoslavia, must be brought to justice. It would also, it was to be hoped, act as a deterrent to those in other parts of the world who might be contemplating similar violations and crimes. The speaker elaborated on his delegation’s interpretation of paragraph 1 of the resolution. It believed that the term “relevant United Nations bodies” included the Special Rapporteur; and it considered that the phrase “to provide other appropriate assistance to the Commission of Experts” allowed the Commission to request follow-up by those other bodies, including the Special Rapporteur.²¹¹

The representative of Belgium stated that, in the wake of resolution 771 (1992), the Council had now sent an even clearer signal to the perpetrators of violations of international humanitarian law on the territory of the former Yugoslavia. The establishment of a Commission made this signal more credible by making more operational the principle contained in the Geneva Conventions regarding the personal responsibility of war criminals. The Belgian authorities hoped that the Organization, upon receipt of the conclusions of the Commission and the recommendations of the Secretary-General, would be able to provide itself with the means to punish the perpetrators so identified.²¹²

The representative of Hungary said his country interpreted the resolution just adopted as the beginning of a process which should lead, within a reasonable period of time, to the establishment of the appropriate means and the compilation of the necessary information to bring to justice those responsible for the crimes that continued to be committed systematically in the former Yugoslavia. It was also Hungary’s understanding that the request to collate information represented an appeal to all bodies, organs and individuals concerned with the cause of human rights, including the Commission on Human Rights; the information should, most particularly, include the detailed report on the human rights situation in the territory of the former Yugoslavia submitted by the Special Rapporteur of the Commission on Human Rights.²¹³

²¹¹ Ibid., pp. 11-12.

²¹² Ibid., pp. 12-13.

²¹³ Ibid., p. 13.

The representative of Morocco stated that the adoption of the resolution, while welcome, should, in the view of the members of OIC, be considered as no more than one stage in a whole range of measures which the Council would have to take in order to put an end to the terrible acts which were continuing to be perpetrated with impunity in Bosnia and Herzegovina.²¹⁴

The representative of the Russian Federation said his delegation viewed the resolution just adopted as an additional means to influence the opposing parties with a view to alleviating the sufferings of the peaceful population in the territory of the former Yugoslavia, particularly in Bosnia and Herzegovina, and by so doing to bring about the quickest possible solution to the Yugoslav conflict. It hoped that the impartial Commission of Experts would, on the basis of carefully substantiated information, provide a true picture of the violations of the Geneva Conventions and other violations of international humanitarian law taking place on the territory of the former Yugoslavia. The resolution should be a serious warning to any political and military leaders who allowed mass breaches of the norms of international humanitarian law on the territory of the former Yugoslavia and warn them of their personal responsibility for such acts. It should also serve as a warning to all who violated the norms of international humanitarian law in other spheres of conduct.²¹⁵

The President, speaking in his capacity as the representative of France, stated that it was very important that the Council send a clear warning to the perpetrators of the impermissible violations of international humanitarian law being committed in the territory of the former Yugoslavia, and in Bosnia and Herzegovina in particular, who must understand that their personal responsibility was involved. He added that the resolution just adopted was a part of the prospective creation by the appropriate bodies of an international penal jurisdiction to rule on such acts. His Government considered that it went without saying that the Council's request in paragraph 1 of the resolution to "relevant United Nations bodies" included the Special Rapporteur of the Commission on Human Rights on the former Yugoslavia. His contributions to the impartial Commission of Experts would be one of

the essential elements in drawing up that Commission's conclusions.²¹⁶

CC. The situation in Bosnia and Herzegovina

Decision of 9 October 1992 (3122nd meeting): resolution 781 (1992)

At its 3122nd meeting, held on 9 October 1992 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the item entitled "The situation in Bosnia and Herzegovina".

The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (France) drew the attention of the members of the Council to a draft resolution submitted by Austria, Belgium, France, Morocco, the Russian Federation, the United Kingdom and the United States.²¹⁷

He also drew their attention to the following documents: (a) letters dated 5 and 8 October 1992 from the representative of Bosnia and Herzegovina addressed to the President of the Council,²¹⁸ transmitting letters from the President of his country in which he reported that heavy bombardment of towns in Bosnia and Herzegovina continued; stated that, as all the parties at the London Conference had agreed to a "no-fly zone", the member nations of the Conference, through the Security Council, had a responsibility to enforce such a zone without delay; and stressed that a "no-fly zone" resolution that did not include immediate enforcement would only permit continued aggression from the air, resulting in many more unnecessary deaths and new victims of "ethnic cleansing"; and (b) a letter dated 8 October 1992 from the representative of the United Kingdom addressed to the President of the Council,²¹⁹ enclosing the report of the Chairman of the Working Group on Confidence and Security-building and Verification Measures to the Co-Chairmen of the Steering Committee of the International Conference on the former Yugoslavia, which contained details of the

²¹⁴ Ibid., p. 14.

²¹⁵ Ibid., pp. 14-16.

²¹⁶ Ibid., pp. 16-17.

²¹⁷ S/24636.

²¹⁸ S/24616 and S/24640, respectively.

²¹⁹ S/24634.

agreements reached between the parties in the region on the implementation of aerial confidence measures, including the ban on the military use of aircraft in Bosnia and Herzegovina.

The Council then commenced the voting procedure on the draft resolution before it. Speaking before the vote, the representative of China stated that his delegation did not oppose, in principle, the establishment of a ban on military flights in the airspace of Bosnia and Herzegovina with the consent of all the relevant parties to ensure the smooth operation of humanitarian relief operations and the safety of the innocent civilian population there. However, it shared the concern expressed by the Secretary-General in his letter of 8 October 1992 to the President of the Council,²²⁰ in which he reiterated his concerns about the implications that proposals to amend the mandate of UNPROFOR might have for its effectiveness and the security of its personnel, and drew the Council's attention to the fact that the proposed ban and the modalities of its monitoring did not yet enjoy the consent of all the parties. The speaker noted, moreover, that the draft resolution embodied similar content to that in resolution 770 (1992), which authorized the use of force, and that the possibility of using force in the future was implied in various paragraphs. China's position in this regard was well known; it could not therefore support the draft resolution.²²¹

The draft resolution was then put to the vote. It received 14 votes in favour, none against and 1 abstention (China), and was adopted as resolution 781 (1992), which reads:

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

Determined to ensure the safety of humanitarian flights to Bosnia and Herzegovina,

Noting the readiness of the parties, expressed in the framework of the London stage of the International Conference on the former Yugoslavia, held on 26 and 27 August 1992, to take appropriate steps in order to ensure the safety of humanitarian flights and their commitment at that Conference to a ban on military flights,

Recalling in this context the Joint Declaration signed at Geneva on 30 September 1992 by the Presidents of the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), and in particular paragraph 7 thereof,

Recalling also the agreement reached on air issues at Geneva on 15 September 1992 among all the parties concerned in the framework of the Working Group on Confidence and Security-building and Verification Measures of the London Conference,

Alarmed at reports that military flights over the territory of Bosnia and Herzegovina are none the less continuing,

Noting the letter of 4 October 1992 from the President of the Republic of Bosnia and Herzegovina addressed to the President of the Security Council,

Considering that the establishment of a ban on military flights in the airspace of Bosnia and Herzegovina constitutes an essential element for the safety of the delivery of humanitarian assistance and a decisive step for the cessation of hostilities in Bosnia and Herzegovina,

Acting pursuant to the provisions of resolution 770 (1992) of 13 August 1992 aimed at ensuring the safety of the delivery of humanitarian assistance in Bosnia and Herzegovina,

1. *Decides* to establish a ban on military flights in the airspace of Bosnia and Herzegovina, this ban not to apply to United Nations Protection Force flights or to other flights in support of United Nations operations, including humanitarian assistance;

2. *Requests* the Force to monitor compliance with the ban on military flights, including the placement of observers where necessary at airfields in the territory of the former Yugoslavia;

3. *Also requests* the Force to ensure, through an appropriate mechanism for approval and inspection, that the purpose of flights to and from Bosnia and Herzegovina other than those banned by paragraph 1 above is consistent with Security Council resolutions;

4. *Requests* the Secretary-General to report to the Security Council on a periodic basis on the implementation of the present resolution and to report immediately any evidence of violations;

5. *Calls upon* States to take nationally or through regional agencies or arrangements all measures necessary to provide assistance to the Force, based on technical monitoring and other capabilities, for the purposes of paragraph 2 above;

6. *Undertakes* to examine without delay all the information brought to its attention concerning the implementation of the ban on military flights in Bosnia and Herzegovina and, in the case of violations, to consider urgently the further measures necessary to enforce this ban;

7. *Decides* to remain actively seized of the matter.

²²⁰ Not issued as a document of the Council; referred to in S/PV.3122, p. 7.

²²¹ S/PV.3122, p. 7.

Speaking after the vote, the representative of the United States remarked that, in establishing a no-fly zone over Bosnia and Herzegovina, the Council was taking an important step to address the violence that had racked the republic and to support the efforts of the London Conference. The London Conference agreements reflected the approach of the international community to the crisis and included the concurrence of the warring parties in Bosnia. The resolution just adopted codified a ban on military flights in Bosnia and Herzegovina, an action specifically agreed to by Bosnian Serb representatives. The speaker added that the United States vote in favour of the resolution reflected its view that, in the case of violations, it bound the Council to further action. If the resolution were violated, his Government would move to seek adoption by the Council of a further resolution mandating enforcement of the no-fly zone.²²²

The representative of India maintained that, as military flights still operated over Bosnian airspace despite the ban on military flights agreed to by all parties at the London Conference, concerted action by the international community, as represented by the Council, was clearly called for. It was only logical that the parties should comply with the agreement they themselves had voluntarily entered into. Noting, however, that one of the Bosnian sides — the Bosnian Serbs — had yet to give its agreement to a comprehensive ban on military flights and to the modalities for its monitoring, the speaker shared the Secretary-General's concern that this lack of agreement by one side could have implications for the effectiveness of UNPROFOR and the security of its personnel. Indeed, without the agreement of the Bosnian Serb side, it would be impossible for UNPROFOR to implement the resolution just adopted and to station observers at airfields under Bosnian Serb control. India hoped that the efforts of UNPROFOR, backed by the firm support of the Council, would prevail upon all sides to obtain their cooperation. Although it agreed that, as envisaged in paragraph 6 of the resolution, the Council might have to take further measures to enforce the ban it imposed, it hoped that such measures would not be necessary. India believed, moreover, that any such measures would have to conform strictly to the provisions of the Charter. They would have to remain under direct and effective United Nations command and control, which alone would

²²² Ibid., pp. 8-9.

ensure that the action was effective and commensurate, and that the security of UNPROFOR personnel could be ensured against the risks.²²³

The representative of Austria supported the establishment of a ban on military flights in Bosnia and Herzegovina as a long overdue measure, which was essential to ensure the safety of delivery of humanitarian assistance to the population of that country. He noted that such a ban had been agreed to by the parties at the London Conference but had not been adhered to by the Serbian side, whose aggression in the air had continued unabated. That was why the firm undertaking by the Council to take the necessary further measures to enforce the ban in case of its violation was so important, although Austria hoped that it would not be necessary to do so.²²⁴

The representative of Morocco stated that his country and the Organization of the Islamic Conference to which it belonged welcomed the new resolution, but considered it only as part of a whole which would ultimately force Serbia to put an end to its exactions, crimes and inadmissible practices against a sovereign State that was a Member of the United Nations.²²⁵

The President, speaking in his capacity as the representative of France, stated that the continuation of aerial bombings, in spite of the undertakings given at the London Conference on the ban on military flights over the territory of the former Yugoslavia, called for a clear-cut reaction from the international community. The resolution just adopted provided an appropriate response. Noting that the Council, in addition to establishing such a ban, undertook, in the event of violations, to consider urgently the further measures necessary to enforce the ban, the speaker said that this in no way prejudged the nature of the measures the Council might take in such an event. In his Government's view, it was important for such a warning to be issued to the parties concerned so as to encourage them to abide by their commitments forthwith. The speaker also stressed the importance of the security of the members of UNPROFOR, to which the Secretary-General had drawn attention in his letter of 8 October.²²⁶ He urged all parties to refrain from any action that might imperil the members of the

²²³ Ibid., pp. 9-12.

²²⁴ Ibid., p. 12.

²²⁵ Ibid., p. 13.

²²⁶ Not issued as a document of the Council.

Force, which was contributing so valiantly to the process of peace and reconciliation.²²⁷

**Decision of 30 October 1992 (3132nd meeting):
statement by the President**

By a letter dated 29 October 1992 addressed to the President of the Security Council,²²⁸ the representative of Bosnia and Herzegovina stated that the besieged city of Jajce had just fallen to the aggressor and that his Presidency urgently requested UNPROFOR protection for civilians being attacked by heavy artillery and helicopter fire as they fled. He added that Security Council resolution 781 (1992) had been grossly violated since its adoption, as the aggressor had been using helicopters for offensive warfare purposes.

At its 3132nd meeting, held on 30 October 1992 in accordance with the understanding reached in its prior consultations, the Council included the letter from the representative of Bosnia and Herzegovina in its agenda.

The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (France) drew the attention of the members of the Council to letters dated 16, 20, 23, 25 and 28 October 1992 from the representative of Bosnia and Herzegovina addressed to the President of the Council,²²⁹ containing allegations of violations by the aggressor of Security Council resolution 781 (1992), which banned military flights in the airspace of his country. Invoking paragraph 6 of the resolution, the Presidency of Bosnia and Herzegovina urged the Council to consider urgently the further measures necessary to enforce the ban.

At the same meeting, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²³⁰

The Security Council remains concerned by the continuing conflict in the Republic of Bosnia and Herzegovina with its resultant loss of life and material damage, which

threaten international peace and security and by reports of egregious violations of international humanitarian law by whomsoever committed.

The Council is appalled by the most recent reports that Serb militia in the Republic of Bosnia and Herzegovina are attacking civilians fleeing from the city of Jajce.

The Council strongly condemns any such attacks which constitute grave violations of international humanitarian law, including the Geneva Conventions of 12 August 1949, and reaffirms that persons who commit or order the commission of grave breaches of these Conventions are individually responsible in respect of such breaches. The Council wishes that such violations be brought to the attention of the Commission of Experts mentioned in resolution 780 (1992) of 6 October 1992.

The Council demands that all such attacks cease immediately.

**Decision of 10 November 1992 (3133rd
meeting): resolution 786 (1992)**

On 5 November 1992, the Secretary-General submitted to the Council a report pursuant to resolution 781 (1992),²³¹ on the measures recommended or already taken to implement that resolution, which, *inter alia*, requested UNPROFOR to monitor compliance with the ban imposed on military flights in the airspace of Bosnia and Herzegovina, and to approve and inspect non-military flights to and from that Republic. The Secretary-General described the general concept of operations that had been developed by UNPROFOR, which combined the deployment of military observers at selected airfields with information obtained from technical sources. It had been agreed with the presidency of the European Community that, in matters relating to resolution 781 (1992), the European Community Monitoring Mission would be tasked by and report to UNPROFOR. Technical monitoring information was being made available to the Force by the North Atlantic Treaty Organization. The measures described had already become operational to a limited extent with the temporary redeployment of 30 military observers, from other United Nations peacekeeping operations, to airfields in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro). The Force Commander estimated that 75 additional military observers would be required for this task.²³² The Secretary-General added that the cooperation of the parties concerned, which was

²²⁷ S/PV.3122, p. 14.

²²⁸ S/24740.

²²⁹ S/24675, S/24703, S/24709, S/24717 and S/24734, respectively.

²³⁰ S/24744.

²³¹ S/24767 and Add.1 of 9 November 1992.

²³² S/24767, para. 5.

essential for the successful implementation of resolution 781 (1992), had been secured. The Presidents of Croatia and the Federal Republic of Yugoslavia had welcomed the stationing of international observers on airfields in their respective countries and had concluded agreements with UNPROFOR. With regard to Bosnia and Herzegovina, similar agreements had been signed by UNPROFOR with the Foreign Minister of the Republic, granting the Force unrestricted access to airfields there, and separately with the leader of the Bosnian Serbs in respect of two airfields in the Banja Luka area. The Secretary-General concluded by observing that he believed that the concept described in his report would permit effective and cost-efficient implementation of resolution 781 (1992). He accordingly recommended that the Council approve the necessary expansion of the strength of UNPROFOR on the basis of the plan described.²³³

By a letter dated 6 November 1992 addressed to the President of the Council,²³⁴ the Secretary-General reported on the information received by UNPROFOR thus far on possible violations of the military flight ban imposed by resolution 781 (1992), and on the impossibility of corroborating the information on such violations by the means then available to UNPROFOR.

At its 3133rd meeting, held on 10 November 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the Secretary-General's report of 5 December and his letter of 6 November.

The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (Hungary) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations,²³⁵ and made several oral revisions to the text in its provisional form.²³⁶

He also drew their attention to the following documents: (a) letters dated 2 and 8 November 1992 from the representative of Bosnia and Herzegovina

addressed to the President of the Council,²³⁷ alleging further violations by the aggressor of the military flight ban imposed by resolution 781 (1992), and requesting that the Council consider urgently the further measures necessary to enforce the ban, as envisaged in that resolution; and (b) a letter dated 2 November 1992 from the representative of Venezuela addressed to the President of the Council,²³⁸ suggesting that it would be useful for the Council to receive updated information from the Secretariat to enable it to assess the reports it received of violations of resolution 781 (1992). Venezuela believed that such reports should be verified and that, if their accuracy was independently confirmed, the measures envisaged in the resolution should be put into effect.

The Council then commenced the voting procedure on the draft resolution before it, as orally revised, in its provisional form.

Speaking before the vote, the representative of China said that, as his delegation favoured the establishment of a ban on military flights in the airspace of Bosnia and Herzegovina with the consent of all parties concerned, and supported the recommendations for monitoring the ban put forward by the Secretary-General, it would vote in favour of the draft resolution. However, he reiterated China's position that it was not in favour of any use of force in establishing such a flight ban. China hoped that all the relevant parties of the former Yugoslavia would honour their commitments to respect the ban on military flights and fully cooperate with UNPROFOR.²³⁹

The draft resolution, as orally revised, in its provisional form, was then put to the vote. It was adopted unanimously as resolution 786 (1992), which reads:

The Security Council,

Reaffirming its resolution 781 (1992) of 9 October 1992,

Taking note of the report of the Secretary-General of 5 November 1992 submitted pursuant to resolution 781 (1992) and his letter of 6 November 1992 addressed to the President of the Security Council pursuant to his report,

Considering that the establishment of a ban on military flights in the airspace of Bosnia and Herzegovina constitutes an essential element for the safety of the delivery of humanitarian

²³³ *Ibid.*, para. 10.

²³⁴ S/24783.

²³⁵ S/24784.

²³⁶ See S/PV.3133, pp. 6-7.

²³⁷ S/24750 and S/24777, respectively.

²³⁸ S/24769.

²³⁹ S/PV.3133, p. 8.

assistance and a decisive step for the cessation of hostilities in Bosnia and Herzegovina,

Taking into account the need for a speedy deployment of monitors on the ground for observation and verification purposes,

Gravely concerned at the indication in the letter from the Secretary-General of 6 November 1992 of possible violations of its resolution 781 (1992) and of the impossibility of corroborating the information on such violations by technical means presently available to the United Nations Protection Force,

Determined to ensure the safety of humanitarian flights to Bosnia and Herzegovina,

1. *Welcomes* the current advance deployment of military observers of the United Nations Protection Force and the European Community Monitoring Mission at airfields in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro);

2. *Reaffirms* its ban on military flights in the airspace of Bosnia and Herzegovina, which applies to all flights, whether of fixed-wing or rotary-wing aircraft, subject to the exceptions contained in paragraph 1 of its resolution 781 (1992), and reiterates that all parties and others concerned must comply with this ban;

3. *Endorses* the general concept of operations described in the report of the Secretary-General of 5 and 9 November 1992 submitted pursuant to Security Council resolution 781 (1992) and calls on all parties and others concerned, including all Governments operating aircraft in the area, to cooperate fully with the Force in its implementation;

4. *Calls upon* all parties and others concerned henceforth to direct all requests for authorization of flights pursuant to paragraph 3 of its resolution 781 (1992), to the Force, with special provisions being made for flights of the Force and all other flights in support of United Nations operations, including humanitarian assistance;

5. *Approves* the recommendation in paragraph 10 of the report of the Secretary-General that the strength of the Force be increased, as proposed in paragraph 5 of the report, in order to permit it to implement the concept of operations;

6. *Reiterates its determination* to consider urgently, in the case of violations when further reported to it in accordance with its resolution 781 (1992), the further measures necessary to enforce the ban on military flights in the airspace of Bosnia and Herzegovina;

7. *Decides* to remain actively seized of the matter.

Decision of 16 November 1992 (3137th meeting): resolution 787 (1992)

By a letter dated 5 October 1992 addressed to the President of the Council,²⁴⁰ the representatives of Egypt, the Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey, as members of the Contact Group of OIC, had drawn attention to the dire humanitarian situation in Bosnia and Herzegovina as winter approached. The international community was unable to deliver sufficient humanitarian assistance to the victims of the conflict; the situation was made worse by the continued aggression of the Serbian elements who, through their attacks on civilian targets, continued to violate the principles of the Charter, international humanitarian law and the basic norms of civilized behaviour; and the practice of “ethnic cleansing” persisted, principally against the Muslims, whose very existence in their ancestral lands was being threatened. The Contact Group had called for an immediate meeting of the Security Council to consider taking the following urgent action: to establish safe corridors and take effective measures to stop anyone from hindering the delivery of humanitarian assistance; to ensure the effective enforcement of the “no-fly zone” over Bosnia and Herzegovina; and to take steps to bring before an international tribunal those responsible for the practice of “ethnic cleansing” and the commission of other grave breaches of international humanitarian law.

By a letter dated 4 November 1992 addressed to the President of the Council,²⁴¹ the representative of Bosnia and Herzegovina stated that, unless urgent steps were taken to stop the Serbian aggression, to implement existing Security Council and General Assembly resolutions and to enforce the London Conference commitments, the efforts of the Co-Chairmen of the International Conference on the former Yugoslavia would be overcome by military force and their proposed constitutional framework for his country would become irrelevant. He therefore requested a formal meeting of the Council, with the right of full debate, as soon as practicable.

²⁴⁰ S/24620. See also, above, the 3119th meeting of the Council on 6 October 1992, at which this letter was first included in the Council’s agenda.

²⁴¹ S/24761.

By separate letters dated 9 November 1992 addressed to the President of the Council,²⁴² the representatives of Belgium and France expressed grave concern at the current situation in Bosnia and Herzegovina. Noting that in resolution 713 (1991) and all its subsequent resolutions the Council had undertaken to pursue consideration of this issue, they requested an urgent meeting of the Council for this purpose.

At its 3134th meeting, on 13 November 1992, the Council included the letters from the OIC Contact Group and the representatives of Bosnia and Herzegovina, Belgium and France in its agenda. The Council considered the item at its 3134th to 3137th meetings, on 13 and 16 November 1992.

Following the adoption of the agenda, the Council invited the following, at their request, to participate in the discussion without the right to vote: at the 3134th meeting, on 13 November, the representatives of Albania, Azerbaijan, Bosnia and Herzegovina, Canada, the Comoros, Croatia, Germany, Egypt, Indonesia, the Islamic Republic of Iran, Italy, Jordan, Malaysia, Pakistan, Qatar, Senegal, Slovenia and Turkey; at the 3135th meeting, also on 13 November, the representatives of Afghanistan, Kuwait, Lithuania, Norway, Romania, Tunisia and Ukraine; at the 3136th meeting, on 16 November, the representatives of Greece, Malta and the United Arab Emirates; and at the 3137th meeting, also on 16 November, the representatives of Algeria and Bangladesh.

At its 3134th meeting, the Council also decided, by a vote, to extend an invitation to Mr. Nasser Al-Kidwa, Permanent Observer of Palestine to the United Nations, not under rule 37 or rule 39 of the Council's provisional rules of procedure, but with the same rights of participation of rule 37.²⁴³ At the same meeting, the Council extended invitations under rule 39 of its provisional rules of procedure, to the following individuals: Mr. Vance and Lord Owen, Co-Chairmen of the Steering Committee of the International Conference on the former Yugoslavia, in accordance with the understanding reached in the Council's prior consultations and at the request of the representative of Belgium; Mrs. Sadako Ogata, United

Nations High Commissioner for Refugees, in accordance with the understanding reached in its prior consultations; and Mr. Mazowiecki,²⁴⁴ at the request of the representatives of Belgium and France. The representatives of China and Zimbabwe expressed reservations about the appropriateness of inviting Mr. Mazowiecki to address the Council, on the ground that human rights issues fell within the purview of the Commission on Human Rights and the General Assembly, rather than of the Security Council and that, as Special Rapporteur of the Commission on Human Rights, he should report to that organ.²⁴⁵ At its 3135th meeting, in accordance with the understanding reached in its prior consultations, the Council invited Mr. Ilija Djukic, Minister for Foreign Affairs of the Federal Republic of Yugoslavia, at his request, to address the Council in the course of the discussion of the item.²⁴⁶

At the 3134th meeting, the President (Hungary) drew the attention of the members of the Council to the report of the Secretary-General on the International Conference on the former Yugoslavia,²⁴⁷ as well as to the documents submitted pursuant to paragraph 5 of resolution 771 (1992) and paragraph 1 of resolution 780 (1992), relating to violations of humanitarian law being committed in the territory of the former Yugoslavia. He also drew their attention to the following documents: (a) notes dated 3 September and 6 November 1992 from the Secretary-General to the President of the Council,²⁴⁸ transmitting two reports on the situation of human rights in the territory of the former Yugoslavia prepared by the Special Rapporteur of the Commission on Human Rights; (b) a letter dated 19 October 1992 from the members of the Contact Group of OIC addressed to the President of the Council,²⁴⁹ in which they reiterated their call for an immediate meeting of the Council, urged that Bosnia and Herzegovina not be denied its inherent right to defend itself in accordance with Article 51 of the Charter of the United Nations and requested the Council to consider and secure the lifting of the arms

²⁴² S/24785 and S/24786, respectively.

²⁴³ For the discussion of this question, see S/PV.3134, pp. 3-8; see also chapter III, case 6.

²⁴⁴ Special Rapporteur of the Commission on Human Rights on the situation of human rights in the territory of the former Yugoslavia.

²⁴⁵ S/PV.3134, pp. 9-10 and p. 11, respectively; see also chapter III, case 5.

²⁴⁶ See also chapter III, case 7.

²⁴⁷ S/24795.

²⁴⁸ S/24516 and S/24766, respectively.

²⁴⁹ S/24678.

embargo on that country; and (c) several other letters.²⁵⁰

Speaking at the start of the discussion, Mr. Vance stated that the situation in the former Yugoslavia continued to threaten international peace and security; that the sanctions regime established by the Council was being evaded and violated; and that the humanitarian crisis was deepening. Given that complex and testing situation, it would require the strongest resolve of the international community to bring about a durable cessation of hostilities and compliance with the principles of the Charter and the Universal Declaration of Human Rights, and the decisions of the Council. He addressed several matters which he considered to be of urgent concern to the Council. On the critical issue of sanctions, he stated that it was clear that embargoed oil was getting through to Belgrade in larger and larger quantities. Items being trans-shipped through Serbia by land had to be checked more carefully at their points of origin and their destinations. Water-borne cargoes also needed to be checked more rigorously, both on the Adriatic and along the Danube. In his judgement, it was essential that the arms embargo be maintained and enforced. Lifting it — as some had suggested — would not contribute to a durable peace and would be counter-productive. Lifting it for only one party, moreover, was neither feasible nor desirable, in his view. Such an action could only widen and deepen the war in Bosnia and Herzegovina and jeopardize the effectiveness of the UNPROFOR operation, and could spread the conflict throughout the Balkan region. He welcomed the ceasefire recently declared by the military commanders of the three warring parties in Sarajevo, under the auspices of UNPROFOR. While it was too early to draw any conclusions, he expected the three parties to live up to their commitments. It was

also essential that all parties in the former Yugoslavia cooperate with UNPROFOR as it carried out its humanitarian and peacekeeping missions.

Continuing, Mr. Vance stressed a number of points arising from the Secretary-General's report on the International Conference at Geneva. Among them was the importance the Co-Chairmen attached to the Conference's constitutional proposals for Bosnia and Herzegovina. From the outset, they had rejected partition of the country and its reorganization on ethnically based territorial lines. They believed that those constitutional proposals provided a sound basis for the future organization of the country, and welcomed the support given by the members of the Security Council. He recalled that the Security Council and the General Assembly had set out guidelines for devising solutions to problems in the former Yugoslavia, which the Co-Chairmen had sought to keep clearly in view. The Council had called for a political settlement consistent with the principles of the Charter and of international human rights norms; had rightly condemned forcible expulsions, illegal detentions and all attempts to change the demographic composition of territories; and had invoked the principles of the Conference on Security and Cooperation in Europe, in particular the inviolability of borders — both internal and external — and the non-recognition of attempts to alter such borders unilaterally. The General Assembly had expressly mentioned, in addition, respect for the sovereignty and the territorial integrity of States, and non-recognition of the spoils of aggression and of the acquisition of territory by force. He stressed that the international community could not accept non-compliance with these guidelines.²⁵¹

Lord Owen observed that the Geneva process, a conference in continuous session that had started on 3 September, was charged with forging together the European Community's previous Conference on Yugoslavia and the increasing activity of the United Nations and the specialized agencies in the former Yugoslavia. Henceforth, peacemaking, peacekeeping and preventative diplomacy were to be run together. That joint effort of the European Community and the United Nations built on Chapter VIII of the Charter, which provided for regional agencies to work in partnership with the Security Council. The former

²⁵⁰ Letters dated 16 to 21 October 1992 from the representative of Bosnia and Herzegovina to the President of the Council, and dated 2 November 1992 to the Secretary-General (S/24675, S/24677, S/24685, S/24700 and S/24754); letters dated 20 to 24 October 1992 and 4 November 1992, from the representative of Yugoslavia to the Secretary-General (S/24702, S/24704, S/24711 and Corr.1 and S/24778); letters dated 2 and 4 November 1992 from the representative of Croatia to the President of the Council, and dated 6 November 1992 to the Secretary-General (S/24748, S/24759, S/24772 and S/24776); and letter dated 5 November 1992 from the representative of Turkey addressed to the Secretary-General (S/24793).

²⁵¹ S/PV.3134, pp. 14-23.

worked under the authority of the United Nations and were dependent on key United Nations personnel for ensuring an effective and integrated United Nations command. He stated that the opposing sides in Bosnia and Herzegovina had been brought together in a by-and-large constructive dialogue in two main areas — over the future Constitution, conducted by the politicians, and over a cessation of hostilities, conducted by the military. The International Conference's constitutional proposals for Bosnia and Herzegovina made clear that there was not going to be a crude division of the Republic into three separate provinces, because such an arrangement would simply endorse ethnic cleansing. The Bosnian Muslims and Bosnian Croats fully accepted this, as well as the vast bulk of the constitutional proposals. The Bosnian Serbs were participating and putting forward counter-proposals. Unfortunately, however, many of their leaders appeared to want a single, geographically contiguous, Bosnian Serb province that would be linked with those parts of Croatia where the Serbs were in the majority and with the Republic of Serbia, in a Greater Serbia. It would not be easy, in his view, to pressure them to abandon that dream. He noted that although sanctions were a blunt instrument, which often hit the innocent harder than the guilty, they were the only peaceful weapon the world had. It was vital that a resolution blocking the gaping holes in the current oil embargo be adopted. On the recently negotiated ceasefire, he cautioned that much would depend on how local military leaders reacted. He acknowledged that a ceasefire had its political dangers, as the frontline, established by force, risked becoming frozen into de facto political boundaries. However, with the publication of the draft Constitution, the parties to the ceasefire were aware of the political framework for a settlement on which the Co-Chairmen were working. He added that it needed to be said quite clearly, in the Security Council, that the present Bosnian Serb frontline had to be rolled back and that the international community could not accept the philosophy that “might was right and that what they had, they held”.

Lord Owen further rejected calls by some in the Council for more dramatic solutions, such as massive outside military intervention or the lifting of the arms embargo from the Government of Bosnia and Herzegovina on the ground that it had an unfair impact on their predominantly Muslim forces. He observed that there was no sign of any significant military Power

being ready to act; and, on the arms embargo, stated that all previous experience showed that prohibiting arms sales tended to dampen conflict while increasing them deepened it. A selective lifting of the arms embargo was, moreover, unfeasible and would have a profoundly adverse effect on the chances of achieving a cessation of hostilities and a constitutional settlement. At the same time, it was vital that the international community learned a lesson from Bosnia and Herzegovina and did not disavow the use of external force. A negotiated no-fly agreement would never have been achieved had the then President of the United States not been ready to enforce it. In conclusion, he expressed the view that, in the absence of superior military force on the ground or in the air, the international community would make its principles stick by applying steady, persistent pressure to any intransigent party that failed to negotiate constructively. The Security Council debate was an important part of that process.²⁵²

The High Commissioner for Refugees remarked that strictly neutral humanitarian access in Bosnia and Herzegovina was often hampered by political considerations, military objectives and hostile behaviour. She called for the full deployment of the additional UNPROFOR troops — to enhance security and to augment the logistical capacity of UNHCR for delivering the relief required. In the carrying out of the humanitarian task in the former Yugoslavia, the question had arisen how to strike the right balance so that sanctions served as a political tool but did not become a lethal weapon against the weak. She was grateful that the sanctions Committee had now recognized the special needs of UNHCR, as exemplified by a recent blanket approval of a request to deliver assistance. Observing that the return of refugees and displaced persons, which she saw as an attempt to “de-cleanse the ethnic cleansing”, was both a humanitarian and a political endeavour, she noted that it would be a most difficult task linked to progress towards a political settlement. She added that, if sanctuaries for the refugees and the displaced were to be created, they would have to be linked with the presence and capacity of UNPROFOR. She drew the Council's attention once again to the pressing issue of the release of detainees in Bosnia and Herzegovina, insisting that, in the absence of other viable solutions, the international community must be willing to share

²⁵² Ibid., pp. 23-31.

the burden of receiving this most vulnerable group of people. In conclusion, she stated that UNHCR alone could not prevent massive suffering and death during the winter. To avoid the worst scenarios, what was needed was the holding and spreading of the current ceasefire; a renewed commitment by the parties to respect safe passage of relief goods and non-disruption of public utilities; immediate full deployment of UNPROFOR and flexibility in its mandate to provide extensive logistical support; massive bilateral and multilateral provision of resources; and pressure on all concerned, inside and outside the region, to keep borders open for those fleeing to survive, and to receive detainees.²⁵³

The Special Rapporteur observed that, in the context of the conflict taking place in the territory of Bosnia and Herzegovina, the human rights issues could not be examined separately from the political and military situation. The issue at stake was the fundamental human right to life, which was totally threatened. The violations of that right and other fundamental human rights were massive and grave and contradicted both the Covenants on Human Rights and the Geneva Conventions, which called for respect for the rights of the civilian population during armed conflicts. He observed that those violations stemmed from the practice of “ethnic cleansing”, which was not a consequence of, but an objective of, this war. The practice had been pursued by the Serbian authorities in Bosnia and Herzegovina and in the parts of Croatia under the control of Serbian forces, where they could not be prevented even by the presence of UNPROFOR. He added that the Serbian population in the areas of Bosnia and Herzegovina controlled by the Government of that Republic and Croatian armed forces was also a victim of discrimination and human rights abuse. In his view, however, although those acts should be condemned, they were not an element of systematic policy. From the point of view of human rights, he proposed three urgent measures: the closing of detention camps; the establishment of security zones for humanitarian purposes in Bosnia and Herzegovina; and the establishment of corridors for humanitarian supplies, particularly to the cities and areas under siege. He added that the human rights situation required systematic and coordinated action. Assistance to the victims must go hand in hand with the will to punish the guilty, especially the perpetrators of war

²⁵³ Ibid., pp. 33-38.

crimes. He urged the establishment of the Commission of Experts provided for in resolution 780 (1992), to investigate these matters further. In conclusion, he observed that profound changes in the world had led to the recognition that respect for human rights had become a crucial element of international security. The former Yugoslavia constituted, in that respect, one of the most serious and tragic challenges faced by the international community and intergovernmental organizations, primarily the United Nations. It was urgent, accordingly, that the Organization undertake effective action in favour of the protection of human rights in Bosnia and Herzegovina and in other territories of the former Yugoslavia, notably Kosovo and Vojvodina.²⁵⁴

The representative of Bosnia and Herzegovina noted that the meeting was the first time, including after six months of membership in the United Nations, that his country had had an opportunity to present its case orally before the Security Council. Although his Government fully supported the humanitarian efforts being made to relieve the suffering of its citizens, including the suggested creation of temporary safety zones, and endorsed the proposed constitutional framework, he stressed that the most important element of the solution — implementation and enforcement of existing commitments and decisions — was still lacking. His country was still the victim of aggression and its citizens the targets. As the Special Rapporteur had reported, “ethnic cleansing” did not appear to be the consequence, but rather the goal, of that aggression, threatening a segment of the population with extermination. That crime had not only continued; it had intensified, and could not be stopped simply through prosecution. He insisted that if the Security Council would not take direct steps to stop this crime and implement the measures adopted by it, then it should yield and fully recognize Bosnia and Herzegovina’s sovereign and absolute right to self-defence. Exercised through legitimate and lawful authorities or through international mechanisms, self-defence encouraged respect for constitutional principles, humanitarian standards, the rule of law and order and, ultimately, reconciliation.²⁵⁵

Many of the speakers stressed the importance of a political settlement of the conflicts in the former

²⁵⁴ Ibid., pp. 39-42.

²⁵⁵ Ibid., pp. 48-55.

Yugoslavia, and expressed their support for the International Conference on Yugoslavia as the appropriate, if not the only, framework for arriving at a comprehensive and lasting solution. They endorsed the proposals put forward in that context for a new constitutional arrangement for Bosnia and Herzegovina as offering a good basis for negotiation among the three constituent communities, while respecting the principles insisted upon by the international community: notably, that the taking of territory by force and the practice of “ethnic cleansing” were unlawful and unacceptable and would not be allowed to affect the outcome of the negotiations; and that the territorial integrity of Bosnia and Herzegovina must be respected. Noting that the situation on the ground was still deteriorating, despite massive efforts by the United Nations and the European Community, they urged the Security Council to persevere in its efforts and to strengthen its action.²⁵⁶ In that regard, a number of speakers supported the strengthening of the sanctions regime against the Federal Republic of Yugoslavia and its strict implementation.²⁵⁷

At the 3135th meeting, later on 13 November, the representative of Malaysia expressed regret at the delay of some 12 weeks in the convening of an emergency meeting of the Council requested by members of OIC to consider the situation in Bosnia and Herzegovina. He stated that the right of Member States to ask for an emergency meeting of the Council, with formal debate,

to consider such a serious situation, involving a breach of international law and threatening international peace and security, always had to be respected by the Council.²⁵⁸

Several speakers echoed the Co-Chairmen in urging that the arms embargo be maintained throughout the former Yugoslavia and strictly enforced.²⁵⁹ A number of speakers also supported a proposal that international observers be deployed on the borders of Bosnia and Herzegovina to facilitate the implementation of the Council’s resolutions.²⁶⁰ Some warned that, if policy changes and effective action on the ground were not forthcoming, especially to end outside interference in Bosnia, consideration might have to be given to further measures.²⁶¹

A number of other speakers, on the other hand, endorsed the appeal made by Bosnia and Herzegovina that, as the Security Council had not been able to stop the aggression against that country — an independent State Member of the United Nations threatened with extinction — it should lift (or threaten to lift) the arms embargo against it and allow it to exercise its inherent right of self-defence as recognized in the Charter.²⁶² Several of these and other speakers urged the Council to take enforcement measures under Chapter VII of the Charter, to halt and reverse the Serbian aggression, or to consider taking such action in the event of continued non-compliance by the aggressor.²⁶³ Some expressed concern that if the aggression against Bosnia and Herzegovina went unanswered, small and weaker

²⁵⁶ S/PV.3134, pp. 56-57 (Cape Verde); pp. 59-62 (Japan); pp. 63-67 (Belgium). See also S/PV.3135, pp. 7-8 (United Kingdom); pp. 17-18 (France); p. 24 (Turkey); p. 28 (Malaysia); pp. 36-37 (Germany); pp. 41-42 (Egypt); S/PV.3136, pp. 5, 7-8 (Russian Federation); pp. 9-11 (Ecuador); pp. 18-20 (Venezuela); pp. 24-25, 27 (Zimbabwe); p. 28 (Pakistan); pp. 43-44 (Canada); pp. 53-54 (Albania); pp. 61-62 (Permanent Observer of Palestine, in his capacity as Chairman of the Arab Group); p. 70 (Islamic Republic of Iran); and S/PV.3137, pp. 4-5 (India); pp. 11, 13-14 (Hungary); p. 15 (Italy); p. 31 (Comoros); p. 32 (Norway); p. 42 (Croatia); pp. 83-84 (Ukraine); p. 93 (United Arab Emirates); pp. 94-96 (Greece); p. 101 (Malta); pp. 119-121 (China).

²⁵⁷ S/PV.3134, pp. 57-58 (Cape Verde); pp. 61-62 (Japan); p. 67 (Belgium); S/PV.3135, p. 8 (United Kingdom); pp. 11-12 (United States); p. 17 (France); p. 34 (Malaysia); p. 37 (Germany); S/PV.3136, pp. 6-7 (Russian Federation); pp. 14-15 (Ecuador); p. 33 (Pakistan); p. 41 (Slovenia); p. 47 (Canada); and S/PV.3137, p. 13 (Hungary); p. 16 (Italy); p. 33 (Norway); p. 86 (Ukraine); p. 99 (Greece); p. 103 (Malta); p. 111 (Bangladesh); pp. 123-124 (Austria).

²⁵⁸ S/PV.3135, p. 28.

²⁵⁹ S/PV.3135, p. 9 (United Kingdom); p. 17 (France); S/PV.3136, p. 6 (Russian Federation); pp. 13-14 (Ecuador); and S/PV.3137, p. 86 (Ukraine).

²⁶⁰ S/PV.3135, p. 8 (United Kingdom); p. 17 (France); p. 37 (Germany); S/PV.3136, p. 15 (Ecuador); and S/PV.3137, p. 33 (Norway).

²⁶¹ S/PV.3135, pp. 8-9 (United Kingdom) and p. 13 (United States).

²⁶² S/PV.3135, pp. 25-26 (Turkey); p. 33 (Malaysia); p. 41 (Egypt); S/PV.3136, pp. 28-34 (Pakistan); p. 58 (Indonesia); pp. 72-77 (Islamic Republic of Iran); and S/PV.3137, pp. 18-21 (Qatar); pp. 27-30 (Comoros); p. 36 (Lithuania); p. 43 (Croatia); p. 51 (Kuwait); pp. 57-60 (Afghanistan); p. 92; (United Arab Emirates); pp. 111-112 (Bangladesh); p. 116 (Senegal).

²⁶³ S/PV.3135, pp. 34-35 (Malaysia); pp. 34-35 (Egypt); S/PV.3136, p. 58 (Indonesia); p. 67 (Jordan); p. 72 (Islamic Republic of Iran); and S/PV.3137, p. 46 (Azerbaijan); p. 51 (Kuwait); p. 92 (United Arab Emirates); p. 112 (Bangladesh).

States, in particular, would lose confidence in the ability of the Council to safeguard their security.²⁶⁴

In the humanitarian sphere, Council members and non-members alike expressed support for the efforts of the United Nations, its various agencies and the non-governmental agencies assisting the Bosnian people. A number endorsed such further measures as the establishment of safe areas, under military protection, within Bosnia and Herzegovina, for the protection of those who had been forced out of their homes and become refugees;²⁶⁵ and the prosecution of those responsible for “ethnic cleansing” and war crimes.²⁶⁶

At the 3136th meeting, on 16 November 1992, the President drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, the Russian Federation, the United Kingdom and the United States.²⁶⁷ He also drew their attention to a letter dated 12 November 1992 from the representative of Bosnia and Herzegovina addressed to the Secretary-General,²⁶⁸ objecting to a proposal by the United States to deliver humanitarian assistance to his country through Belgrade on the ground that it would, *inter alia*, weaken an already unsuccessful economic embargo and improve Belgrade’s ability to support aggression.

The representative of Venezuela observed that regional organizations, including his own, were ill-prepared to deal with tragedies of such magnitude and intensity as the one before them. Conventional methods of peacekeeping and humanitarian assistance did not suffice. Peacekeeping operations were designed for situations in which there was a consensus and

agreement between the parties to the conflict. That was certainly not the case in the situation under consideration. Order had to be imposed; yet the forces on the ground were neither authorized nor equipped for the task. Although he would vote in favour of the draft resolution, he wished to place on record his concern that the ways and means of putting such resolutions into effect and of ensuring compliance with them had not yet been found.²⁶⁹

The representative of Zimbabwe, whose country viewed the conflict in Bosnia and Herzegovina as essentially a civil war, believed that the gravity of the situation warranted the present debate. In the final analysis, it was the people of the Republic who would resolve the problem, although the international community could, and indeed must, assist them. Patience and impartial mediation were essential in this regard. The United Nations, as one of the mediating parties, needed to undertake this task in a manner that was not only impartial but also seen to be impartial. He cautioned that any approach that could be construed as selective finger-pointing, apportionment of blame, condemnation or punishment could serve to exacerbate the situation and make a difficult task even more difficult for those entrusted to broker a negotiated peaceful solution.²⁷⁰

At the 3137th meeting, later on 16 November, the President of the Council drew the attention of the members of the Council to a revised draft resolution sponsored by Belgium, France, the Russian Federation, the United Kingdom and the United States,²⁷¹ and to a change in the text: all references to Bosnia and Herzegovina should be understood to refer to the Republic of Bosnia and Herzegovina.

The representative of India observed that any attempt to impose constitutional arrangements for Bosnia and Herzegovina from outside would be a recipe for disaster. He was encouraged, therefore, to hear from Lord Owen, in his statement to the Council, that all the parties in Bosnia and Herzegovina had agreed to use the draft outline constitution as a basis for negotiating a political settlement. He could, accordingly, go along with operative paragraph 1 of the draft resolution under consideration, which urged the parties to continue negotiations on the basis of the draft

²⁶⁴ S/PV.3135, p. 35 (Malaysia); S/PV.3136, p. 35 (Pakistan); p. 54 (Albania); p. 67 (Jordan); and S/PV.3137, pp. 29-30 (Comoros); pp. 89-90 (United Arab Emirates); pp. 112-113 (Bangladesh).

²⁶⁵ S/PV.3134, pp. 43-48 (Austria); S/PV.3135, p. 26 (Turkey); pp. 32-33 (Malaysia); S/PV.3136, p. 53 (Albania); p. 58 (Indonesia); p. 61 (Permanent Observer of Palestine, in his capacity as the Chairman of the Arab Group); and S/PV.3137, p. 13 (Hungary); p. 41 (Croatia); pp. 59-60 (Afghanistan); p. 79 (Morocco); pp. 91-92 (United Arab Emirates); p. 111 (Bangladesh); p. 124 (Austria).

²⁶⁶ S/PV.3135, p. 30 (Malaysia); pp. 44-45 (Egypt); S/PV.3136, p. 53 (Albania); p. 67 (Jordan); and S/PV.3137, p. 14 (Hungary); p. 33 (Norway); p. 51 (Kuwait).

²⁶⁷ S/24808.

²⁶⁸ S/24798.

²⁶⁹ S/PV.3136, pp. 21-23.

²⁷⁰ *Ibid.*, p. 26.

²⁷¹ S/24808/Rev.1.

outline. On the military side, he observed that UNPROFOR continued to operate in Croatia and Bosnia under traditional rules of peacekeeping — that is, with the consent and cooperation of all parties. He reiterated his country's concern that the Council and the United Nations as a whole should retain full authority and responsibility over the execution of actions authorized by the Council. His delegation had worked with the sponsors of the draft resolution to provide for effective coordination, through the Secretary-General, of the actions that Member States might take for the inspection and verification of shipping in the Adriatic and on the Danube, under paragraphs 12 and 13. Paragraph 14, as amended, had largely met India's concern in this regard and would make it possible for him to support the draft resolution. On the humanitarian situation, he recalled that the Council had heard a statement from the Special Rapporteur for Yugoslavia appointed by the Commission on Human Rights, on the violations of international humanitarian law in the former Yugoslavia, including Bosnia and Herzegovina. He reiterated his Government's position that the respective competences of the major organs of the United Nations should be strictly respected; human rights reports of this nature should be presented to and examined by the competent organ, in this case the Commission on Human Rights and the General Assembly. He noted, however, that the enabling resolution appointing the Special Rapporteur included reporting to the Security Council. Moreover, the Bosnian situation was unprecedented in its multidimensional character; it was impossible to separate the political, military and humanitarian aspects of the crisis. While the Council must, therefore, take into consideration those gross violations of international humanitarian law in its findings and decisions, where they directly impinged on the political-military situation — as it had done in resolutions 771 (1992) and 780 (1992) — it must not lose track of the fact that the organs competent to act on the Special Rapporteur's recommendations remained the General Assembly and the Commission on Human Rights.²⁷²

The Minister for Foreign Affairs of the Federal Republic of Yugoslavia stated that his country was making every effort and using all its influence to bring about the end of war in Bosnia and Herzegovina. It had fully accepted all the decisions and principles of the

London Conference and considered that their consistent implementation was the only way to end the war. To dispel any allegations of its involvement in any military operations in the war in Bosnia and Herzegovina, his country had insisted that United Nations monitors be placed at all airfields of the former Socialist Federal Republic of Yugoslavia, and along Bosnia and Herzegovina's borders with the Federal Republic of Yugoslavia and with Croatia. Regrettably, that had not yet been accepted. His country had also exerted all its influence to bring about an agreement between the Bosnian Serbs and UNPROFOR on deploying United Nations observers at locations around Sarajevo in order to place the heavy artillery of the Bosnian Serb side under UNPROFOR supervision. The last member of the Yugoslav Army had been withdrawn in May 1992, as confirmed in the Secretary-General's report and by the European Community. He stated that the Federal Republic of Yugoslavia had no territorial claims against Bosnia and Herzegovina, and had strongly condemned the practice of "ethnic cleansing" committed by any side. Horrible crimes had been committed by all warring parties, including against the Serbs. Expressing support for the Commission of Experts established pursuant to resolution 780 (1992), he stated that his Government's report had already been submitted to the Secretary-General on the violation of humanitarian law in the territory of the former Yugoslavia. He added that peace could not be established in the territory of Bosnia and Herzegovina if account were not taken of some basic facts. The heart of the matter was that the war there was an ethnic, religious and civil war. The Federal Republic of Yugoslavia could not be responsible for either its outbreak or its continuation. The aggressor in Bosnia and Herzegovina could only be the Republic of Croatia, whose armed forces were currently fighting there. It was imperative that the international community condemn such behaviour, which was a breach of the fundamental norms of international law and the Charter of the United Nations. The Bosnian leaders who were determined to create a national State at any cost doubtless also bore great responsibility for the ongoing bloodshed, particularly the President, who had done all he could to create a unitary State dominated by the Muslims, who represented 41 per cent of the population. The premature recognition of Bosnia and Herzegovina by the European Community, which had been publicly admitted by many, including Lord Carrington and Cyrus Vance, had only deepened

²⁷² S/PV.3137, pp. 4-8.

the crisis and war and increased the suffering of the people of Bosnia and Herzegovina. The present phase of the war had been further aggravated by the foreign mercenaries from a number of Islamic countries.

As to the way forward, Mr. Djukic maintained that a peaceful settlement was the only true solution to the problem of Bosnia and Herzegovina and that the three parties to the conflict should reach a mutually acceptable solution within the framework of the Conference on the former Yugoslavia. His Government would honour and fully support any such solution. In the meantime, the Federal Republic of Yugoslavia was increasingly alarmed at the repeated requests for international military intervention. Bosnia and Herzegovina was replete with arms; those advocating additional arms supplies for any side were pouring oil on the flames. He warned of the unforeseeable harmful effects of the continued sending of mercenaries, violations of the arms embargo and the prospects of the conflict turning into a full-scale religious war. He appealed, on the other hand, for the lifting of the harsh sanctions imposed against the Federal Republic of Yugoslavia, which his country believed to be one-sided and unjust. Sanctions had never been known to solve problems; they could hardly stop the war in Bosnia and Herzegovina; and they were hitting the most vulnerable strata of the population, including some half a million refugees, many of whom were from Bosnia and Herzegovina. By lifting the sanctions, the United Nations would prove that justice and humanity could prevail, and encourage the efforts of the Government of the Federal Republic of Yugoslavia towards historic and democratic changes.²⁷³

The representative of Bosnia and Herzegovina expressed his appreciation for the convening of the four meetings of the Security Council on the situation in his country, for the role played by OIC in bringing them about, and to all delegations that had spoken in his country's support at the meetings. His delegation was deeply puzzled, however, by the participation of a representative of the so-called government of the so-called Federal Republic of Yugoslavia in the work of the Council, especially in the light of the conclusions of the Council in its resolution 777 (1992) and General Assembly resolution 46/242. There appeared to be no legal precedent or procedure that would allow the delegation in question to participate in these

discussions, and his delegation believed that this had been permitted by the Council strictly out of good will. He objected to Mr. Djukic's characterization of the situation in his country as a "war"; it could not be called a war when heavily armed forces were fighting barehanded civilians. Moreover, in blaming Bosnian Muslims, Croats and Bosnian leaders, Mr. Djukic had simply reiterated old, unfounded accusations used by the Belgrade leaders to justify their aggression, "ethnic cleansing" and genocide in Bosnia and Herzegovina.²⁷⁴

The Council then commenced the voting procedure on the draft resolution before it. Speaking before the vote, the representative of China stated that all the international efforts in Bosnia and Herzegovina should be conducive to securing an early negotiated settlement of the differences and disputes and should not complicate the situation. Some of the elements included in the draft resolution were in conformity with that approach and acceptable to his delegation. However, he had reservations about those aspects of the draft resolution aimed at strengthening the sanctions against Yugoslavia. In China's view, as he had indicated at the time of the adoption of resolution 757 (1992), sanctions would not help solve the problem, but would further aggravate the situation in the former Yugoslavia and create serious consequences affecting the lives of the people in the region and the economy of the neighbouring States. He could not, therefore, accept those elements. China also considered it inappropriate for the draft resolution to refer to the report of the Special Rapporteur on human rights, as it was not within the purview of the Council to handle the human rights issue. He would therefore abstain in the voting on the draft resolution.²⁷⁵

The representative of Zimbabwe stated that his delegation would also abstain on the draft resolution as he continued to have serious doubts about the validity of the underlying assumptions that had led to the imposition of sanctions against the Federal Republic of Yugoslavia under resolution 757 (1992): namely, that Belgrade had the ability to control the Bosnian Serbs and that the pressure of a tough regime of economic and other sanctions against Belgrade would immobilize the Bosnian Serbs. Those closely involved in the efforts to resolve the crisis in Bosnia and Herzegovina over the past six months could testify that the Bosnian

²⁷³ Ibid., pp. 67-77.

²⁷⁴ Ibid., pp. 117-118.

²⁷⁵ S/PV.3137, pp. 119-121.

Serbs were anything but the puppets of Belgrade. While Belgrade might not be totally devoid of influence, there was an important distinction to be drawn between the ability to control and the ability to influence, which had its limitations. If the Council were to impose punitive sanctions on all countries that were perceived to have influence on one party or the other in the various conflict situations around the globe, there would be a very long list indeed. It was, moreover, ironic that the country targeted for punitive measures, the Federal Republic of Yugoslavia, had withdrawn its forces from Bosnia and Herzegovina some six months ago. Although thousands of other foreign troops remained in Bosnia and Herzegovina, in defiance of its resolutions calling for their withdrawal, the Council was not considering any punitive measures in spite of that continuing act of defiance. It was only prepared to reaffirm its call for elements of the Croatian army to be withdrawn.²⁷⁶

The draft resolution, as orally revised in its provisional form, was then put to the vote. It received 13 votes in favour, none against and two abstentions (China and Zimbabwe) and was adopted as resolution 787 (1992), which reads:

The Security Council,

Reaffirming its resolution 713 (1991) of 25 September 1991 and all subsequent relevant resolutions,

Reaffirming its determination that the situation in the Republic of Bosnia and Herzegovina constitutes a threat to the peace, and reaffirming that the provision of humanitarian assistance in the Republic of Bosnia and Herzegovina is an important element of the effort by the Council to restore peace and security in the region,

Deeply concerned at the threats to the territorial integrity of the Republic of Bosnia and Herzegovina, which, as a State Member of the United Nations, enjoys the rights provided for in the Charter of the United Nations,

Reaffirming also its full support for the International Conference on the former Yugoslavia as the framework within which an overall political settlement of the crisis in the former Yugoslavia may be achieved, and for the work of the Co-Chairmen of the Steering Committee of the Conference,

Recalling the decision by the Conference to examine the possibility of promoting safe areas for humanitarian purposes,

Recalling also the commitments entered into by the parties and others concerned with the framework of the Conference,

Reiterating its call on all parties and others concerned to cooperate fully with the Co-Chairmen of the Steering Committee of the Conference,

Noting the progress made so far within the framework of the Conference, including the Joint Declarations signed at Geneva on 30 September 1992 and 20 October 1992 by the Presidents of the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro); the Joint Statement made at Geneva on 19 October 1992 by the Presidents of the Republic of Bosnia and Herzegovina and the Federal Republic of Yugoslavia (Serbia and Montenegro); the Joint Communiqué issued on 1 November 1992 at Zagreb by the Presidents of the Republic of Croatia and the Republic of Bosnia and Herzegovina; the establishment of the Mixed Military Working Group in the Republic of Bosnia and Herzegovina; and the production of a draft outline constitution for the Republic of Bosnia and Herzegovina,

Noting with grave concern the report of the Special Rapporteur for Yugoslavia appointed following a special session of the Commission on Human Rights to investigate the human rights situation in the former Yugoslavia, which makes clear that massive and systematic violations of human rights and grave violations of international humanitarian law continue in the Republic of Bosnia and Herzegovina,

Welcoming the deployment of additional elements of the United Nations Protection Force for the protection of humanitarian activities in the Republic of Bosnia and Herzegovina, in accordance with its resolution 776 (1992) of 14 September 1992,

Deeply concerned about reports of continuing violations of the embargo imposed by its resolution 713 (1991) and 724 (1991) of 15 December 1991,

Deeply concerned also about reports of violations of the measures imposed by its resolution 757 (1992) of 30 May 1992,

1. *Calls upon* the parties in the Republic of Bosnia and Herzegovina to consider the draft outline constitution for Bosnia and Herzegovina as a basis for negotiating a political settlement of the conflict in that country and to continue negotiations for constitutional arrangements on the basis of the draft outline, under the auspices of the Co-Chairmen of the Steering Committee of the International Conference on the former Yugoslavia, these negotiations to be held in continuous and uninterrupted session;

2. *Reaffirms* that any taking of territory by force or any practice of "ethnic cleansing" is unlawful and unacceptable, and will not be permitted to affect the outcome of the negotiations on constitutional arrangements for the Republic of Bosnia and Herzegovina, and insists that all displaced persons be enabled to return in peace to their former homes;

3. *Strongly reaffirms* its call on all parties and others concerned to respect strictly the territorial integrity of the Republic of Bosnia and Herzegovina, and affirms that any

²⁷⁶ Ibid., pp. 122-123.

entities unilaterally declared or arrangements imposed in contravention thereof will not be accepted;

4. *Condemns* the refusal of all parties in the Republic of Bosnia and Herzegovina, in particular the Bosnian Serb paramilitary forces, to comply with its previous resolutions, and demands that they and all other concerned parties in the former Yugoslavia fulfil immediately their obligations under those resolutions;

5. *Demands* that all forms of interference from outside the Republic of Bosnia and Herzegovina, including infiltration into the country of irregular units and personnel, cease immediately, and reaffirms its determination to take measures against all parties and others concerned which fail to fulfil the requirements of resolution 752 (1992) of 15 May 1992 and its other relevant resolutions, including the requirement that all forces, in particular elements of the Croatian Army, be withdrawn, or be subject to the authority of the Government of the Republic of Bosnia and Herzegovina, or be disbanded or disarmed;

6. *Calls upon* all parties in the Republic of Bosnia and Herzegovina to fulfil their commitments to put into effect an immediate cessation of hostilities and to negotiate in the Mixed Military Working Group, continuously and in uninterrupted session, to end the blockades of Sarajevo and other towns and to demilitarize them, with heavy weapons under international supervision;

7. *Condemns* all violations of international humanitarian law, including in particular the practice of “ethnic cleansing” and the deliberate impeding of the delivery of food and medical supplies to the civilian population of the Republic of Bosnia and Herzegovina, and reaffirms that those that commit or order the commission of such acts will be held individually responsible in respect of such acts;

8. *Welcomes* the establishment of the Commission of Experts provided for in paragraph 2 of its resolution 780 (1992) of 6 October 1992, and requests the Commission to pursue actively its investigations with regard to grave breaches of the Geneva Conventions of 12 August 1949 and other violations of international humanitarian law committed in the territory of the former Yugoslavia, in particular the practice of “ethnic cleansing”;

9. *Decides*, acting under Chapter VII of the Charter of the United Nations, in order to ensure that commodities and products trans-shipped through the Federal Republic of Yugoslavia (Serbia and Montenegro) are not diverted in violation of resolution 757 (1992), to prohibit the trans-shipment of crude oil, petroleum products, coal, energy-related equipment, iron, steel, other metals, chemicals, rubber, tires, vehicles, aircraft and motors of all types unless such trans-shipment is specifically authorized on a case-by-case basis by the Security Council Committee established by the resolution 724 (1991) on Yugoslavia under its “no objection” procedure;

10. *Decides also*, acting under Chapter VII of the Charter, that any vessel in which a majority or controlling

interest is held by a person or undertaking in or operating from the Federal Republic of Yugoslavia (Serbia and Montenegro) shall be considered, for the purpose of implementation of the relevant resolutions of the Council, a vessel of the Federal Republic of Yugoslavia (Serbia and Montenegro) regardless of the flag under which the vessel sails;

11. *Calls upon* all States to take all necessary steps to ensure that none of their exports are diverted to the Federal Republic of Yugoslavia (Serbia and Montenegro) in violation of resolution 757 (1992);

12. Acting under Chapters VII and VIII of the Charter, *calls upon* States, acting nationally or through regional agencies or arrangements, to use such measures commensurate with the specific circumstances as may be necessary under the authority of the Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions of resolutions 713 (1991) and 757 (1992);

13. *Commends* the efforts of those riparian States which are acting to ensure compliance with resolutions 713 (1991) and 757 (1992) with respect to shipments on Danube, and reaffirms the responsibility of riparian States to take necessary measures to ensure that shipping on the Danube is in accordance with resolutions 713 (1991) and 757 (1992), including such measures commensurate with the specific circumstances as may be necessary to halt such shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions of resolutions 713 (1991) and 757 (1992);

14. *Requests* the States concerned, acting nationally or through regional agencies or arrangements, to coordinate with the Secretary-General, inter alia, on the submission of reports to the Council regarding actions taken in pursuance of paragraphs 12 and 13 above to facilitate the monitoring of the implementation of the present resolution;

15. *Requests* all States to provide in accordance with the Charter such assistance as may be required by those States acting nationally or through regional agencies and arrangements in pursuance of paragraphs 12 and 13;

16. *Considers* that, in order to facilitate the implementation of the relevant resolutions, observers should be deployed on the borders of the Republic of Bosnia and Herzegovina, and requests the Secretary-General to present to the Council as soon as possible his recommendations on this matter;

17. *Calls upon* all international donors to contribute to the humanitarian relief efforts in the former Yugoslavia, to support the United Nations Consolidate Inter-Agency Programme of Action and Appeal for the former Yugoslavia and to speed up the delivery of assistance under existing pledges;

18. *Calls upon* all parties and others concerned to cooperate fully with the humanitarian agencies and with the United Nations Protection Force to ensure the safe delivery of

humanitarian assistance to those in need of it, and reiterates its demand that all parties and others concerned take the necessary measures to ensure the safety of United Nations and other personnel engaged in the delivery of humanitarian assistance;

19. *Invites* the Secretary-General, in consultation with the Office of the United Nations High Commissioner for Refugees and other relevant international humanitarian agencies, to study the possibility of and the requirements for the promotion of safe areas for humanitarian purposes;

20. *Expresses* its appreciation for the report presented by the Co-Chairmen of the Steering Committee of the International Conference on the former Yugoslavia, and requests the Secretary-General to continue to keep the Security Council regularly informed of developments and of the work of the Conference;

21. *Decides* to remain actively seized of the matter until a peaceful solution is achieved.

Decision of 2 December 1992: statement by the President

Following consultations among the members of the Council held on 2 December 1992, the President (India) made a statement to the media on behalf of the Council concerning the safety and security of United Nations peacekeeping personnel.²⁷⁷ The statement reads in the relevant part as follows:

The members of the Security Council wish to express their deep concern and outrage about the increasing number of attacks against United Nations personnel serving in various peacekeeping operations.

A number of serious incidents affecting military and civilian personnel serving with the United Nations Angola Verification Mission II, the United Nations Transitional Authority in Cambodia and the United Nations Protection Force have occurred during the last few days.

...

The situation in the United Nations Protection Force, which has already suffered over 300 casualties, 20 of them fatal, remains deeply troubling. On 30 November 1992, two Spanish Force soldiers in Bosnia and Herzegovina were seriously injured in a mine attack and a Danish Force soldier was abducted by armed men today.

...

The members of the Council condemn these attacks on the safety and security of United Nations personnel and demand that all parties concerned take all necessary measures to prevent their

²⁷⁷ S/24884; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, pp. 46-47.

recurrence. The members of the Council consider the abduction and detention of United Nations peacekeeping personnel as totally unacceptable and demand the immediate and unconditional release of the United Nations Transitional Authority in Cambodia and United Nations Protection Force personnel concerned.

Decision of 9 December 1992 (3146th meeting): statement by the President

By a letter dated 7 December 1992 addressed to the President of the Council,²⁷⁸ the representative of Bosnia and Herzegovina, invoking paragraph 1 of Article 35 of the Charter of the United Nations, requested an emergency meeting of the Council, in view of the dramatic increase in aggression against Sarajevo and Bihac and cities in central Bosnia. The Presidency of the Republic urged the Council to take immediate measures, including the use of force under Chapter VII, to enforce its resolutions and stop the aggression against the Republic.

At its 3146th meeting, held on 9 December 1992 in accordance with the understanding reached in its prior consultations, the Council included the above-mentioned letter in its agenda.

The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (India) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²⁷⁹

The Security Council is alarmed by the most recent reports that Serb militia in the Republic of Bosnia and Herzegovina have renewed their offensive in Bosnia and Herzegovina, and in particular against the city of Sarajevo, resulting in further loss of life and material damage as well as in endangering the security of United Nations Protection Force and international relief workers, thus threatening international peace and security.

The Council is particularly alarmed by reports that the Serb militia in the Republic of Bosnia and Herzegovina are forcing inhabitants of Sarajevo to evacuate the city. The Council warns that actions aimed at impeding the distribution of humanitarian assistance and at forcing the inhabitants of Sarajevo to leave the city, including the possibility of "ethnic cleansing", would have grave consequences for the overall situation in that country.

²⁷⁸ S/24916.

²⁷⁹ S/24932.

The Council strongly condemns these attacks as violations of its relevant resolutions and of previous commitments, in particular with regard to the cessation of hostilities, the ban on military flights in the airspace of the Republic of Bosnia and Herzegovina, the safety of humanitarian assistance to the civilian population and the restoration of power and water supplies.

The Council demands the immediate cessation of these attacks and of all actions aimed at impeding the distribution of humanitarian assistance and at forcing the inhabitants of Sarajevo to leave the city.

If such attacks and actions continue, the Council will consider, as soon as possible, further measures against those who commit or support them to ensure the security of the Force and of international relief workers, the ability of the Force to fulfil its mandate and compliance with the relevant resolution of the Council.

The Council will remain actively seized of the matter.

**Decision of 18 December 1992 (3150th meeting):
resolution 798 (1992)**

At its 3150th meeting, held on 18 December 1992 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled “The situation in Bosnia and Herzegovina”.

The Council invited the representative of Bosnia and Herzegovina, at his request, to participate in the discussion without the right to vote.

The President (India) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, Morocco and the United Kingdom.²⁸⁰ He also drew their attention to a joint letter from the representatives of Belgium, France and the United Kingdom addressed to the President of the Council,²⁸¹ containing the texts of three declarations adopted by the European Community and its member States at the European Council held in Edinburgh on 11 and 12 December 1992: they concerned the former Yugoslavia, the treatment of Muslim women in the former Yugoslavia and the former Yugoslav Republic of Macedonia. The second declaration recorded the decision of the European Council to dispatch rapidly a delegation to investigate the facts concerning treatment in places of detention, and called upon the United Nations to adopt measures to support this mission.

²⁸⁰ S/24977.

²⁸¹ S/24960.

The draft resolution was then put to the vote and adopted unanimously as resolution 798 (1992), which reads:

The Security Council,

Recalling its resolutions 770 (1992) and 771 (1992) of 13 August 1992 as well as its other relevant resolutions,

Appalled by reports of the massive, organized and systematic detention and rape of women, in particular Muslim women, in Bosnia and Herzegovina,

Demanding that all the detention camps and, in particular, camps for women be immediately closed,

Taking note of the initiative taken by the European Council on the rapid dispatch of a delegation to investigate the facts received until now,

1. *Expresses its support* for the initiative of the European Council;

2. *Strongly condemns* these acts of unspeakable brutality;

3. *Requests* the Secretary-General to provide such necessary means of support as are available to him in the area to enable the European Community delegation to have free and secure access to the places of detention;

4. *Requests* the member States of the European Community to inform the Secretary-General of the work of the delegation;

5. *Invites* the Secretary-General to report to the Security Council within fifteen days of the adoption of the present resolution on measures taken to support the delegation;

6. *Decides* to remain actively seized of the matter.

**DD. Report of the Secretary-General on the
former Yugoslav Republic of
Macedonia**

**Decision of 25 November 1992: letter from the
President of the Security Council to the
Secretary-General**

By a letter dated 25 November 1992 addressed to the President of the Security Council,²⁸² the Secretary-General stated that the President of the former Yugoslav Republic of Macedonia had conveyed to him a request for the deployment of United Nations observers in that Republic in view of his concern about the possible impact on it of the fighting elsewhere in the former Yugoslavia. He added that the Co-Chairmen

²⁸² S/24851.

of the Steering Committee of the International Conference on the former Yugoslavia had recommended the very early deployment to Skopje of a small group of UNPROFOR military and police observers, with supporting political staff. Their immediate mandate would be to visit the Republic's border areas with Albania and Serbia and prepare a report on how a larger deployment of United Nations military and police personnel might help to strengthen security and confidence in the former Yugoslav Republic of Macedonia. He accordingly proposed to dispatch forthwith a group of military, police and civilian personnel on an exploratory mission to that Republic in order to prepare a report on which he could base a recommendation to the Council for a more substantive deployment of UNPROFOR there.

By a letter dated 25 November 1992,²⁸³ the President informed the Secretary-General that the Council agreed with his proposal.

Decision of 11 December 1992 (3147th meeting): resolution 795 (1992)

On 9 December 1992, the Secretary-General submitted to the Council a report on the outcome of the exploratory mission to the former Yugoslav Republic of Macedonia from 28 November to 3 December.²⁸⁴ He stated that the mission had recommended that a small UNPROFOR presence be established on the Macedonian side of that Republic's borders with Albania and the Federal Republic of Yugoslavia (Serbia and Montenegro), with an essentially preventive mandate of monitoring and reporting any developments in the border areas which could undermine confidence and stability in the former Yugoslav Republic of Macedonia or threaten its territory. It had further recommended that a small group of United Nations civilian police should also be deployed in the border area to monitor the Macedonian border police as incidents arising from illegal attempts to cross the border had recently led to increased tension on the Macedonian side. Unlike the military deployment, however, the latter proposal had not yet received the consent of the Macedonian authorities. The Secretary-General stated that the UNPROFOR Force Commander agreed with these proposals, and that he too endorsed them, in the belief that a small

United Nations deployment of this kind on the Macedonian side of the borders would help the former Yugoslav Republic of Macedonia and the two neighbouring countries concerned to make safe passage through a potentially turbulent and hazardous period. He accordingly recommended that the Council authorize this further enlargement of the UNPROFOR mandate and strength on the lines proposed.

At its 3147th meeting, held on 11 December 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda.

The President (India) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.²⁸⁵

He also drew their attention to the following documents: a letter dated 16 November 1992 from the representative of Albania addressed to the Secretary-General,²⁸⁶ urging that the territory of the former Yugoslav Republic of Macedonia be put under international observation to avoid new bloodshed; and the exchange of letters of 23 and 25 November 1992 between the Secretary-General and the President of the Council.²⁸⁷

The draft resolution was then put to the vote and adopted unanimously as resolution 795 (1992), which reads:

The Security Council,

Recalling its resolution 743 (1992) of 21 February 1992,

Recalling the letter from the President of the Security Council dated 25 November 1992 conveying the Security Council's agreement to the proposal by the Secretary-General to send an exploratory mission to the former Yugoslav Republic of Macedonia,

Noting the report of the Secretary-General on the former Yugoslav Republic of Macedonia dated 9 December 1992,

Concerned about possible developments, which could undermine confidence and stability in the former Yugoslav Republic of Macedonia or threaten its territory,

Welcoming the presence of a mission of the Conference on Security and Cooperation in Europe in the former Yugoslav Republic of Macedonia,

²⁸³ S/24852.

²⁸⁴ S/24923.

²⁸⁵ S/24940.

²⁸⁶ S/24814.

²⁸⁷ S/24851 and S/24852.

Considering the request by the Government in the former Yugoslav Republic of Macedonia for a United Nations presence there,

Recalling Chapter VIII of the Charter of the United Nations,

1. *Approves* the report of the Secretary-General of 9 December 1992 on the former Yugoslav Republic of Macedonia;

2. *Authorizes* the Secretary-General to establish a presence of the United Nations Protection Force in the former Yugoslav Republic of Macedonia, as recommended by him in his report, and so to inform the authorities of Albania and those of the Federal Republic of Yugoslavia (Serbia and Montenegro);

3. *Requests* the Secretary-General to deploy immediately the military, civil affairs, and administrative personnel recommended in his report, and to deploy the police monitors immediately upon receiving the consent of the Government in the former Yugoslav Republic of Macedonia to do so;

4. *Urges* the Force presence in the former Yugoslav Republic of Macedonia to coordinate closely with the Conference on Security and Cooperation in Europe mission there;

5. *Requests* the Secretary-General to keep the Security Council regularly informed of the implementation of the present resolution;

6. *Decides* to remain seized of the matter.

Middle East

21. The situation between Iran and Iraq

**Decision of 8 February 1989 (2844th meeting):
resolution 631 (1989)**

On 2 February 1989, pursuant to resolution 619 (1988), the Secretary-General submitted to the Security Council a report on the activities of the United Nations Iran-Iraq Military Observer Group (UNIIMOG) for the period from its inception on 9 August 1988 to 2 February 1989, and on his efforts to bring about implementation of the other provisions of resolution 598 (1987) of 20 July 1987, which provided the framework for a settlement of the conflict between Iran and Iraq.¹ The report described the steps taken by UNIIMOG to monitor compliance with a ceasefire which had come into effect on 20 August 1988, and to investigate alleged violations of it. It noted that, although the Group had received numerous complaints of such violations, most of them were very minor in nature and few had been confirmed as violations. Moreover, the number of alleged and confirmed violations per month had been steadily declining as UNIIMOG had gained the trust and respect of both parties. A preliminary agreement on the status of UNIIMOG had been concluded with the Government of Iraq, but a similar agreement with the Government of the Islamic Republic of Iran was still under discussion.

The Secretary-General observed that the ceasefire, together with the discontinuation of all military activities on land, at sea and in the air and withdrawal to the internationally recognized boundaries, constituted a first step towards a negotiated settlement as demanded by resolution 598 (1987). Direct talks between the two parties had been held under his auspices immediately after the establishment of the ceasefire, aimed at reaching a common understanding of the other provisions of the resolution and the procedures and timings for their

implementation. However, the parties continued to hold divergent views on various issues: on what constituted a ceasefire, on when the withdrawal of forces to the internationally recognized boundaries should begin, and on the context and manner in which the question of the restoration of the Shatt al-Arab to navigation should be discussed. They also disagreed on the wider issue of the framework for the conduct of the direct talks. Those differences and the underlying issues involved had made it difficult to proceed with the full and rapid implementation of resolution 598 (1987).

The Secretary-General emphasized that it was important for the authority of the Security Council that that resolution not remain partially implemented. Stressing the need to develop the basis for mutual trust between the two parties, he strongly hoped that further steps of a confidence-building character might be taken by each side in the near future. The implementation of the resolution required that all concerned show renewed positive determination and that they intensify their efforts to make clear to each other their objectives. The implementation of the resolution would bring peace to both countries and contribute to security and stability for the region as a whole. For that to be achieved, however, the resolution should be looked at in a wider context. It had to be implemented in conformity with the principles of international law as they pertained to respect for territorial integrity, non-acquisition of territory by force, the inviolability of internationally recognized boundaries and non-interference in the internal affairs of other States. The underlying principle was the fulfilment in good faith of international obligations and in particular of those set out in the Charter of the United Nations. Implementation also required a restoration of normality as soon as possible. The Secretary-General stated that he intended to pursue the discussions with the two Foreign Ministers soon and to explore with them how to proceed in the most effective manner. He stressed that, for the talks to be successful, both sides had to accept that there would be neither victor nor vanquished at the negotiating table and that the integrity, dignity and honour of both countries would be preserved. He considered that to be the solid foundation for serious and productive peace talks

¹ S/20442. UNIIMOG was established by resolution 619 (1988) of 9 August 1988. Its mandate, set out in paragraphs 1 and 2 of resolution 598 (1987) of 20 July 1987, was to verify, confirm and supervise an immediate ceasefire between the two countries and the withdrawal of all forces to the internationally recognized boundaries.

between the two countries under his auspices. In the meantime, the Secretary-General viewed the continued presence of UNIIMOG as an essential condition for further progress towards the full implementation of resolution 598 (1987). Both parties had, moreover, assured him of their support for the Group and of their agreement that its mandate should be extended. He accordingly recommended to the Council that the mandate of UNIIMOG be extended for a period of 7 months and 22 days, until 30 September 1989.

At its 2844th meeting, on 8 February 1989, the Council included the report of the Secretary-General in its agenda. After the adoption of the agenda, the Council invited the representatives of the Islamic Republic of Iran and Iraq, at their request, to participate in the discussion without the right to vote.

At the same meeting, the President (Nepal) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.² The draft resolution was then put to the vote and adopted unanimously as resolution 631 (1989), which reads:

The Security Council,

Recalling its resolutions 598 (1987) of 20 July 1987 and 619 (1988) of 9 August 1988,

Having considered the report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group of 2 February 1989, and taking note of the observations expressed therein,

Decides:

(a) To call upon the parties concerned to implement immediately Security Council resolution 598 (1987);

(b) To renew the mandate of the United Nations Iran-Iraq Military Observer Group for a period of seven months and twenty-two days, that is, until 30 September 1989;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 598 (1987).

**Decision of 29 September 1989
(2885th meeting): resolution 642 (1989)**

On 22 September 1989, pursuant to resolution 631 (1989), the Secretary-General submitted to the Security Council a report on UNIIMOG for the period

² S/20449.

from 3 February to 22 September 1989.³ He stated that the ceasefire had, on the whole, been maintained during the period under review. There had been a few serious violations and many minor ones, but in general the parties had honoured their commitment to respect the ceasefire and had cooperated with UNIIMOG. Preliminary agreements concerning the status of UNIIMOG had been concluded with both countries. The Secretary-General expressed concern, however, about the restrictions imposed on the Group's freedom of movement in various locations. He noted, moreover, that, although UNIIMOG continued successfully to monitor compliance with the ceasefire, the withdrawal of forces to the internationally recognized boundaries had not yet taken place; part of the UNIIMOG mandate thus remained unimplemented. It was a matter of widespread concern that one year had elapsed without any further progress beyond the partial implementation of paragraphs 1 and 2 of resolution 598 (1987), demanding a ceasefire and troop withdrawal under United Nations supervision. The present situation of "no war-no peace" contained elements of instability not only for the two countries concerned but also for the region. Both parties, he said, had repeatedly expressed their commitment to achieving the full implementation of the resolution. However, largely because of mutual mistrust, the divergence in their interpretations of how that was to be accomplished had prevented forward movement. Iraq's position was that the resolution should be fully implemented as a peace plan. Its main concern was the implementation of the other provisions of the resolution, once the withdrawal to the internationally recognized boundaries had been carried out. It maintained that the direct talks it had envisaged to reach a common understanding of the resolution as a whole had yet to take place. The Islamic Republic of Iran, on the other hand, was of the view that the withdrawal to the internationally recognized boundaries was a mandatory provision of the resolution which should be carried out without delay or preconditions. It asserted that the withdrawal should be implemented as a first step, together with the ceasefire, in accordance with paragraph 1 of the resolution. The parties had also taken different views of how and when to implement paragraph 3 of the resolution, on the release and repatriation of prisoners of war.

The Secretary-General affirmed that he and his Personal Representative had stressed to the parties the

³ S/20862.

need to implement resolution 598 (1987) as an integrated whole — an approach which the Council had repeatedly supported — and had also underlined the urgency which the Council attributed to particular provisions of that resolution. He had stressed that the resolution demanded a withdrawal to the internationally recognized boundaries and urged the release and repatriation of the prisoners of war, without delay. He had recognized, however, that other provisions might take longer to implement. He reported, in that regard, that each side had to be assured of the other's firm commitment to the full implementation of the resolution, even though all the elements did not require the same amount of time to be implemented. He stressed that such assurances, which would be in conformity with relevant principles of international law, must be given in a manner that would lay the foundation for stability and peace in the region, another objective of the resolution. In that context, the full support of the economic life of the two countries would be to the advantage of both. The Secretary-General expressed his confidence that the leadership of both countries would make it possible for his Personal Representative to address the issues constructively when he visited the area later in the year. He was also sure that the Security Council would continue to provide him with all necessary support. Observing that UNIIMOG had played an indispensable role in ensuring the maintenance of the ceasefire, and that its continued presence was an essential condition for further progress towards the full implementation of resolution 598 (1987), he recommended, with the agreement of the parties, that the Council extend the Group's mandate for a further period of six months, until 31 March 1990.

At its 2885th meeting, on 29 September 1989, the Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the Council invited the representatives of the Islamic Republic of Iran and of Iraq, at their request, to participate in the discussion without the right to vote.

At the same meeting the President (Brazil) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁴ The draft resolution was then put to the vote and adopted unanimously as resolution 642 (1989), which reads:

⁴ S/20873.

The Security Council,

Recalling its resolutions 598 (1987) of 20 July 1987, 619 (1988) of 9 August 1988 and 631 (1989) of 8 February 1989,

Having considered the report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group of 22 September 1989, and taking note of the observations expressed therein,

Decides:

(a) To call once again upon the parties concerned to implement immediately Security Council resolution 598 (1987);

(b) To extend the mandate of the United Nations Iran-Iraq Military Observer Group for a further period of six months, that is, until 31 March 1990;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 598 (1987).

**Decision of 27 February 1990 (2908th meeting):
statement by the President**

At its 2908th meeting, held on 27 February 1990 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled "The situation between Iran and Iraq". After the adoption of the agenda, the President (Cuba) said that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁵

The Council expresses its appreciation to the Secretary-General for his briefing on the situation between Iran and Iraq and on his integrated approach to the format, agenda and timetable for direct talks between the parties aimed at achieving the full implementation of resolution 598 (1987) of 20 July 1987.

Accordingly, the Council fully supports the efforts of the Secretary-General aimed at the holding of appropriately structured direct talks between both parties under his auspices, for a period of two months and with a specific agenda, the elements of which he outlined to the members of the Council, that he would propose to the parties, on the basis of the concluding observations contained in his report of 22 September 1989.

The Council calls upon both parties to cooperate fully with the Secretary-General in his ongoing efforts, considering that 18 months after the ceasefire between Iran and Iraq, resolution 598 (1987) has not yet been fully implemented.

The Council requests the Secretary-General to report to it at the conclusion of this stage of his efforts and to inform it on

⁵ S/21172.

the results achieved and on the further steps he envisages for the full implementation of resolution 598 (1987).

**Decision of 29 March 1990 (2916th meeting):
resolution 651 (1990)**

On 22 March 1990, pursuant to resolution 642 (1989), the Secretary-General submitted to the Security Council a report on UNIIMOG for the period from 23 September 1989 to 22 March 1990.⁶ The Group, he stated, continued to monitor compliance with the ceasefire. Despite two serious firing incidents in December 1989, there had been a general calm along the ceasefire lines and a significant and encouraging decline in the number of major violations throughout the mandate period. UNIIMOG continued to receive cooperation from the two parties. However, the military observers had been denied access to certain operational areas by both parties even though the preliminary agreements concerning the status of UNIIMOG remained in effect. Moreover, as the withdrawal of forces to the internationally recognized boundaries had still not taken place, parts of the UNIIMOG mandate remained unimplemented. In the meantime, the Group continued to refine its plans for the supervision of the withdrawal, once it was agreed by the parties.

The Secretary-General also reported that he had made a major effort to explore in detail the positions of the Islamic Republic of Iran and Iraq with regard to the various elements of resolution 598 (1987) yet to be implemented. His Personal Representative's extended visit to the region in November 1989 had been aimed at encouraging both sides to focus on an agenda for a new phase of direct talks. Despite encountering some difficulties, he had concluded his visits to the two capitals by making a presentation of a possible programme of work, which he had outlined to both sides for their consideration. Following his envoy's visits, the Secretary-General had continued his own efforts, meeting separately with the two sides and emphasizing the need for appropriately structured direct talks under his auspices with a specific agenda based on his September report to the Security Council. However, in December 1989, it had seemed that progress would not be obtained without concrete support for his efforts by the members of the Council.

⁶ S/21200.

Against that background, the Secretary-General stated that the statement issued by the President of the Council on 27 February 1990 constituted an important step in the efforts aimed at implementing resolution 598 (1987). It was an indication of what the international community considered to be a reasonable way to proceed. The particular urgency of certain provisions in the resolution — those referring to withdrawal without delay, and to the release and repatriation of prisoners of war without delay — as well as the need to implement the resolution as a peace plan and as an integrated whole, had been fully recognized. After thus receiving the Council's support, the Secretary-General had presented to both sides a draft agenda for a new phase of direct talks to bring about the implementation of resolution 598 (1987). No final answer had yet been received from either Government, however. The Secretary-General believed that it was time for the leadership of the two countries to notify him of their acceptance of the proposed agenda and to give added political impetus to the talks by indicating to each other their sincerity and their determination to implement the resolution. In the meantime, he thought it was clear that UNIIMOG continued to play an indispensable part in ensuring the maintenance of the ceasefire and that its continued presence was an essential condition for further progress towards the full implementation of resolution 598 (1987). Therefore, and with the agreement of both parties, he recommended to the Council that the UNIIMOG mandate be extended for a further period of six months, until 30 September 1990.

At its 2916th meeting, on 29 March 1990, the Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the Council invited the representatives of the Islamic Republic of Iran and of Iraq, at their request, to participate in the discussion without the right to vote.

At the same meeting, the President (Democratic Yemen) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁷ The draft resolution was then put to the vote and adopted unanimously as resolution 651 (1990), which reads:

⁷ S/21217.

The Security Council,

Recalling its resolutions 598 (1987) of 20 July 1987, 619 (1988) of 9 August 1988, 631 (1989) of 8 February 1989 and 642 (1989) of 29 September 1989,

Having considered the report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group of 22 March 1990, and taking note of the observations expressed therein,

Decides:

(a) To call once again upon the parties concerned to implement immediately its resolution 598 (1987);

(b) To extend the mandate of the United Nations Iran-Iraq Military Observer Group for a further period of six months, that is, until 30 September 1990;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 598 (1987).

**Decision of 27 September 1990
(2944th meeting): resolution 671 (1990)**

On 21 September 1990, pursuant to resolution 651 (1990), the Secretary-General submitted to the Security Council a report on UNIIMOG for the period from 23 March to 21 September 1990.⁸ He reported that the withdrawal of forces to the internationally recognized boundaries had commenced on 17 August 1990, with the withdrawal of Iraqi forces. UNIIMOG had monitored the withdrawal, in accordance with its mandate. It had also continued to monitor the ceasefire and had endeavoured to obtain the agreement of the parties to other arrangements which, following the withdrawal, could help to reduce possible tensions and build confidence between them. In that regard, and in accordance with its mandate, the Group had proposed to both parties the establishment of areas of separation and of arms limitations along the internationally recognized boundaries. The Secretary-General observed that, although the withdrawal of all forces was now almost complete, there were a few locations where, in the view of UNIIMOG, the forces of each side remained on the wrong side of the internationally recognized boundaries. In those circumstances, he recommended the extension of the Group's mandate for a limited period of two months, until 30 November 1990, to permit it to complete its tasks related to the withdrawal and to allow time for the parties and the Council to judge whether there was a continuing

⁸ S/21803.

requirement for an impartial third party to monitor the ceasefire on the internationally recognized boundaries. During the extension phase, UNIIMOG would continue to verify, confirm and supervise the remaining stages of the withdrawal; help the parties to resolve any local tensions; and assist them in establishing an area of separation on each side of the border into which each party would agree not to deploy military forces. The Secretary-General also recommended a reduction in the strength of UNIIMOG since only about 60 per cent of the current military observer strength would be required to perform those tasks. He added that both parties had agreed to the proposed extension, and that it was his intention to initiate further consultations with them about the future of UNIIMOG early in November, after which he would submit his recommendations to the Council.

At its 2944th meeting, held on 27 September 1990, the Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the Council invited the representatives of the Islamic Republic of Iran and of Iraq, at their request, to participate in the discussion without the right to vote.

At the same meeting, the President (Union of Soviet Socialist Republics) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁹ The draft resolution was then put to the vote and adopted unanimously as resolution 671 (1990), which reads:

The Security Council,

Recalling its resolutions 598 (1987) of 20 July 1987, 619 (1988) of 9 August 1988, 631 (1989) of 8 February 1989, 642 (1989) of 29 September 1989 and 651 (1990) of 29 March 1990,

Having considered the report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group of 21 September 1990, and taking note of the observations expressed therein,

1. *Decides* to extend the mandate of the United Nations Iran-Iraq Military Observer Group for a further period of two months, that is, until 30 November 1990, as recommended by the Secretary-General;

2. *Requests* the Secretary-General to submit, during the period of November, a report on his further consultations with the parties about the future of the Military Observer Group, together with his recommendations on this matter.

⁹ S/21822.

**Decision of 28 November 1990 (2961st meeting):
resolution 676 (1990)**

On 23 November 1990, the Secretary-General submitted to the Council a report on UNIIMOG for the period from 22 September to 20 November 1990.¹⁰ The report comprised two parts. The first part was submitted pursuant to resolution 671 (1990), in response to the Council's request for a report on his further consultations with the parties about the future of UNIIMOG, together with his recommendations. It also described the Group's activities during the two-month period. The second part of the report, submitted pursuant to resolution 651 (1990), detailed the Secretary-General's efforts aimed at implementing resolution 598 (1987).

In the first part of his report, the Secretary-General noted that the two sides had almost completed the process of withdrawal to the internationally recognized boundaries. Despite some cases of local tension, there had been no serious incidents. UNIIMOG had concentrated its efforts on supervising, verifying and confirming the withdrawal of the two sides' forces and their assumption of new positions on or close to the border. It had also continued to promote the idea of an area of separation and an area of limitation of armaments on either side of the border as a means of building confidence and reducing the risk of incidents. Both sides had stated that they accepted the principle of an area of separation and that they were ready to enter into discussions about detailed arrangements for its establishment.

With regard to the future of UNIIMOG, the Secretary-General reported that both sides had agreed that during a renewed mandate period its tasks should be to resolve the remaining problems on the border; to try to arrange an exchange of information between the parties about unmarked minefields; and to assist the parties in negotiating and implementing an area of separation and an area of limitation of armaments. In his view, those tasks were appropriate ones for the United Nations — through UNIIMOG — to undertake; if successfully carried out, they would make an important contribution to the full implementation of resolution 598 (1987). He added that views had differed, however, on the length of the renewed mandate period and the strength of UNIIMOG. The Secretary-General himself had favoured extension for a

longer period than two months and reduction of UNIIMOG to a strength of 50 to 60 observers on each side. The Iraqi authorities had expressed a strong preference for the UNIIMOG mandate to be renewed for a full period of six months, with the Group remaining at its present strength. The Iranian authorities had initially expressed the view that, since important parts of resolution 598 (1987) had been almost completely implemented and progress had been made in recent months in the bilateral relationship between the two parties, it was doubtful whether there was a continuing need for third-party involvement. However, after detailed discussion, the Islamic Republic of Iran had agreed that the mandate of UNIIMOG should be renewed, but with a reduced strength of 50 to 60 military observers on each side and for a period of only two months. In those circumstances the Secretary-General recommended that the Council extend the Group's mandate for a further period of two months, until 31 January 1991, with a strength not exceeding 120 military observers, plus the necessary support personnel, and with the tasks described above.

In the second part of his report, the Secretary-General described his efforts to bring about full implementation of resolution 598 (1987). He reported that on 3 July 1990 he had been able to convene a joint meeting of the Foreign Ministers of the Islamic Republic of Iran and Iraq, providing the first opportunity for direct contact between the two Ministers since April 1989. Both sides had reaffirmed their commitment to the implementation of resolution 598 (1987), which remained the framework within which all contacts between the two sides were taking place, as well as their support for the role of the Secretary-General in that connection. Bilateral contacts had continued and, in October, the two Governments had re-established diplomatic relations. Both sides had also begun to repatriate their prisoners of war, as required by the resolution.

The Secretary-General observed that when the Council adopted its mandatory resolution on the conflict between the Islamic Republic of Iran and Iraq, it was clear that its ultimate aim was the re-establishment of good-neighbourly relations and the enhancement of the security and stability of the region. While important parts of the resolution had been implemented, the fundamental change in the relations between the two countries had come at a time of new

¹⁰ S/21960.

crisis for the region. As contacts continued between the two Governments to put their relations on a normal footing, it appeared that paragraph 8 of the resolution — in which the Secretary-General was requested to examine, in consultation with the Islamic Republic of Iran and Iraq and with other States of the region, measures to enhance the security and stability of the region — should at an appropriate time be looked at anew. It seemed to the Secretary-General that full implementation of resolution 598 (1987) could well contribute to a marked improvement of the situation in the region as a whole. He therefore intended, as appropriate, to remain in close touch with the Governments concerned with regard to the yet unimplemented paragraphs of the resolution.

At its 2961st meeting, on 28 November 1990, the Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the Council invited the representatives of the Islamic Republic of Iran and Iraq, at their request, to participate in the discussion without the right to vote.

At the same meeting the President (United States) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.¹¹ The draft resolution was then put to the vote and adopted unanimously as resolution 676 (1990), which reads:

The Security Council,

Recalling its resolutions 598 (1987) of 20 July 1987, 619 (1988) of 9 August 1988, 631 (1989) of 8 February 1989, 642 (1989) of 29 September 1989, 651 (1990) of 29 March 1990 and 671 (1990) of 27 September 1990,

Having considered the report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group of 23 November 1990, and taking note of the observations expressed therein,

1. *Decides* to extend the mandate of the United Nations Iran-Iraq Military Observer Group for a further period of two months, that is, until 31 January 1991, as recommended by the Secretary-General;

2. *Requests* the Secretary-General to submit, during January 1991, a report on his further consultations with the parties about the future of the Military Observer Group, together with his recommendations on this matter.

¹¹ S/21970.

Decision of 31 January 1991 (2976th meeting): resolution 685 (1991)

On 29 January 1991, pursuant to resolution 676 (1990), the Secretary-General submitted to the Security Council a report on UNIIMOG for the period from 21 November 1990 to 27 January 1991, together with his recommendations on its future.¹² He stated that the activities of the Group had been considerably affected by developments in the Gulf region.¹³ The outbreak of hostilities in the area had effectively prevented UNIIMOG from continuing its operations in Iraq and all UNIIMOG personnel in the country had been temporarily relocated. The Secretary-General observed that the general situation along the internationally recognized boundaries had remained very calm during the mandate period. At a technical meeting of military experts on 6 January 1991, the two parties had reached agreements on the outstanding questions relating to the UNIIMOG mandate: the question of disputed positions along the internationally recognized boundaries; the exchange of information on minefields; and the establishment of an area of separation along the internationally recognized boundaries. The Secretary-General stated that the agreements were fully consistent with the Group's mandate and provided for the Group to monitor their implementation within a specified time frame. He observed that they constituted a very useful development in the efforts towards the successful completion of the remaining tasks of UNIIMOG. Although implementation of the agreements had not proceeded fully according to schedule, that was due to the outbreak of hostilities in the area, not to lack of commitment on either side. Indeed, both sides had given firm indications to UNIIMOG that they remained determined to implement fully in due course the arrangements agreed upon on 6 January. They had also confirmed to the Secretary-General that they would continue to count on the presence and assistance of UNIIMOG for that purpose. Notwithstanding current security considerations and their unavoidable effect on operational effectiveness, the Secretary-General was of the view, shared by the two parties, that the UNIIMOG mandate should be extended so that the Group could

¹² S/22148.

¹³ For the Council's proceedings in relation to those developments, see also in this chapter the section entitled "Items relating to the situation between Iraq and Kuwait" (sect. 22).

fulfil completely its important responsibilities. However, pending clarification of the situation in the area, the extension would have to be for a brief period. He therefore recommended that the Council extend the mandate of UMIIMOG for a further period of one month, until 28 February 1991.

The Secretary-General observed further that the implementation of paragraphs 1 and 2 of resolution 598 (1987), demanding a ceasefire and troop withdrawal under United Nations supervision, was very close to completion. Progress had also been made in the fulfilment of paragraph 3, calling for the repatriation of prisoners of war, and paragraph 4, calling on the parties to deal with other outstanding issues. What remained to be implemented were other paragraphs in which the role requested of the Secretary-General was mainly a political one. Paragraph 8, in particular, by which he was requested to examine, in consultation with the Islamic Republic of Iran and Iraq and with other States of the region, measures to enhance the security and stability of the region, had taken on added significance in the current circumstances. The Secretary-General informed the Council that he would consult, at the appropriate time, with both sides on the manner in which he intended to pursue his task in that regard. He expressed the hope that the agreements recently reached at the military level would be fully implemented in the weeks ahead, making it possible to focus more directly on the work required to implement the remaining paragraphs of the resolution.

At the 2976th meeting, on 31 January 1991, prior to the adoption of the agenda, which included the item entitled "The situation between Iran and Iraq", the representative of Cuba made a statement. He stated that, while his delegation considered it appropriate for the Council to meet at that time to renew the mandate of UNIMOG and to support the Group fully in discharging its responsibilities, it could not vote in favour of the provisional agenda without voicing its deep dissatisfaction that the Council had not been able to consider a serious problem, of concern to the entire world, which was obviously its most basic obligation to take up. The speaker noted that, despite the fact that for more than one week a group of members of the Council had been asking for a meeting on an urgent basis and that two members of the Council had requested that it meet to consider the war situation that currently existed in the region, thus far the Council had not done so, notwithstanding the clear and categorical

provisions in its provisional rules of procedure. In agreeing to consider now the item "The situation between Iran and Iraq", the Cuban delegation also wished to express its view that the Council had a basic obligation to fulfil in connection with the war situation prevailing in the Gulf: namely, the obligation to consider, discuss and hear the ideas and proposals Member States wished to put forth.¹⁴

The Council members held a procedural discussion on the appropriateness of making such a statement before the adoption of the agenda.¹⁵

The Council then proceeded to adopt the agenda, which included the report of the Secretary-General. Following the adoption of the agenda, the Council invited the representatives of the Islamic Republic of Iran and of Iraq, at their request, to participate in the discussion without the right to vote.

At the same meeting, the President (Zaire) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.¹⁶ The draft resolution was then put to the vote and adopted unanimously as resolution 685 (1991), which reads:

The Security Council,

Recalling its resolutions 598 (1987) of 20 July 1987, 619 (1988) of 9 August 1988, 631 (1989) of 8 February 1989, 642 (1989) of 29 September 1989, 651 (1990) of 29 March 1990, 671 (1990) of 27 September 1990 and 676 (1990) of 28 November 1990,

Having considered the report of the Secretary-General on the United Nations Iran-Iraq Military Observer Group of 28 January 1991, and taking note of the observations expressed therein,

1. *Decides* to extend the mandate of the United Nations Iran-Iraq Military Observer Group for a further period of one month, that is, until 28 February 1991, as recommended by the Secretary-General;
2. *Requests* the Secretary-General to submit, during February 1991, a report on his further consultations with the parties about the future of the Group, together with his recommendations on this matter.

Following the adoption of the resolution, the representative of Yemen stated that the chapter on the

¹⁴ S/PV.2976, pp. 2-3.

¹⁵ For the discussion regarding rules 2, 9 and 30 of the provisional rules of procedure, see chapters I and II.

¹⁶ S/22171.

conflict between the Islamic Republic of Iran and Iraq was closing just as the situation in the region was deteriorating because of the major war operations now taking place in accordance with Security Council resolution 678 (1990). He recalled that, on 23 January, the countries of the Arab Maghreb had called for a Council meeting to debate the situation and that, on 24 January, as his country's representative in the Council, he had put forward a similar request. He found it most regrettable that, for the first time in the history of the Council, a request of that kind, made in accordance with rule 2 of the Council's provisional rules of procedure, had not been accepted. The speaker cautioned that the war in the Gulf might lead to a crisis in the Council and to paralysis of its work. His delegation put forward this problem because it strongly believed that the Council must always stand against war, particularly since the current war operations had gone beyond Yemen's view of resolution 678 (1990); they were more like an attempt to destroy the military and scientific infrastructure of Iraq than an attempt to liberate Kuwait. Yemen recognized the need for Iraq to withdraw from Kuwait and for Kuwait's full sovereignty to be restored. The speaker called upon the current President of the Council and the President for the following month speedily to consider his country's request for a meeting so that the Council could, openly, take the appropriate measures.¹⁷

The representative of Cuba pointed out that the Secretary-General, in paragraph 19 of his report,¹⁸ had referred to the real war in the region, which directly affected the compliance of UNIIMOG with its mandate. He drew the attention of the Council members to the fact that it did not serve the Council's interests that it had not yet been able to meet to perform a clear duty spelled out in its provisional rules of procedure: to preserve future generations from the scourge of war and to do whatever could be done for peace. The speaker stated further that the members of the Council should not be deprived of the right under the Charter to be heard. Above all, the Council should not be placed in a situation in which it could be found to be ignoring the norms governing its activities.¹⁹

The President (Zaire), in reply to the representative of Yemen, stated that he had duly applied rule 2 of the provisional rules of procedure and

had received a mandate from all members of the Council to conduct consultations. It was clearly understood, he added, that the members of the Council were unanimous in supporting the principle of convening a formal meeting of the Council. He had therefore received a mandate to consult to agree on the date of that meeting.²⁰

Decision of 28 February 1991: letter from the President of the Security Council to the Secretary-General

On 26 February 1991, pursuant to resolution 685 (1991), the Secretary-General submitted to the Security Council a report on UNIIMOG for the period from 28 January to 25 February 1991, together with his recommendations on its future.²¹ He noted that the general situation along the internationally recognized boundaries had remained very calm during the mandate period. Because of the temporary relocation of the UNIIMOG Baghdad observers in January, the Group had continued to monitor the boundaries from the Iranian side only. The parties had continued to implement the agreements reached during their technical meeting on 6 January 1991, and UNIIMOG had provided assistance in that process. The withdrawal of the two sides' forces to the internationally recognized boundaries had been completed, enabling UNIIMOG to complete verification and confirmation of the withdrawal in accordance with its mandate. There remained the question of establishing an area of separation and an area of limitation of armaments which, pending negotiation of a comprehensive settlement, could help to reduce tension and build confidence between the parties. Both sides had informed UNIIMOG that they had begun — and, in the case of Iraq, had completed — the establishment of the area of separation envisaged in the 6 January agreements. However, owing to the temporary suspension of its operations in Iraq and because of the increased restrictions on its freedom of movement in the Islamic Republic of Iran, the Group had not been in a position to confirm this on the ground.

The Secretary-General concluded that the time had come to consider paragraphs 1 and 2 of resolution 598 (1987) as implemented and to move forward by

¹⁷ S/PV.2976, pp. 11-12.

¹⁸ S/22148.

¹⁹ S/PV.2976, pp. 12-13.

²⁰ *Ibid.*, pp. 13-14.

²¹ S/22263.

converting the United Nations presence in the two countries into one, which would more appropriately assist him in carrying out the remaining tasks entrusted to him by other paragraphs of that resolution. Those tasks were essentially political rather than military and the Secretary-General had therefore informed the parties of his intention to recommend to the Council that UNIIMOG should be replaced by small civilian offices. The offices at Baghdad and Tehran would, however, include a few military observers who would be available to investigate and help to resolve any difficulties of a military nature that might arise on the border. He accordingly recommended that the Council take no action to extend the UNIIMOG mandate, which would come to an end on 28 February 1991. He added that he would shortly send the President of the Council a letter elaborating on his intention to establish small civilian offices in the area. Meanwhile, UNIIMOG personnel would be withdrawn as soon as possible, except for those who would be required for the proposed civilian offices.

By a letter dated 26 February 1991 addressed to the President of the Security Council,²² the Secretary-General referred to his report of 29 January 1991 on UNIIMOG,²³ in which he had stated that, after the implementation of paragraphs 1 and 2 of resolution 598 (1987) had been completed, he intended to begin contacts with the parties on the manner in which he would pursue the other tasks entrusted to him by that resolution. He reiterated that those tasks envisaged a political role by the Secretary-General. In particular, some of the remaining paragraphs of the resolution required him to explore certain issues in consultation with the Islamic Republic of Iran and Iraq. Another paragraph requested him to examine, in consultation with those two countries as well as with other States of the region, measures to enhance the security and stability of the region. Such tasks, in his opinion, would be facilitated by the establishment in the region — particularly in the Islamic Republic of Iran and Iraq — of civilian offices, which would help him to carry out his work and to have a better assessment of developments in the area. For the reasons stated in his report of 26 February 1991 on UNIIMOG, he had decided to recommend that the mission's mandate not be extended. At the same time, he thought that the continued presence of a few military observers

attached to those civilian offices which would be located in the Islamic Republic of Iran and Iraq would allow the Organization to respond promptly to any request from the parties to investigate matters for which military expertise would be required. The Secretary-General trusted that these arrangements would meet with the concurrence of the members of the Council.

By a letter dated 28 February 1991,²⁴ the President of the Security Council informed the Secretary-General as follows:

I have the honour to inform you that your letter dated 26 February 1991 was brought to the attention of the members of the Security Council, who considered the matter in consultations held on 27 February 1991.

The members of the Council agreed with the observations and recommendations contained in the report of 26 February 1991 on the United Nations Iran-Iraq Military Observer Group for the period 28 January 1991 to 25 February 1991 and concurred with the arrangements proposed in the report and the letter.

The members of the Council express their gratitude to you personally and their appreciation to the members of the Group on the successful completion of their important task.

By a letter dated 23 May 1991 addressed to the President of the Security Council,²⁵ the Secretary-General stated that, following his last report on UNIIMOG²⁶ and the follow-up exchange of letters,²⁷ he had continued his efforts towards the full implementation of resolution 598 (1997). In that context, he wished to inform the Council that, pursuant to the mandate entrusted to him by paragraph 7 of that resolution, and in consultation with the Government of the Islamic Republic of Iran, he had assigned a team of experts to make an exploratory visit to that country towards the end of May, to study the question of reconstruction. It was anticipated that the team would remain in the area for an initial period of two to three weeks. The Secretary-General added that, in the implementation of this mandate, he was also in contact with the Government of Iraq.

²⁴ S/22280.

²⁵ S/22637.

²⁶ Dated 26 February 1991 (S/22263).

²⁷ Letter dated 26 February 1991 from the Secretary-General addressed to the President of the Security Council (S/22279) and letter dated 28 February 1991 from the President of the Security Council addressed to the Secretary-General (S/22280).

²² S/22279.

²³ S/22148.

22. Items relating to the situation between Iraq and Kuwait

Initial proceedings

A. The situation between Iraq and Kuwait

Decision of 2 August 1990 (2932nd meeting): resolution 660 (1990)

By a letter dated 2 August 1990 addressed to the President of the Security Council,¹ the representative of Kuwait requested an immediate meeting of the Council to consider the Iraqi invasion of Kuwait in the early morning of that day.

By a letter dated 2 August 1990 addressed to the President of the Security Council,² the representative of the United States urgently requested, in the light of the invasion of Kuwait by Iraqi forces and the request of the representative of Kuwait, an immediate meeting of the Council.

At its 2932nd meeting, on 2 August 1990, the Council adopted the agenda item entitled "The situation between Iraq and Kuwait", included in it the two above-mentioned letters and began its consideration of the item. The Council invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (Romania) drew the attention of the members of the Council to a draft resolution submitted by Canada, Colombia, Côte d'Ivoire, Ethiopia, Finland, France, Malaysia, the United Kingdom and the United States.³

Commencing the discussion, the representative of Kuwait stated that in the early hours of 2 August 1990 Iraqi forces had crossed Kuwait's internationally recognized boundaries, penetrated its territory and reached its populated area. As stated by his Government a few hours earlier, Iraq had occupied Kuwait at dawn that day. The Iraqi forces had occupied crossroads and ministries and shelled the headquarters of the Government. The Government statement added that Baghdad Radio had announced that the aim of the invasion of Kuwait was to stage a coup d'état to overthrow the government and establish a new government friendly to Iraq. The speaker assured the

Council, however, that the Government of Kuwait remained in control in Kuwait and was defending the country. He said that Iraq's pretext for the invasion was false and unwarranted. If not deterred decisively by the Council, such action would threaten all international relations and jeopardize the security, sovereignty and territorial integrity of every State. It was alarming, he added, that the invasion should come from Iraq, an Arab country with which Kuwait shared historic ties, and appalling that it should occur less than one day after a round of talks between the deputy leaders of the two countries in Jeddah, Saudi Arabia. At that meeting, Kuwait had expressed its willingness to continue bilateral negotiations in Kuwait and Baghdad in order to solve the problem by peaceful means in accordance with the Charter of the United Nations and the Charter of the Arab League and the principles of non-alignment and of Islam. However, Kuwait was faced with the Iraqi invasion, which represented a flagrant violation of the Charter of the United Nations, particularly the provisions of Article 2 (3 and 4). The speaker further stated that it was incumbent on the Council to shoulder its responsibilities and to protect Kuwait, whose security, sovereignty and territorial integrity had been violated. This was a test for the Council, which was responsible for peace and security in that vital area of the world and towards all small and defenceless nations. He added that Kuwait was asking the Security Council to immediately halt the invasion and to ensure, by every means available, the immediate and unconditional withdrawal of Iraq to the international boundaries that existed before the invasion. In conclusion, he urged the Council to adopt a resolution in conformity with the Charter and with international laws and norms.⁴

The representative of Iraq stated that his Government's position with respect to the item before the Council was as follows: (1) the events taking place in Kuwait were internal matters which had no relation to Iraq; (2) Iraq's assistance had been requested by the "Free Provisional Government of Kuwait", to establish security and order, and was being provided solely on that basis; (3) Iraq was pursuing no goal or objective in Kuwait, with which it wished to have cordial and good-

¹ S/21423.

² S/21424.

³ S/21425.

⁴ S/PV.2932, pp. 5-8.

neighbourly relations; (4) the Kuwaitis themselves would determine their future; the Iraqi forces would withdraw as soon as order had been restored, which, his Government hoped, would take no more than a few days, or at most a few weeks; (5) as the previous Kuwaiti Government had reportedly been overthrown and there was now a new Government in Kuwait, the person in Kuwait's seat at the Council's meeting represented no one, and his statement lacked credence; and (6) the Government of Iraq rejected the flagrant intervention by the United States in those events, which was further evidence of the collusion between the United States Government and the "previous Government" of Kuwait. The speaker concluded by reiterating that his Government hoped that order would be swiftly restored in Kuwait and that the Kuwaitis themselves would decide upon their future, free from any outside intervention.⁵

The representative of the United States said that, according to reports received from the United States embassy in Kuwait, Iraqi forces had moved into Kuwaiti territory shortly after midnight or at about 6.30 p.m. Eastern Daylight Saving Time the previous day. They had crossed over into Kuwaiti territory all along the frontier and rapidly proceeded to Kuwait City where they were currently present. They had faced resistance by the Kuwaiti forces but the extent of casualties was not yet known. While the Iraqi invasion had been carefully planned and professionally executed, the Iraqis had made a serious mistake: instead of installing the so-called Free Provisional Government of Kuwait before the invasion, they had first invaded Kuwait and then staged the coup d'état in a blatantly deceitful effort to justify their action. Despite Baghdad's efforts to install its own regime in that country, the Emir, the Crown Prince and the Foreign Minister of Kuwait were safe and continued to direct the Government of Kuwait. The speaker informed the Council that his Government had issued a statement strongly condemning the invasion and calling for the immediate unconditional withdrawal of all Iraqi forces. The Government statement indicated that the message had been conveyed to the Iraqi Ambassador in Washington and to the Government of Iraq, through the United States Embassy in Baghdad. It added that the United States deplored the blatant military aggression and violation of the Charter and had joined Kuwait in calling for an emergency meeting

⁵ Ibid., pp. 11-12.

of the Security Council. The speaker emphasized that the United States had made it clear that it would support Kuwait in the current crisis. He further pointed out that it was his Government's understanding that the aggression against Kuwait had been completely unprovoked. United States policy had been to support every diplomatic effort to resolve the crisis. Before seeking the immediate adoption of a draft resolution co-sponsored by eight other members of the Council, his Government had been in touch with many States in the region. He urged the Security Council, which had seldom faced a more blatant case of the use of force, to act immediately to accept its full responsibilities and support Kuwait. In conclusion, he asked the members of the Council to act in accordance with the Charter.⁶

The representatives of Canada, China, Colombia, Finland, France, Malaysia, the Union of Soviet Socialist Republics and the United Kingdom, and the President of the Council in his capacity as the representative of Romania, expressed support for the draft resolution, which they either sponsored or endorsed. The representatives of Colombia, Malaysia and the United Kingdom stressed the duty of the Security Council to protect the sovereignty of small States. The representatives of France and the United Kingdom noted that the Iraqi aggression had destabilized a region that had just emerged from a lengthy and bloody conflict. All speakers called for the withdrawal of Iraqi troops and a peaceful settlement of the dispute.⁷

The Council then proceeded to the vote on the draft resolution before it.

Speaking before the vote, the representative of Yemen stated that his delegation would not participate in the voting on the draft resolution because it had not received instructions from its capital. He, however, emphasized Yemen's respect for the principles of the Charter of the United Nations and the right of all States to their sovereignty, territorial integrity and independence. As a matter of principle, Yemen condemned all forms of interference in the internal affairs of other States, opposed the use of force and called for the peaceful settlement of disputes. On that

⁶ Ibid., pp. 12-15.

⁷ Ibid., p. 16 (Colombia); p. 17 (Canada); pp. 17-18 (France); pp. 18-19 (Malaysia); pp. 19-21 (United Kingdom); pp. 21-22 (Finland); pp. 22-23 (Soviet Union); p. 23 (China); and pp. 24-25 (Romania).

basis, Yemen called on Iraq and Kuwait to begin negotiations immediately, and supported all efforts by Arab States, individually and collectively.⁸

The draft resolution was then put to the vote and adopted by 14 votes in favour to none against as resolution 660 (1990). One member (Yemen) did not participate in the voting. The resolution reads:

The Security Council,

Alarmed by the invasion of Kuwait on 2 August 1990 by the military forces of Iraq,

Determining that there exists a breach of international peace and security as regards the Iraqi invasion of Kuwait,

Acting under Articles 39 and 40 of the Charter of the United Nations,

1. *Condemns* the Iraqi invasion of Kuwait;
2. *Demands* that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990;
3. *Calls upon* Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supports all efforts in this regard, and especially those of the League of Arab States;
4. *Decides* to meet again as necessary to consider further steps to ensure compliance with the present resolution.

**Decision of 6 August 1990 (2933rd meeting):
resolution 661 (1990)**

At its 2933rd meeting, on 6 August 1990, the Council resumed its consideration of the item that had been included in its agenda at the 2932nd meeting. In accordance with the decisions taken at that meeting, the President (Romania) invited the representatives of Iraq and Kuwait to take seats at the Council table. He then drew the attention of the Council members to a draft resolution submitted by Canada, Colombia, Côte d'Ivoire, Ethiopia, Finland, France, Malaysia, the United Kingdom, the United States and Zaire.⁹ He also drew their attention to a number of other documents.¹⁰

⁸ Ibid., pp. 26-27.

⁹ S/21441.

¹⁰ S/21426-S/21430, S/21432-S/21440, S/21443 and S/21444, which contained communications from the representatives of Italy, Japan, the Islamic Republic of Iran, Uruguay, Oman, the German Democratic Republic, South Africa, Qatar, Madagascar, Iraq, Kuwait and Italy, respectively.

Commencing the discussion, the representative of Kuwait stated that five days after the adoption of resolution 660 (1990), the “aggressor” had not withdrawn from the State of Kuwait but had, in fact, occupied the entire country. He said that the unprecedented and strong international condemnation of the invasion had given rise to hope that the invader would be induced to comply with resolution 660 (1990). Iraq, on the contrary, was actually expanding and consolidating its military occupation throughout Kuwait. The aim of the aggression was to overthrow the legitimate Government of Kuwait and install a new Government in its place, and gain hegemony over Kuwait’s resources. The objectives of the invasion were based on expansionism as seen in Iraq’s threats and subsequent attacks against neighbouring countries. Iraq was thus threatening the strategic interests of all the countries of the world, of which the Gulf was one of the most vital regions. Those objectives, in their totality, threatened international peace and security. The formation by the Iraqis of the so-called Popular Army was a cover for the occupying forces, which confirmed that they had no intention of withdrawing. The purported withdrawal of some military vehicles was a charade. The speaker therefore called on the Council to shoulder its historic responsibility by adopting the draft resolution before it, which provided for the imposition of sweeping sanctions against Iraq for its failure to comply with resolution 660 (1990).¹¹

The representative of Iraq contended that the draft resolution before the Council contradicted resolution 660 (1990) and certain facts. He said that his Government had announced, on 3 August 1990, that it intended to start withdrawing its forces on 5 August, and stated that it had already started to do so. The draft resolution would not help to resolve the crisis, but would only exacerbate it. Nor would it help the Iraqi troops to withdraw. Referring to the second preambular paragraph of the draft resolution, which spoke about “the invasion by Iraq”, the speaker asserted that such a term had not been used during the United States invasion of Panama or Grenada, nor when Israel had invaded its neighbours. His Government therefore believed that the term was being used in the current instance to allow aggression to be committed by a third State in the region. He claimed that the draft resolution had been prepared by a single State and that pressure had been exerted on all the other States to go along,

¹¹ S/PV.2933, pp. 5-11.

thus rendering the draft resolution null and void, since anything that had been imposed by force and threats was not legitimate under the principles of the Charter. Iraq believed, moreover, that the draft resolution would have a negative impact on the economies of developing countries, in view of its impact on the price of oil. The speaker concluded that, for all those reasons, he expected the Council to reject the draft resolution.¹²

The Council then proceeded to the vote on the draft resolution before it. Speaking before the vote, the representative of the United States said that the draft resolution was the Council's response to Iraq's aggression against Kuwait and its failure to comply with resolution 660 (1990), a mandatory resolution by which the Council had demanded the immediate and unconditional withdrawal of Iraqi troops from Kuwait. Iraq's actions had plunged the strategically critical area of the Gulf into crisis and placed 30 per cent of the region's oil production under Iraqi control, thus threatening international economic health and stability. Contrary to Iraq's purported promises to withdraw immediately, its troop deployments in Kuwait had been enhanced and consolidated and were dangerously provocative to other States in the region. By adopting the draft resolution, the Council would use the means available to it under Chapter VII of the Charter to give effect to its resolution 660 (1990) and meet its obligation to restore Kuwait's legitimate authority, sovereignty and territorial integrity. Referring to paragraph 5 of the draft resolution, the speaker emphasized that the draft resolution would be binding upon all States — Members and non-members alike. His Government had already frozen all Iraqi and Kuwaiti assets and barred all trade with Iraq and it welcomed the decisions by many other Governments to cease arms transfers to Iraq. He concluded that, by acting on the draft resolution, the Council would consolidate and give effect to all those unilateral actions and would pledge to the legitimate Government of Kuwait that there would be international redress for the Iraqi invasion. By its action, the Council would also declare that it would not countenance the continuation or repetition of that aggression.¹³

The representative of France stated that, at the national level, his Government had decided to freeze Iraqi assets and had confirmed that it would continue

not to deliver arms to Iraq. Within the framework of the European Community, his Government had actively contributed to the adoption of a declaration imposing an embargo on the import of oil originating in Iraq and Kuwait, and a halt on arms sales and military and scientific cooperation with Iraq. He stated that the magnitude of those measures was justified because of the unacceptable nature of Iraq's military aggression, which was a major violation of international law and a serious threat to international peace and security. Recalling that resolution 660 (1990), adopted under Chapter VII of the Charter, was binding on all States, he stressed that it was up to the Council to take appropriate steps to ensure Iraq's compliance.¹⁴

The representative of Malaysia stated that, although his country had actively supported resolution 660 (1990), its decision to support the adoption of the draft resolution under consideration had not been an easy one. He expressed concern about the hardship that the broad sanctions called for in the resolution would impose on Governments and on the peoples of Kuwait and Iraq, and hoped that they would be of short duration, given prompt compliance by Iraq with resolution 660 (1990). He noted that there was evidence now of a strong will within the international community, as represented by the Security Council, to uphold the principles of the Charter. Resolution 660 (1990) and the draft resolution currently before the Council embodied that collective determination. Malaysia's support for the draft resolution was not meant to be a punitive act; it was, rather, an expression of his Government's desire to be part of the international community's resolve to ensure that disputes between States were not settled through the use of force, and was predicated on the premise that it would remove the prospect of unilateral military or quasi-military action in the region by external Powers. The speaker emphasized the Council's responsibility in ensuring an early and peaceful end to the conflict. In that context, it was also the duty of the Council to ensure that the efforts to bring about the immediate and unconditional withdrawal of the Iraqi forces from Kuwait and the restoration of the legitimate Government of Kuwait were taken under the ambit of the United Nations and not unilaterally, to avoid escalation and greater turmoil.¹⁵

¹² *Ibid.*, pp. 11-13.

¹³ *Ibid.*, pp. 16-18.

¹⁴ *Ibid.*, p. 21.

¹⁵ *Ibid.*, pp. 21-22.

The representative of Canada stated that his Government had been dismayed to learn that Iraq had not complied with resolution 660 (1990); that its forces remained in Kuwait; that they appeared to be consolidating their position; and that Iraq had moved large numbers of troops near the border with Saudi Arabia. This had increased the tensions in an already volatile region. Iraq's failure to comply with the terms of resolution 660 (1990) left the Council with no alternative but to consider what further measures could be applied to give effect to that resolution. The rare imposition of sanctions was not something that Canada took lightly. However, faced with the intransigence of the Iraqi regime and the extremely serious nature of its invasion and occupation of Kuwait, there could be no other alternative but to act under Article 41 of the Charter. Indeed, it had hoped that the proposed measures would have extended further, to include more explicitly financial and other services. The draft resolution would, nevertheless, impose one of the broadest sets of sanctions ever put in place against a State Member of the United Nations, covering as it did all aspects of military, economic and financial relations with Iraq and occupied Kuwait. The speaker recognized that those sanctions would impose hardships on many countries and organizations, and indeed on individuals throughout the world. However, sacrifices were necessary to maintain the peace and security of States and the integrity of the international system. The extraordinary measures contemplated were essential to exert the necessary pressure on Iraq to end forthwith its aggression and occupation of Kuwait, to safeguard the rule of law and to deter future aggressors. The speaker concluded by underlining the Security Council's particular responsibility towards small and vulnerable States, which looked to it for protection and support.¹⁶

The representative of the United Kingdom said that, over five days, hopes of Iraqi compliance with resolution 660 (1990) had not been fulfilled. Indeed, instead of an unconditional withdrawal, there had been a further entrenchment of Iraqi forces in Kuwait. Some Governments, such as the 12 member countries of the European Community, had already taken action. But individual action by States or groups of States was not sufficient. A framework for international action was needed, as provided in the form of the draft resolution before the Council. The speaker emphasized that the

¹⁶ Ibid., pp. 23-25.

draft resolution, once adopted, would remain in effect only so long as resolution 660 (1990) was not complied with. Furthermore, economic sanctions should not be regarded as a prelude to military action; rather, they were designed to avoid the circumstances in which military action might otherwise arise. Recalling paragraph 3 of resolution 660 (1990), he said that his Government attached great importance to the role of the Arab States in promoting a solution to the problem. In conclusion, he observed that the Security Council had to face its responsibilities. It had to succeed where the League of Nations had failed and where the Council itself had faltered in the past. It had a particular responsibility for small and vulnerable States. It should make of the Council what the founding fathers had intended it to be, and should set a new precedent for the better management of a world order based on respect for law, sovereignty and territorial integrity.¹⁷

The representative of China believed that the independence, sovereignty and territorial integrity of Kuwait must be respected and that resolution 660 (1990) should be implemented immediately and effectively. In keeping with that position and taking into consideration the pressing demand of many Arab countries, China would vote in favour of the draft resolution. China hoped that the Arab States would continue their mediation efforts with a view to finding a peaceful solution to the differences between them. It supported those efforts and believed that the Council should also encourage, support and facilitate them.¹⁸

The representative of the Union of Soviet Socialist Republics stated that his Government believed that no matters in dispute, however complicated they might be, justified the use of force. The invasion of Kuwait by Iraq went, moreover, against the interests of the Arab States and against the positive trends in international relations. In the light of the invasion, the Soviet Union, together with the United States, had taken the unusual step of issuing a joint appeal to the entire international community to join with them in halting all arms deliveries to Iraq. The Soviet Union had also called upon regional organizations, particularly the League of Arab States, but also the Non-Aligned Movement and the Organization of the Islamic Conference, to take all

¹⁷ Ibid., pp. 26-28.

¹⁸ Ibid., pp. 28-30.

possible steps to ensure the withdrawal of Iraqi troops from Kuwait. It had also made a direct appeal to the Government of Iraq to heed the voice of the international community. The Soviet Union now believed that it was very important that resolution 660 (1990), which it had actively facilitated, be fully and immediately implemented. It would therefore support the draft resolution imposing sanctions. The decision to vote in favour had, however, been a very complicated matter for the Soviet Union because the draft resolution directly affected a whole set of relationships between the two countries developed over many years. Nevertheless, the circumstances dictated that the necessary steps be taken immediately, including steps by the Security Council, in accordance with the requirements of the Charter.¹⁹

The representative of Colombia observed that, on various occasions in the past four decades, the Security Council had condemned international conflicts, occupation and military confrontation but, owing to the exercise of the veto, it had been unable to impose sanctions against those responsible for not complying with the principles of the Charter or with the Council's decisions. He noted with satisfaction and a sense of optimism that on this occasion the five permanent members of the Council were acting unanimously to condemn the use of force by, and impose sanctions against, Iraq. His Government had joined in sponsoring the draft resolution because it regarded the intended measures not only as just but also as constituting a warning for the future course of relations in the international community.²⁰

The representatives of Côte d'Ivoire, Ethiopia, Finland and Zaire, and the President of the Council in his capacity as the representative of Romania, expressed support for the draft resolution, which their Governments either sponsored or endorsed. They viewed Iraq's occupation of Kuwait as a violation of the principles of the Charter of the United Nations and hoped that Iraq could be induced to withdraw from Kuwait rapidly and unconditionally. The speakers stressed that the only way to settle disputes between States lay in negotiations and in resorting to the procedures provided by the Charter.²¹

¹⁹ Ibid., pp. 29-32.

²⁰ Ibid., pp. 48-51.

²¹ Ibid., pp. 19-20 (Finland); pp. 33-35 (Zaire); p. 36 (Côte d'Ivoire); pp. 36-37 (Ethiopia); p. 53 (Romania).

The representative of Cuba said that the principles of non-interference in the internal affairs of States, the non-use of force, the peaceful settlement of disputes between States and respect for the independence, sovereignty and territorial integrity of all nations were essential principles of the international order. It was in defence of those principles that his Government had condemned the Iraqi invasion of Kuwait and declared that that situation must be ended with the withdrawal of Iraqi forces from Kuwaiti territory and the full restoration of Kuwait's sovereignty. His delegation was unable, however, to support the draft resolution currently before the Council for several reasons: (a) far from contributing to the settlement of the conflict, the imposition of sanctions would complicate the situation at a time when Iraq had begun withdrawing its forces; (b) the draft resolution would facilitate the interventionist actions being promoted in the region by the United States Government; and (c) it would impede the efforts of the Arab States to arrive at a solution. The speaker doubted, moreover, that the imposition of sanctions against Iraq was really motivated by a desire to defend the above-mentioned fundamental principles, so much as by a desire by a Great Power to foster its strategic interests in the Middle East. He observed that the Council had not adopted positions consistent with the defence of those principles in a number of other cases, and was averse to letting the United States choose how, where and when those principles should be applied. His delegation could not support the draft resolution because it would not help to settle the conflict and was based on inconsistency and the "unacceptable selectivity of approach" of the United States in the Council.²²

The representative of Yemen stated that, since the outbreak of the conflict between Iraq and Kuwait, the President of his country had discussed it with the leaders of Iraq, Egypt and Saudi Arabia, with a view to resolving it by peaceful means on the basis of a speedy withdrawal of Iraqi forces from the territory of Kuwait. His Government intended to continue with its efforts to contain the conflict because it believed that the Arab framework provided the most effective way of achieving a peaceful settlement. He stressed his delegation's keen interest in maintaining peace and stability in the area of the Gulf and the Arabian peninsula and rejected any foreign intervention in the

²² Ibid., pp. 38-48.

internal affairs of the region. He hoped that the draft resolution would not be a pretext for such intervention.²³

The draft resolution was then put to the vote, and adopted by 13 votes in favour, none against and 2 abstentions (Cuba, Yemen), as resolution 661 (1990), which reads:

The Security Council,

Reaffirming its resolution 660 (1990) of 2 August 1990,

Deeply concerned that the resolution has not been implemented and that the invasion by Iraq of Kuwait continues, with further loss of human life and material destruction,

Determined to bring the invasion and occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

Noting that the legitimate Government of Kuwait has expressed its readiness to comply with resolution 660 (1990),

Mindful of its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

Affirming the inherent right of individual or collective self-defence, in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the Charter,

Acting under Chapter VII of the Charter,

1. *Determines* that Iraq so far has failed to comply with paragraph 2 of resolution 660 (1990) and has usurped the authority of the legitimate Government of Kuwait;

2. *Decides*, as a consequence, to take the following measures to secure compliance of Iraq with paragraph 2 of resolution 660 (1990) and to restore the authority of the legitimate Government of Kuwait;

3. *Decides* that all States shall prevent:

(a) The import into their territories of all commodities and products originating in Iraq or Kuwait exported therefrom after the date of the present resolution;

(b) Any activities by their nationals or in their territories which would promote or are calculated to promote the export or trans-shipment of any commodities or products from Iraq or Kuwait; and any dealings by their nationals or their flag vessels or in their territories in any commodities or products originating in Iraq or Kuwait and exported therefrom after the date of the present resolution, including in particular any transfer of funds to Iraq or Kuwait for the purposes of such activities or dealings;

(c) The sale or supply by their nationals or from their territories or using their flag vessels of any commodities or

products, including weapons or any other military equipment, whether or not originating in their territories but not including supplies intended strictly for medical purposes, and, in humanitarian circumstances, foodstuffs, to any person or body in Iraq or Kuwait or to any person or body for the purposes of any business carried on in or operated from Iraq or Kuwait, and any activities by their nationals or in their territories which promote or are calculated to promote such sale or supply of such commodities or products;

4. *Decides* that all States shall not make available to the Government of Iraq, or to any commercial, industrial or public utility undertaking in Iraq or Kuwait, any funds or any other financial or economic resources and shall prevent their nationals and any persons within their territories from removing from their territories or otherwise making available to that Government or to any such undertaking any such funds or resources and from remitting any other funds to persons or bodies within Iraq or Kuwait, except payments exclusively for strictly medical or humanitarian purposes and, in humanitarian circumstances, foodstuffs;

5. *Calls upon* all States, including States non-members of the United Nations, to act strictly in accordance with the provisions of the present resolution notwithstanding any contract entered into or licence granted before the date of the present resolution;

6. *Decides* to establish, in accordance with rule 28 of the provisional rules of procedure, a Committee of the Security Council consisting of all the members of the Council, to undertake the following tasks and to report on its work to the Council with its observations and recommendations:

(a) To examine the reports on the progress of the implementation of the present resolution which will be submitted by the Secretary-General;

(b) To seek from all States further information regarding the action taken by them concerning the effective implementation of the provisions laid down in the present resolution;

7. *Calls upon* all States to cooperate fully with the Committee in the fulfilment of its tasks, including supplying such information as may be sought by the Committee in pursuance of the present resolution;

8. *Requests* the Secretary-General to provide all necessary assistance to the Committee and to make the necessary arrangements in the Secretariat for that purpose;

9. *Decides* that, notwithstanding paragraphs 4 to 8 above, nothing in the present resolution shall prohibit assistance to the legitimate Government of Kuwait, and calls upon all States:

(a) To take appropriate measures to protect assets of the legitimate Government of Kuwait and its agencies;

(b) Not to recognize any regime set up by the occupying Power;

²³ Ibid., pp. 51-52.

10. *Requests* the Secretary-General to report to the Security Council on the progress made in the implementation of the present resolution, the first report to be submitted within thirty days;

11. *Decides* to keep this item on its agenda and to continue its efforts to put an early end to the invasion by Iraq.

**Decision of 9 August 1990 (2934th meeting):
resolution 662 (1990)**

By a letter dated 8 August 1990,²⁴ the representative of Kuwait requested that the Security Council immediately resume its consideration of the item entitled “The situation between Iraq and Kuwait”, in the light of the declaration by Iraq of the purported annexation of Kuwait.

By a letter dated 8 August 1990,²⁵ the representatives of the six States members of the Gulf Cooperation Council — Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates — requested an immediate meeting of the Security Council to consider the situation between Iraq and Kuwait in the light of recent developments, most significantly the declaration by the Iraqi Revolutionary Command Council annexing the State of Kuwait to Iraq.

At its 2934th meeting, on 9 August 1990, the Council included the letter from the Gulf Cooperation Council in its agenda and resumed its consideration of the item. In accordance with the decisions taken at its 2932nd meeting, the Council invited the representatives of Iraq and Kuwait to take seats at the Council table. The Council also invited the representative of Oman, at his request, to participate in the discussion without the right to vote.

The President (Romania) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council’s prior consultations.²⁶ He also drew their attention to a number of other documents.²⁷ The draft resolution was

then put to the vote and adopted unanimously as resolution 662 (1990), which reads:

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990 and 661 (1990) of 6 August 1990,

Gravely alarmed by the declaration by Iraq of a “comprehensive and eternal merger” with Kuwait,

Demanding once again that Iraq withdraw immediately and unconditionally all its forces to the positions in which they were located on 1 August 1990,

Determined to bring the occupation of Kuwait by Iraq to an end and to restore the sovereignty, independence and territorial integrity of Kuwait,

Determined also to restore the authority of the legitimate Government of Kuwait,

1. *Decides* that annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void;

2. *Calls upon* all States, international organizations and specialized agencies not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation;

3. *Demands* that Iraq rescind its actions purporting to annex Kuwait;

4. *Decides* to keep this item on its agenda and to continue its efforts to put an early end to the occupation.

Speaking after the vote, the representative of the United States welcomed the unanimous adoption of resolution 662 (1990), deciding that Iraq’s annexation of Kuwait was null and void. The resolution was necessary because Iraq was attempting to extinguish the sovereignty of a State Member of the United Nations. The statement by the Iraqi Revolutionary Command Council was reminiscent of the rhetoric that had been used before — about the Rhineland, the Sudetenland, the Polish corridor, Mussolini’s invasion of Ethiopia and the Marco Polo Bridge incident in China. It had been used then to divide and swallow up sovereign States. The world community had not reacted, and the result had been global conflagration. Having finally learned the grim lesson of the 1930s — that peace was indivisible — the international community would not and could not let the same thing

(S/21451), Saint Kitts and Nevis (S/21453 and S/21454), the Ukrainian Soviet Socialist Republic (S/21462) and Uruguay (S/21464) and jointly from the Soviet Union and the United States (S/21472).

²⁴ S/21469

²⁵ S/21470.

²⁶ S/21471.

²⁷ Communications from Argentina (S/21445), Chile (S/21460 and S/21467), Cuba (S/21465), Egypt (S/21448), Ghana (S/21458), Haiti (S/21466), the Islamic Republic of Iran (S/21473), Italy (S/21444), Japan (S/21449 and S/21461), Kuwait (S/21450 and S/21452), Maldives (S/21456), Nicaragua (S/21457), Oman (S/21468), Paraguay (S/21446), the Soviet Union

happen again. By the resolution just adopted, the Council reaffirmed that this crisis was not a regional matter alone, but one that threatened all States. The speaker added that Iraq's invasion of Kuwait and its large military presence on the Saudi frontier created grave risks of further aggression in the area. He reported that his Government and others were, accordingly, at the request of Saudi Arabia, sending forces to the region to deter further Iraqi aggression. As his President had announced the day before, this action was entirely defensive in purpose, to help protect Saudi Arabia. The United States was in the course of informing the Council by letter of its action, taken under Article 51 of the Charter and consistently with Article 41 and resolution 661 (1990), which affirmed that Article 51 applied to the situation. The speaker concluded that the United States stood ready to return to the Security Council as circumstances warranted, to seek further action to implement resolution 660 (1990).²⁸

The representative of the Union of Soviet Socialist Republics said that his Government was alarmed about the escalating confrontation in the Gulf area caused by the invasion of Kuwait by Iraq, the so-called merger of the two States, and the deployment of United States naval and air forces in Saudi Arabia. He reaffirmed the Soviet Union's firm opposition to reliance on force and to unilateral decisions, and stressed that experience had shown that the wisest way to act in conflict situations was through collective efforts, making full use of the machinery of the United Nations. Specifically, his Government favoured having the Security Council devote its attention to this extremely acute matter on a permanent basis. It was prepared to undertake consultations immediately in the Military Staff Committee, which, under the Charter of the United Nations, could perform very important functions.²⁹

The representative of the United Kingdom observed that the international community had been misled by Iraq in a most dramatic fashion. It had been told that Iraq had no intention of invading Kuwait; the invasion followed. It had been told that Iraq intended to withdraw; the annexation followed. Now it was told that Iraq had no ambitions elsewhere in the region. Against that background, any assertions of that kind

must be regarded with legitimate suspicion and doubt. For its part, the Government of the United Kingdom, at the request of the Government of Saudi Arabia, had agreed to contribute forces to a multinational effort for the collective defence of Saudi Arabia and other threatened States in the area. It would do so in accordance with Article 51 of the Charter, which was specifically reaffirmed in the preamble to resolution 661 (1990). The presence of British forces, particularly naval forces, in the area would be of added advantage in the context of securing the effective implementation of the embargo against Iraq through the close monitoring of maritime traffic. The speaker stressed, however, that even at this stage it was not too late for Iraq to implement Council resolutions 660 (1990) and 661 (1990) and avoid the impact of the sanctions. He reiterated, moreover, that the Council must continue to support the efforts of the League of Arab States, whose summit, it was hoped, would be able to point a way out of the crisis in accordance with resolution 660 (1990).³⁰

The representative of Cuba observed that while his delegation had no difficulty with the resolution just adopted, he wished to reiterate his country's conviction that the Security Council and the international community must act energetically and promptly to prevent the conflict from being exacerbated and from spreading. It could not be ignored that certain Powers were taking unilateral measures that were not in accordance with the Council's decisions, and had nothing to do with the desire to maintain the sovereignty or territorial integrity of Kuwait, but simply corresponded to their hegemonic designs in the Middle East. The speaker stressed that war and intervention in the region could not be justified on the basis of an arbitrary interpretation of the right to self-defence. He concluded by expressing the hope that the concerted efforts of the Arab States would result in a fair and swift solution to the conflict, thus closing the door on a unilateral approach designed solely to benefit certain great Powers.³¹

³⁰ *Ibid.*, pp. 16-18.

³¹ *Ibid.*, pp. 22-27.

²⁸ S/PV.2934, pp. 7-10.

²⁹ *Ibid.*, pp. 11-12.

Other Council members who spoke strongly condemned and rejected Iraq's purported annexation of Kuwait.³² A number³³ underlined the Council's responsibility for taking the necessary action to secure the withdrawal of Iraq from Kuwait, with some expressing support for such further decisions as might be required. Several speakers called upon all concerned parties to exercise restraint and to refrain from taking any other actions, including unilateral actions, which might further complicate the situation.³⁴ A number also voiced support for the efforts by the Arab States to bring about a peaceful solution to the conflict.³⁵

The representative of Kuwait welcomed the resolution just unanimously adopted as a necessary response to Iraq's purported annexation of Kuwait. Kuwait believed the resolution's provisions to be within the framework of Chapter VII of the Charter. It looked forward, moreover, to the Council's continued support in the implementation of resolutions 660 (1990) 661 (1990) and 662 (1990), thus upholding Kuwaiti legitimacy, the principles of the Charter, and international law.³⁶

The representative of Oman, speaking on behalf of the States members of the Gulf Cooperation Council, said that they fully supported the role of the United Nations and the Security Council in bringing about a peaceful solution to the conflict, and continued to recognize the legitimate Government of Kuwait, under the leadership of the Emir of Kuwait. They had themselves called upon Iraq to withdraw its forces immediately and unconditionally, in accordance with the resolutions adopted by the Security Council. They also rejected the purported annexation and hoped that the resolution just adopted would send a clear message to the world that such an act was null and void.³⁷

The representative of Iraq maintained that the withdrawal of Iraq's forces from Kuwait had begun on 5 August 1990, as presaged in an official Government statement. However, some "international circles" did not want the withdrawal to proceed peacefully. They

had accordingly brought pressure to bear on the international community and issued threats against his country, making it impossible for it to complete the withdrawal in a serene climate. The speaker dismissed the allegations that Iraq was acting against a neighbouring Arab country as without foundation. Iraq respected the territorial integrity of all neighbouring Arab States, including Saudi Arabia. Military intervention in the region was, in fact, the reason for the instability there. With regard to the resolution just adopted, the speaker wished to quote some passages from a resolution adopted by the Revolutionary Command Council in Iraq, the supreme authority of his country. It stated, *inter alia*, that Kuwait had been separated from Iraq by the former colonial powers. The Iraqi Revolutionary Command Council had simply decided to restore to Iraq the portion that had been taken away from it, thus re-establishing the territorial unity of the country. The speaker concluded by declaring that his Government reaffirmed that the unity of Iraq and Kuwait was indestructible; it was an eternal and irreversible unity.³⁸

**Decision of 18 August 1990 (2937th meeting):
resolution 664 (1990)**

By a letter dated 18 August 1990 addressed to the President of the Security Council,³⁹ the representative of Italy requested a meeting of the Council on the situation between Iraq and Kuwait, particularly on the question of foreign nationals in the two countries.

At its 2937th meeting, on 18 August 1990, the Council included the letter from the representative of Italy in its agenda. In accordance with the decisions taken at the 2932nd meeting, the Council invited the representatives of Iraq and Kuwait to take seats at the Council table. It also invited the representative of Italy, at his request, to participate in the discussion without the right to vote.

The President (Romania) then drew the attention of the members of the Council to a letter dated 16 August 1990 from the representative of Kuwait addressed to the Secretary-General,⁴⁰ transmitting press reports concerning the inhumane activities of the Iraqi occupation forces against Kuwaiti citizens and foreign residents, and the massive destruction caused

³² *Ibid.*, p. 11 (France); pp. 13-15 (Canada); pp. 18-20 (Ethiopia); pp. 21-22 (Malaysia); p. 22 (China); pp. 27-28 (Finland); pp. 28-30 (Colombia); and pp. 31-32 (Romania).

³³ Colombia, Ethiopia, France and Malaysia.

³⁴ China, Colombia, Finland, Malaysia and Romania.

³⁵ China, Colombia, Finland and Malaysia.

³⁶ S/PV.2934, pp. 32-37.

³⁷ *Ibid.*, pp. 38-42.

³⁸ *Ibid.*, pp. 43-46.

³⁹ S/21561.

⁴⁰ S/21548.

by the invading forces. The President also drew their attention to a draft resolution that had been prepared in the course of the Council's prior consultations.⁴¹

Speaking before the vote, the representative of Yemen clarified that his delegation's vote in support of the draft resolution before the Council reflected its interest in the safety and well-being of all third-State nationals in Iraq and Kuwait, including Arab nationals. For similar humanitarian reasons, Yemen also called for the lifting of the embargo on food that had been imposed upon Iraq and Kuwait. It expressed concern, moreover, that the crisis in the region was becoming increasingly complicated because of the military and economic blockade that was being set up by one country against Iraq and Kuwait under Article 51 of the Charter. The speaker contended that the military blockade, established by one State without taking into consideration the role of the Security Council, was not defensive in character. He added that the military build-up in the region, an area close to his own country, went beyond the political objectives cited as a pretext for sending foreign armed forces to the region. Convinced of the interdependence of all problems in the region, his Government considered it necessary to reach a peaceful solution to the crisis, within an Arab context.⁴²

The draft resolution⁴³ was then put to the vote and adopted unanimously as resolution 664 (1990), which reads:

The Security Council,

Recalling the Iraqi invasion and purported annexation of Kuwait, and its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990 and 662 (1990) of 9 August 1990,

Deeply concerned about the safety and well-being of third-State nationals in Iraq and Kuwait,

Recalling the obligations of Iraq in this regard under international law,

Welcoming the efforts of the Secretary-General to pursue urgent consultations with the Government of Iraq following the concern and anxiety expressed by the members of the Council on 17 August 1990,

Acting under Chapter VII of the Charter of the United Nations,

1. *Demands* that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of third-State nationals and grant immediate and continuing access of consular officials to such nationals;

2. *Also demands* that Iraq take no action to jeopardize the safety, security or health of such nationals;

3. *Reaffirms* its decision in resolution 662 (1990) that annexation of Kuwait by Iraq is null and void, and therefore demands that the Government of Iraq rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel, and refrain from any such actions in the future;

4. *Requests* the Secretary-General to report to the Security Council on compliance with the present resolution at the earliest possible time.

Speaking after the vote, the representative of the United States recalled that, the day before, the members of the Council had expressed their concern and anxiety over the situation of foreign nationals in Iraq and Kuwait. The Iraqi regime had responded with new actions and threats against those innocent people. The United States welcomed the Secretary-General's announcement that he would immediately send a special mission to the area. Baghdad, for its part, had continued to deny consular access to American and other nationals in Kuwait and Iraq; had begun to detain foreign nationals and to use them as "human shields" to protect strategic sites; and had announced that infants and the aged among them would be singled out for special food restrictions or denied food. While each of those actions was unacceptable to the international community, their cumulative effect was intolerable. No nation could allow such steps to be taken against its own citizens without the fullest possible response. This action by Iraq required the full and concerted solidarity of all States, as represented by the Council's unanimous adoption of the new resolution. The speaker concluded that the United States would support its full implementation.⁴⁴

The representative of China was similarly grateful for the Secretary-General's prompt response to the request by Council members to appoint representatives to engage in good offices in this matter. He also expressed his Government's deep concern about the mounting tension in the Gulf region and reiterated its view that military involvement by the great Powers was not conducive to the settlement of the crisis. Lastly, he pointed out that the meeting was

⁴¹ S/21562.

⁴² S/PV.2937, pp. 3-7.

⁴³ S/21562.

⁴⁴ S/PV.2937, pp. 8-13.

focused on the consideration of the situation of foreign nationals in Iraq and Kuwait, rather than on the crisis as a whole. Therefore, although his delegation had voted in favour of the resolution just adopted, it expressed reservations about the reference in the resolution to Chapter VII of the Charter, which had broader implications.⁴⁵

The representative of the Union of Soviet Socialist Republics noted that although the members of the Council, through the President of the Council, had the previous day expressed their concern at the fate of the foreign nationals in Iraq and Kuwait and requested the Secretary-General to take steps to resolve the matter, the situation continued to deteriorate. Nevertheless, the Soviet delegation was convinced that it was necessary to continue efforts to find an early solution to the problem, in accordance with the principles of humanitarianism and respect for human rights, on the basis of the norms of international law and the Charter of the United Nations. In that connection, it expressed its special hope for the success of the efforts of the Secretary-General and his representatives. At the same time, there was a broader issue: the possibility that events might develop in such a way as to lead to a new escalation of tension in the region with unforeseeable consequences. In that situation, it was important to stop military activities, to prevent them from spreading to other countries and to restore respect for international law. The Soviet Union was relying on the Arab States and their regional organization, as well as on the United Nations and the Security Council. It intended to act exclusively within the context of collective efforts for a settlement of the conflict, and wished to see political methods used to prevent a military confrontation involving even greater damage.⁴⁶

The representative of the United Kingdom stressed that the Council was concerned that day with a strictly humanitarian problem. Like previous speakers, he recalled that the previous day members of the Council had asked the President of the Council to express their concern and anxiety about the foreign nationals caught in Kuwait and Iraq to the Secretary-General and also to the representative of Iraq. That had been done and the Secretary-General had already decided to send two emissaries to the Government of

Iraq to secure the release of those who were caught in the two countries. Since then, there had been two acts which violated international law and outraged international opinion: the use of innocent foreign civilians as human shields at strategic sites; and the punishment of the hundreds of thousands of foreign civilians caught in Kuwait and Iraq, particularly the weakest members of that community — a retaliation of sorts against the Security Council for having adopted resolution 661 (1990), imposing economic sanctions upon Iraq. The United Kingdom had hoped for an Arab solution to this problem, noting that a particular role had been given to the Arab League in resolution 660 (1990); it still had a few lingering hopes in that regard. The speaker added that there had been some very sensible remarks about the wider dangers in the region, and appeals for negotiation. However, while a peaceful solution was desirable, he reminded Council members that the basis of any such negotiations must be the implementation of the demands made in the Council's resolution 660 (1990), paragraph 2, and resolution 662 (1990), paragraph 1.⁴⁷

A number of other Council members and the representative of Italy, on behalf of the 12 States members of the European Community, echoed the serious concern voiced by the Council about the untenable situation faced by nationals of third countries in Iraq and Kuwait, which they firmly denounced as a violation by Iraq of its obligations under international law, particularly under the International Covenant on Civil and Political Rights and the Fourth Geneva Convention.⁴⁸ Several welcomed the diplomatic efforts, in particular those of the Secretary-General, to enable those third-country nationals who wished to do so to leave Iraq and Kuwait without delay.⁴⁹

The representative of Cuba said that his delegation had voted in favour of resolution 664 (1990) because it was based exclusively on legitimate humanitarian considerations. He stressed, however, that the same considerations should apply equally to the nationals of Iraq and Kuwait. He added that his Government had misgivings with regard to some of the elements of the resolution. Notably, it appeared to be

⁴⁵ *Ibid.*, pp. 13-15.

⁴⁶ *Ibid.*, pp. 18-20.

⁴⁷ *Ibid.*, pp. 21-22.

⁴⁸ *Ibid.*, pp. 14-16 (Canada); pp. 16-17 (Finland); pp. 17-18 (France); pp. 22-23 (Ethiopia); pp. 23-25 (Malaysia); pp. 36-37 (Romania); and pp. 53-57 (Italy).

⁴⁹ Canada, Finland, Italy, Malaysia and Romania.

rather one-sided. While asking Iraq to guarantee the health of foreign nationals, the resolution was silent on the main factor that could place at risk the ability of third-country nationals or the nationals of Iraq and Kuwait to get sufficient food and medicine, namely, the unilateral action by the United States in impeding the delivery of such products to Iraq and Kuwait, which was in violation of resolution 661 (1990). That resolution exempted from the embargo medicines and, in humanitarian circumstances, foodstuffs; it was not for the United States to determine when such circumstances existed. Furthermore, resolution 661 (1990) was based on Article 41 of the Charter, which referred to measures “not involving the use of armed force”. Yet, immediately after the adoption of the resolution, the United States Government — without any request or authorization — had sent its forces to the region to ensure its implementation. Subsequently, a “de facto naval blockade” had been put into place. Then, in a communication of 16 August 1990,⁵⁰ the representative of the United States had informed the members of the Council that the United States was applying blockade measures, under Article 51 of the Charter and Security Council resolution 661 (1990). The speaker insisted that that resolution did not authorize or request anyone to implement it by military means. Article 51 of the Charter, moreover, recognized the right to self-defence only “until the Security Council has taken measures necessary to maintain international peace and security”. The Charter was thus being amended here as the concept of self-defence was being invoked after the Council had taken the decisions it deemed appropriate. The speaker concluded that, in order to preserve its credibility and moral authority, the Council must ensure that its resolutions and decisions were implemented in the manner in which it itself decided.⁵¹

The representative of the United States made a further statement in response to the issue raised by the representative of Cuba concerning the application of Article 51 of the Charter. He stated that, in accordance with Article 51, he wished on behalf of his Government to report that the United States had deployed military forces to the Gulf region; that those forces had been dispatched in exercise of the inherent right of individual and collective self-defence, recognized in Article 51, in response to developments and requests

from Governments in the region, including requests from Kuwait and Saudi Arabia, for assistance; and that the application of that inherent right in response to the Iraqi armed attack on Kuwait had been affirmed in resolution 661 (1990), whose penultimate preambular paragraph he read out.⁵²

The representative of Kuwait observed that the resolution just adopted by the Council grappled with a political, legal and humanitarian issue of an unprecedented nature, involving millions of innocent citizens of various countries held hostage in Iraq and Kuwait. At a time when Iraq was calling for the easing of sanctions for humanitarian reasons, it threatened to deprive foreigners in Iraq of food, which was blackmail, and to use them as human shields. It was essential that the international community respond resolutely to stop such behaviour. Kuwait therefore fully supported the efforts of the Secretary-General aimed at finding a satisfactory solution to the problem of the detainees. The international community must, moreover, take more stringent measures to stop the Iraqi regime from trampling upon the norms on which that community was based. The whole world was looking to the Security Council. It was imperative to close ranks, to cooperate and to take joint action to protect the present and pave the way for a world free from aggression and from aggressors.⁵³

The representative of Iraq stated that he wished to draw attention to the position adopted by the United States and the United Kingdom concerning resolution 661 (1990), and their interpretation of how it was to be implemented. He asserted that the United States had arrogated to itself the right to impose a maritime blockade against Iraq without calling it that by name. It had announced on 10 August 1990 at a meeting of the North Atlantic Treaty Organization (NATO) that the United States had the right to resort to force in order to prevent any commercial relations between third States and Iraq. The United Kingdom had followed that example, announcing on 13 August that it would use its warships to prevent any violation of the sanctions imposed by resolution 661 (1990). In taking that action, both States had declared that they were acting in self-defence, on behalf of what they had called the legitimate Government of Kuwait; they had claimed

⁵⁰ S/21492.

⁵¹ S/PV.2937, pp. 24-33.

⁵² *Ibid.*, pp. 33-35.

⁵³ *Ibid.*, pp. 37-41. See also letter dated 9 August 1990 from the representative of the United States addressed to the President of the Security Council (S/21492).

that this entitled them to implement resolution 661 (1990). However, Article 51 only granted the right of self-defence until such time as the Security Council had taken measures necessary to maintain international peace and security. The Security Council had taken such measures by adopting resolution 661 (1990) and had established a Committee to guarantee its implementation. The speaker stated that, by their positions, the United States and the United Kingdom had altered the way in which the resolution was to be implemented. The machinery for implementation was no longer the invitation to States to implement the sanctions as they interpreted them, under the supervision of a committee established by the Council. Rather, the United States and the United Kingdom had transformed that machinery into a military blockade by force of arms, thereby appointing themselves the policemen of the region, acting in the name of the Security Council, under the cover of the United Nations, even though neither had granted them that right. Iraq vigorously protested against that conduct by the United States and the United Kingdom, which it believed constituted aggression against Iraq. In conclusion, the speaker stressed that Iraq would take no measure other than defending itself if it were attacked. The security and safety of foreign nationals were guaranteed if the United States and its allies guaranteed that they would not attack Iraq. However, if they persisted in their policy of aggression and attacked Iraq, then whatever the Iraqi people were subjected to would also be applied to its "foreign guests".⁵⁴

The representative of the United Kingdom observed that the statement by the representative of Iraq bore no relation to the concerns that had been expressed in the debate, or to the resolution which the Council had just adopted unanimously. He had rejected, or appeared to have rejected, the very strong message that the Council had given him at the meeting. The speaker hoped that the representative of Iraq and his Government would reflect carefully before they continued down that course.⁵⁵

⁵⁴ S/PV.2937, pp. 42-51.

⁵⁵ *Ibid.*, p. 52.

**Decision of 25 August 1990 (2938th meeting):
resolution 665 (1990)**

By letters dated 24 August 1990 addressed to the President of the Security Council,⁵⁶ the representatives of the Federal Republic of Germany, Italy, the Netherlands, Spain and Belgium requested, in identical terms, the convening of a meeting of the Council to consider the deteriorating situation between Iraq and Kuwait and the effective implementation of Security Council resolution 661 (1990).

By a letter also dated 24 August 1990 addressed to the President of the Council,⁵⁷ the representatives of the States members of the Gulf Cooperation Council, namely, Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, requested that an immediate meeting of the Council be convened to discuss the situation between Iraq and Kuwait, for the purpose of considering the adoption of measures required to implement Security Council resolutions 660 (1990), 661 (1990) and 662 (1990).

At its 2938th meeting, on 25 August 1990, the Council included the six above-mentioned letters in its agenda. Following the adoption of the agenda, the Council, in accordance with decisions taken at its previous meetings, invited the representatives of Iraq and Kuwait to take seats at the Council table; and invited the representatives of Italy and Oman to take seats at the side of the Council Chamber.

The President (Romania) drew the attention of members of the Council to a draft resolution submitted by Canada, Côte d'Ivoire, Finland, France, the United Kingdom, the United States and Zaire.⁵⁸ He also drew their attention to several other documents.⁵⁹

Speaking before the vote on the draft resolution, the representative of Yemen reiterated that his

⁵⁶ S/21634, S/21635, S/21636, S/21637 and S/21638, respectively.

⁵⁷ S/21639.

⁵⁸ S/21640, subsequently adopted without change as resolution 665 (1990).

⁵⁹ S/21548, S/21554, S/21555, S/21556, S/21558, S/21559, S/21560, S/21563, S/21564, S/21565, S/21566, S/21568, S/21571, S/21572, S/21574, S/21586, S/21590, S/21603 and S/21616, containing the texts of communications from Kuwait, Saudi Arabia, Namibia, the Islamic Republic of Iran, the Libyan Arab Jamahiriya, Iraq, Yugoslavia, Jordan, the Sudan, Italy, France and Guinea, respectively.

Government was continuing with efforts aimed at resolving the crisis peacefully, containing it within the region, and avoiding the use of force. In that context, Yemen found that the draft resolution moved too quickly towards the use of force to implement the provisions of Council resolution 661 (1990) on the embargo. It believed that the embargo was functioning effectively and would lead to negotiations on the implementation of resolution 660 (1990). In any event, under resolution 661 (1990), the Secretary-General had been asked to report to the Council on the progress of the implementation of the sanctions within 30 days, that is, by 4 September 1990. Why could the Security Council not wait for that report? Further, by paragraph 6 of the same resolution, the Council had established a Committee and requested it to report with its observations and recommendations regarding the implementation of the sanctions regime. That Committee had not yet reported to the Council. That was why Yemen believed there was an element of haste in the draft resolution. As to the substance of the resolution, it observed that for the first time in the history of the United Nations — and particularly in the history of the Security Council — “unclear powers were being granted to undertake unspecified actions without a clear definition of the Security Council’s role and powers of supervision over those actions”. Thus, the draft resolution called upon “States”, without identifying them, to exercise ambiguous powers in unspecified locations. Moreover, recourse to measures which might require some use of force might in itself lead to an engagement and a conflagration in the area. For those reasons, his delegation could not vote in favour of the draft resolution, while at the same time it approved its objectives.⁶⁰

The representative of Cuba raised various objections to the draft resolution. Although, like the previous speaker, he recognized the efforts made by the sponsors to improve the text, it remained unacceptable. He, too, was concerned with the haste to move on to the use of force: the Council had not yet determined that the measures it had previously decided upon had proved inadequate; nor had it received the Secretary-General’s first report on the implementation of resolution 661 (1990). He contended that, after the unilateral deployment of force in the area a few days previously, the Council was being asked to endorse a *de facto* situation which had not been authorized by it

and which could not be legally justified. The wording of the draft resolution, moreover, had nothing to do with the concepts laid down in the Charter. On the contrary, it violated Articles 41, 42 and 46, and the first paragraphs of Articles 43, 47 and 48. Indeed, very few articles of Chapter VII of the Charter would be left inviolate if the Council adopted the draft resolution. It was not clear which countries would form part of the forces, who would command them, where or against whom. It was clear that such forces would be responsible to their immediate military commanders, but the Council was taking on an ambiguous responsibility because operative paragraph 1 stated “under the authority of the Security Council”. If the Council were really acting responsibly and seriously when it talked of using military force, then it should have drawn on those provisions of Chapter VII that clearly spelled out how that responsibility should be exercised. For instance, Article 46 provided that plans for the application of armed force “shall be made by the Security Council with the assistance of the Military Staff Committee”. However, although the Military Staff Committee was referred to in the draft resolution, it did not appear to have been meeting to draft any plan; nor did the speaker believe that the Council had convened it formally or informally to draw up any plan for the deployment of any forces anywhere. There was no indication, moreover, that the Council had requested certain States to make some of their military forces available to it, as envisaged in Article 43. The speaker also expressed concern about the presence of numerous air and land forces in the region, all operating under another plan than the maritime forces referred to in the draft resolution. He wondered whether the Council was also required to take responsibility for possible hostilities that might arise from the acts of forces not under its command. Finally, he stressed that, when the Council was dealing with matters of such gravity as the use of force to supposedly guarantee the implementation of its decisions, it must be extremely careful. In conclusion, he added that no decision taken by the Council could give it the political, legal or moral authority to undertake any kind of action that was in itself inhuman: that is, any action designed to deprive millions of innocent civilians of foodstuffs and medicines or medical assistance.⁶¹

The representative of Colombia welcomed the fact that the Security Council had for the first time

⁶⁰ S/PV.2938, pp. 7-11.

⁶¹ *Ibid.*, pp. 11-21.

acted as envisaged by its creators to prevent and control a regional conflict. His country was gratified that the permanent members had reached agreement on intervening for that purpose. With regard to the draft resolution before the Council, he regretted the haste imposed on its drafting. While his delegation had no difficulty with the establishment of a naval blockade, apparently under Article 42 of the Charter, it shared some of the concerns expressed by the representatives of Cuba and Yemen over the fact that, under the draft resolution, the Security Council would be delegating authority without specifying to whom, or where that authority would be exercised. Colombia believed that, from the Council's point of view, the lack of preparedness to cope with a situation such as the prevailing one must be avoided in future. It accordingly believed that, after 45 years, the Security Council must finally implement Article 43 and the following articles of the Charter. The speaker concluded that, notwithstanding those comments, his delegation agreed with the substance of the draft resolution; it did not want to send an equivocal message to the Government of Iraq. It believed that there had been patent violations of resolution 661 (1990) that needed to be dealt with by the international community; and would therefore vote in favour of the draft resolution.⁶²

The draft resolution was then put to the vote and adopted by 13 votes in favour, none against and 2 abstentions (Cuba, Yemen), as resolution 665 (1990), which reads:

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990 and 664 (1990) of 18 August 1990 and demanding their full and immediate implementation,

Having decided in resolution 661 (1990) to impose economic sanctions under Chapter VII of the Charter of the United Nations,

Determined to bring to an end the occupation of Kuwait by Iraq which imperils the existence of a Member State, and to restore the legitimate authority and the sovereignty, independence and territorial integrity of Kuwait, which requires the speedy implementation of the above-mentioned resolutions,

Deploring the loss of innocent lives stemming from the Iraqi invasion of Kuwait and determined to prevent further such losses,

Gravely alarmed that Iraq continues to refuse to comply with resolutions 660 (1990), 661 (1990), 662 (1990) and 664 (1990) and in particular at the conduct of the Government of Iraq in using Iraqi flag vessels to export oil,

1. *Calls upon* those Member States cooperating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990);

2. *Invites* Member States accordingly to cooperate as may be necessary to ensure compliance with the provisions of resolution 661 (1990) with maximum use of political and diplomatic measures, in accordance with paragraph 1 above;

3. *Requests* all States to provide, in accordance with the Charter of the United Nations, such assistance as may be required by the States referred to in paragraph 1 above;

4. *Also requests* the States concerned to coordinate their actions in pursuit of the above paragraphs of the present resolution using, as appropriate, mechanisms of the Military Staff Committee and, after consultation with the Secretary-General, to submit reports to the Security Council and the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, in order to facilitate the monitoring of the implementation of the present resolution;

5. *Decides* to remain actively seized of the matter.

Speaking after the vote, the representative of the United States stated that the Charter of the United Nations had been founded on the fundamental principle that the Security Council would carry a broad responsibility for the people of the world for international peace and security. The Charter empowered the Council to act in that regard, including by giving it the authority to decide to use armed force. The authority granted in the resolution just adopted was sufficiently broad to use armed force — indeed, minimum force — depending on the circumstances. Pointing out that the Council's authority to use force had rarely been exercised in the past, the speaker said that resolution 665 (1990) represented an historic and significant decision. The Council had been compelled to take that step by Iraq's blatant defiance of the Security Council and its evasion of its resolutions. The speaker stressed that no solution to the crisis could be reached without the immediate and unconditional withdrawal of Iraqi forces. While efforts must continue to bring about a peaceful solution, the United States,

⁶² *Ibid.*, pp. 21-22.

together with all the other members of the Council, intended to ensure that its resolutions were observed. By the resolution just adopted, the members of the Council had emphasized again their commitment to the peaceful means already adopted. They had no intention that the resolution should encourage a military escalation. It applied strictly to efforts to ensure that the trade sanctions were not violated. The speaker added that the United States had vigorously sought and fully supported collective efforts to respond to the crisis, and to enforce the trade sanctions strictly. Its naval forces, in coordination with others in the area, would use such minimum force only as necessary for that purpose. The United States delegation would continue discussions with other members of the Council concerning how best to apply the economic sanctions against Iraq, and was ready to discuss an appropriate role in the process for the Military Staff Committee. The speaker observed that a number of Member States had already sent naval forces to the region to ensure that the sanctions were effective. They had done so before the adoption of the latest resolution, at the request of the legitimate Government of Kuwait — requests made fully in accordance with the inherent right of individual and collective self-defence confirmed in Article 51 of the Charter and consistent with resolution 661 (1990). That resolution specifically affirmed the exercise of that right in response to the Iraqi armed attack on Kuwait. The new resolution — 665 (1990) — addressed the application of the mandatory sanctions of resolution 661 (1990) specifically against maritime shipping. It lent the full weight and authority of the Security Council to the efforts of States that were deploying maritime forces to ensure that the sanctions were respected. It did not address other aspects of sanctions or other provisions of resolution 661 (1990), and so clearly did not diminish the legal authority of Kuwait and other States to exercise their inherent right. Resolution 665 (1990) therefore provided an additional and most welcome basis under United Nations authority for actions to secure compliance with the sanctions mandated by resolution 661 (1990). The speaker concluded by urging the Council to continue to stand firm in its resolve to confront Iraq's wanton aggression and to preserve the principles enshrined in the Charter.⁶³

The representative of France said that Iraq's attempts to violate the embargo threatened to diminish

⁶³ Ibid., pp. 26-31.

the impact of resolution 661 (1990), the only peaceful means of compelling it to comply with the other Council resolutions. Quoting the President of France, who on 21 August 1990 had stated that "an embargo without sanctions would be a fiction", he affirmed that France accepted the need to apply coercion when necessary to ensure respect for the embargo. He emphasized that the resolution just adopted was not a blanket authorization for the indiscriminate use of force, but a means of ensuring respect for the embargo. It authorized verification of cargoes and destinations of maritime shipping and provided for appropriate measures to be taken in that regard, including the minimum use of force. The Government of France believed that this naturally must take place only as a last resort and be limited to what was strictly necessary. In each case, the use of coercion would require notification of the Security Council. In conclusion, the speaker stated that, while the international community had the responsibility for ensuring respect for the universal principles governing relations among States, it was within the framework of the Arab community that a concrete solution could best be found to the problems that had led to the Iraq-Kuwait crisis. Any such solution must of course be based on the Council's resolutions.⁶⁴

The representative of Canada said that the invasion of Kuwait, followed by Iraq's escalating violations of the rules of international law, represented one of the most serious threats to international peace and security that humankind had faced since the signing of the Charter in 1945. At the same time, the five resolutions adopted by the Council without any dissent showed clearly the transformation of the United Nations, which was rediscovering its true mission, as conceived at San Francisco. The resolution just adopted had been made necessary by the consistent and continuing refusal of Iraq to abide by the binding decisions of the Council. Its primary objective was to bring about respect by Iraq for the rule of law. Canada very much hoped that a peaceful solution to the crisis could be found, but stressed that such a solution could be based only on compliance with the resolutions of the Council.⁶⁵

The representative of Malaysia stated that no one could give any definitive assurance on the action

⁶⁴ Ibid., pp. 31-32.

⁶⁵ Ibid., pp. 32-36.

contemplated in the resolution just adopted; the litmus test would be its implementation. Clearly, however, the course of action to be taken crossed a line from applying sanctions to a readiness to apply force, if necessary, to ensure compliance. The speaker noted that, as a member of the Non-Aligned Movement, his country was averse to having military forces from outside Powers deployed in other regions, even on the basis of legitimate appeals by aggrieved parties. It expected, therefore, that the reasons for the presence of those forces would swiftly be removed and that they would quickly leave the scene. He also observed that the link in the resolution between the countries referred to in paragraph 1 and the United Nations was not as satisfactorily spelled out as one would have wished. However, given the present realities, it was not realistic to suppose that there could be an international force under a blue flag policing and enforcing United Nations injunctions. Given the need to ensure the effectiveness of sanctions, the Security Council must be content with only the beginning of United Nations control action, although Malaysia and others would have preferred a more assertive and prominent role for the United Nations. Faced, however, with the need for urgent redress to ensure the survival of a country, Malaysia had judged that resolution 665 (1990) was preferable to protracted debates in pursuit of a perfect resolution. It was determined, though, that the Council's commitment to effective sanctions should be matched by a commitment to ensure that the resolution's implementation was kept within strict parameters: no licence had been given for action beyond that provided for in paragraph 1 of the resolution. Lastly, Malaysia underlined the need to continue diplomatic and political initiatives, calling on the Secretary-General and the Arab countries to make even greater efforts in this regard.⁶⁶

The representative of Zaire observed that the resolution just adopted was a "first" in the history of the United Nations, which responded to a case unique in the annals of the Organization. It was the first case of an invasion of a State Member of the United Nations, followed by annexation of all of its territory, by another Member State. He hoped that resolution 665 (1990) would be a useful deterrent which would oblige

⁶⁶ Ibid., pp. 36-38.

Iraq to respect the Council's decisions and induce it to withdraw from Kuwait unconditionally.⁶⁷

The representative of the Union of Soviet Socialist Republics underlined the importance of maintaining a high degree of unity in the actions taken by members of the Security Council and of the United Nations as a whole in dealing with the difficult and explosive situation prevailing in the Gulf region. The stress must continue to be placed on methods of dialogue and negotiation. That would further strengthen the authority of the Organization and enhance the prestige of the Council. The Soviet Union supported the resolution just adopted because it favoured that kind of approach. The resolution was intended to expand the array of means available for implementing the sanctions; but it required that the measures taken be commensurate to the specific circumstances. Political and diplomatic methods should be employed to the maximum degree. It was also important that the Security Council should continue to deal with this extremely grave problem on an ongoing basis. The Soviet Union was prepared to make full use of the opportunities afforded by the machinery of the Military Staff Committee and of the Security Council Committee established under resolution 661 (1990). The speaker concluded that the swift unfolding of events made it imperative to show prudence and caution and not to permit reliance on forcible measures and actions that could give rise to explosive developments.⁶⁸

The representative of Finland stated that his country and other States Members of the United Nations had set their hopes on the application of the principle of collective security in the face of aggression. Regrettably, on many past occasions, effective actions had been thwarted by disagreements and a lack of political will. On this occasion, by contrast, the whole international community seemed to be determined that collective security should work and that the aggressor should not benefit from aggression. So long as the occupation continued, the first concern of the international community must be to ensure that sanctions were strictly enforced. It was only logical, therefore, that the Council should now strengthen its role in their implementation. The resolution just adopted, in authorizing further measures at sea by

⁶⁷ Ibid., pp. 38-40.

⁶⁸ Ibid., pp. 41-45.

Member States to ensure strict enforcement of resolution 661 (1990), was an unprecedented decision with far-reaching implications. The speaker insisted, therefore, that any concrete action by the naval forces concerned would require close attention to ensure that they served the purposes intended by the Council. Finland saw the new measures as strictly limited to the framework of resolution 661 (1990), strengthening its implementation.⁶⁹

The representative of the United Kingdom considered that the reaction of the Council to the crisis had been exemplary; it showed a new spirit — a creative approach of the international community in dealing with an unprecedented crisis. The resolution just adopted enlarged the means available to Member States cooperating with the Government of Kuwait: “to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council ...”. He stressed that those measures included such minimum force as might be necessary to achieve the purposes of the just cited paragraph 1. Naturally, his country hoped that it would not be necessary to use force. He added that the resolution was the result of mounting evidence of breaches of sanctions on a large scale. Some of that evidence had been furnished to the Committee on economic sanctions. The United Kingdom was also aware that there was a string of tankers carrying Iraqi oil from Iraqi ports outwards from the Gulf. If those open acts of defiance succeeded, the authority of the Council, and of the United Nations itself, would be gravely undermined. In adopting resolution 665 (1990), the Council had chosen the best course for dealing with such maritime breaches of economic sanctions. The speaker noted, however, that sufficient legal authority to take action already existed under Article 51 of the Charter and the request which his Government and others had received from the Government of Kuwait; if necessary, they would use it. Noting that the resolution just adopted did not cover all aspects of the problem, he stated that whether the Council considered further measures and proceeded to other resolutions depended primarily on the Government of Iraq. That Government must recognize and respect the will of the international community, as expressed through the Council. It should not doubt the international community’s determination to see the immediate and unconditional withdrawal of Iraqi forces from Kuwait and the

⁶⁹ Ibid., pp. 45-47.

restoration of the legitimate authority in that country, and to hold members of the Government of Iraq personally responsible for the outrages being committed in Kuwait.⁷⁰

The representative of China stated that the pressing need of the moment was to implement effectively the four Security Council resolutions already adopted, including resolution 661 (1990), on the imposition of sanctions. In order to do so and to prevent a further worsening of the situation, China maintained that the mechanisms of the United Nations, including the Committee established under resolution 661 (1990), should be fully utilized. That Committee should expeditiously examine the implementation of the resolution and make recommendations for the Council to discuss and act upon. China also hoped to see mediation and the exercise of good offices by the United Nations Secretary-General in this regard, and would support him in playing such a role. Contrariwise, China was opposed, in principle, to military involvement by big Powers and did not favour the use of force in the name of the United Nations, since that would only aggravate the situation. It therefore held that measures must be taken within the framework of resolution 661 (1990), which did not provide for the use of force, and would naturally not allow force to be used for its implementation. Based on those considerations, the speaker’s delegation had proposed the deletion of the reference to “minimum use of force” from the previous draft of the resolution just adopted. He stressed that the present text of the resolution was limited to the implementation of resolution 661 (1990) and contained no reference to the minimum use of force. He added that, in China’s view, the reference in paragraph 1 of resolution 665 (1990) to using “such measures commensurate to the specific circumstances as may be necessary” did not contain the concept using force. Based on the foregoing, China had voted in favour of the draft resolution.⁷¹

Several other Council members, echoing the views of previous speakers, stated that, in the face of Iraq’s continued defiance of the Council’s resolutions, it was imperative that the Council take appropriate action to enforce compliance.⁷² Through the resolution just adopted, they intended not only to meet the

⁷⁰ Ibid., pp. 47-50.

⁷¹ Ibid., pp. 52-55.

⁷² Ibid., pp. 49-51 (Côte d’Ivoire); pp. 51-52 (Ethiopia); and pp. 54-56 (Romania).

existing shortcomings in the means available to implement earlier resolutions, but also to impress upon Iraq that the international community could not wait indefinitely. Some stressed that the new steps to be taken must be implemented under the authority of the Security Council.⁷³

The representative of Kuwait stated that, by calling for the use of all possible means, including the military option, to tighten the sanctions regime imposed on Iraq, resolution 665 (1990) closed the loopholes in the resolution imposing the embargo, which had been exploited by the Iraqi regime. It would thus contribute to the attainment of Kuwait's legitimate demands that its entire territory and its legitimate Government be restored to it. With regard to calls — made in the Council Chamber and elsewhere — for an Arab solution of the issue, he recalled that his Government had indeed sought to settle the whole problem within an Arab framework, both before and after the invasion and occupation of his country. Iraq had, however, rejected the demands that it withdraw its forces, unconditionally, in accordance with the resolution adopted by the Arab Foreign Ministers on 2 August 1990 and the resolutions subsequently adopted by the Arab Summit and the Foreign Ministers of Muslim countries. The speaker rejected, moreover, Iraq's accusation that the international community was acting in haste. On the contrary, Kuwait's desire to safeguard the interests of its homeland and the safety of its people under occupation had prompted it to move slowly, towards the tightening of the embargo measures and the closing of all the loopholes. He added, further, that any attempt by Iraq to invoke humanitarian considerations to seek exemptions for food and medicine from the embargoed goods was only a pretext to camouflage malicious designs. All the humanitarian problems arising from aggression and occupation would be resolved once the Iraqi occupation was brought to an end. That could only happen if there were firm international solidarity, which would contribute to forcing the aggressor to implement Council resolution 660 (1990).⁷⁴

The representative of Oman, on behalf of the States members of the Gulf Cooperation Council, regretted that Iraq had failed to heed the calls of the international community and the resolutions of the

League of Arab States and the Organization of the Islamic Conference to work towards a peaceful solution of the situation by withdrawing from Kuwait and restoring the legitimate authority of Kuwait. That was why his Government had joined with other States in asking the Security Council to convene the current meeting and to look into necessary measures for the implementation of its relevant resolutions, especially resolution 661 (1990), in accordance with Chapter VII of the Charter. The Gulf Cooperation Council countries welcomed, in this regard, the adoption of resolution 665 (1990), while continuing to call upon Iraq to accept all the previous resolutions in order to avoid unforeseen dangers to its people and the whole region.⁷⁵

The representative of Iraq said that he had asked to speak before the voting in order to show the "illegality" of resolution 665 (1990) under the Charter of the United Nations, but that the President had denied him that privilege without citing either a precedent or a rule of procedure. He was pleased, however, that the representative of Cuba had highlighted the illegal aspect of the resolution in his statement. The resolution contravened the Charter in two respects. First, resolution 661 (1990) was based on Article 41 of the Charter, which ruled out the use of force to implement economic measures decided by the Security Council. That reservation was emphasized by the fact that five members of the Council which voted in favour of resolution 665 (1990) or abstained from voting on it had expressed doubts about its applicability and appropriateness. The representative of China had stated that he had voted in favour while convinced that it did not authorize the use of force to implement the embargo. Secondly, any use of force in accordance with the Charter fell under the provisions of Article 42 and subsequent articles — especially those that limited the use of force to the Security Council, in cooperation with the Military Staff Committee. However, resolution 665 (1990) avoided invoking the authority and purview of the Security Council under Article 42. The Council had no right to deprive itself of its own authority, or to delegate that authority to a number of States. The resolution was, moreover, very dangerous: it lay down no logical basis for or limits on the use of force, and gave no real authority to the Security Council, the Military Staff Committee, the Security Council Committee concerned or the Secretary-General in

⁷³ Ethiopia and Romania.

⁷⁴ S/PV.2938, pp. 56-65.

⁷⁵ *Ibid.*, pp. 63-66.

supervising the use of force by maritime States. The speaker noted that many of the previous speakers had referred to the importance of continuing diplomatic efforts, especially through the Arab Group. However, it was clear that through their behaviour — in requesting meetings of the Security Council, in the hasty adoption of unjust resolutions and in holding meetings at short notice — the United States and its allies had slammed the door on any peaceful solution. He drew attention to the provocative nature of the massive deployment of troops by the latter and the blockade imposed upon the Iraqi people, and concluded by sounding a warning concerning aggression against Iraq.⁷⁶

Decisions of 13 September 1990 (2939th meeting): rejection of a draft resolution and adoption of resolution 666 (1990)

At its 2939th meeting, held on 13 September 1990 in accordance with the understanding reached in its prior consultations, the Council adopted the agenda item entitled “The situation between Iraq and Kuwait”. The Council invited the representative of Kuwait, at his request, to participate in the discussion without the right to vote.

The President (Union of Soviet Socialist Republics) drew the attention of the Council members to two draft resolutions, one submitted by Cuba;⁷⁷ the other submitted by Canada, Finland, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States.⁷⁸

He said that, in accordance with rule 32 of the provisional rules of procedure of the Security Council,⁷⁹ he would put the draft resolution submitted by Cuba to the vote first.⁸⁰ It received 3 votes in favour (China, Cuba, Yemen), 5 against (Canada, Finland, France, United Kingdom, United States) and 7 abstentions (Colombia, Côte d’Ivoire, Ethiopia, Malaysia, Romania, Soviet Union, Zaire) and was not adopted, having failed to obtain the required number of votes.

Under that draft resolution, the Council would have declared that the access to basic foodstuffs and to adequate medical assistance was a fundamental human right to be protected under all circumstances and would have decided, accordingly, that under no circumstances should actions be taken, including those resulting from the implementation of Security Council decisions such as resolutions 661 (1990) and 665 (1990), that might hinder access of the civilian population and the foreign nationals in Iraq and Kuwait to basic foodstuffs and medical assistance.

Speaking after the vote, the representative of China stated that his delegation had voted in favour of the draft resolution in the spirit of humanitarianism. China believed that the provision of foodstuffs to the civilian population and foreign nationals in Iraq and Kuwait should be carried out within the framework of resolution 661 (1990), that is, in humanitarian circumstances. China itself favoured the adoption of a resolution establishing information-seeking and food-distribution mechanisms; its vote in favour of the draft resolution did not change that position.⁸¹

The Council then proceeded to the vote on the second draft resolution before it.⁸² Speaking before the vote, the representative of Yemen said that his Government was complying with resolution 661 (1990), in accordance with Article 25 of the Charter, despite the fact that Yemen, as a member of the Council, had not voted in favour of it. He affirmed his Government’s understanding that paragraph 3 (c) of resolution 661 (1990) exempted medical supplies and foodstuffs, for humanitarian reasons, from the embargo imposed against Iraq and Kuwait. That resolution could not be used to starve the weak and innocent in those two countries, as a way to achieve political ends, since such methods would contradict many international humanitarian agreements. Such a policy might not, moreover, induce Iraq to implement the Council’s resolutions but, on the contrary, would only harm innocent civilians. With regard to the draft resolution before the Council, Yemen believed that, while it was an attempt to deal with the humanitarian circumstances mentioned in resolution 661 (1990), it was based on a very narrow interpretation. Yemen considered, moreover, that the procedure it envisaged for obtaining information about the food situation, for deciding

⁷⁶ *Ibid.*, pp. 66-77.

⁷⁷ S/21742/Rev.1.

⁷⁸ S/21747.

⁷⁹ The relevant part of rule 32 states: “Principal motions and draft resolutions shall have precedence in the order of their submission”.

⁸⁰ S/21742/Rev.1.

⁸¹ S/PV.2939, pp. 6-7.

⁸² S/21747.

whether to send food, and for distributing food through international humanitarian agencies was time-consuming and cumbersome. The speaker noted, further, that the draft resolution excluded bilateral efforts to send food to Iraq and Kuwait. Yet the Government of Iraq had stated that it would not allow international humanitarian agencies to transport or distribute food themselves and that it would only deal on a bilateral basis. In this regard, he thanked the sponsors of the draft resolution for accepting an amendment under which the Secretary-General was requested to use his good offices to facilitate the delivery and distribution of foodstuffs to Iraq and Kuwait. In sum, however, his country could not accept the proposed plan, which would put at risk the lives of millions of innocent civilians, and would not therefore vote in favour of the draft resolution.⁸³

The representative of Cuba said that his Government had various reasons for not being in agreement with the draft resolution before the Council. In particular, it regarded as completely inadmissible the idea of depriving peoples of their fundamental right to receive adequate food and appropriate medical care. Resolution 661 (1990) had at least contained reference to the possibility of supplying foodstuffs in humanitarian circumstances. However, the speaker noted that members of the Council had spent countless hours trying to define the criteria for interpreting the clauses of that resolution. At the same time, the Council had received information from various sources concerning the consequences for thousands of innocent individuals, and appeals from the representatives of various countries to deal with the situation. Not only had the Security Council not responded to those appeals; under the draft resolution it proposed to establish non-urgent machinery for obtaining and analysing information about the situation — a tortuous path with regard to imperative needs and requests for food received from various Member States. The draft resolution would thus, in effect, extend and reinforce the sanctions against Iraq and Kuwait to include foodstuffs; Cuba could not therefore support it.⁸⁴

The second draft resolution was then put to the vote and adopted by 13 votes in favour to 2 against (Cuba, Yemen) as resolution 666 (1990), which reads:

⁸³ S/PV.2939, pp. 8-17.

⁸⁴ *Ibid.*, pp. 18-36.

The Security Council,

Recalling its resolution 661 (1990) of 6 August 1990, paragraphs 3 (c) and 4 of which apply, except in humanitarian circumstances, to foodstuffs,

Recognizing that circumstances may arise in which it will be necessary for foodstuffs to be supplied to the civilian population in Iraq or Kuwait in order to relieve human suffering,

Noting that in this respect the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait has received communications from several Member States,

Emphasizing that it is for the Security Council, alone or acting through the Committee, to determine whether humanitarian circumstances have arisen,

Deeply concerned that Iraq has failed to comply with its obligations under Security Council resolution 664 (1990) of 18 August 1990 in respect of the safety and well-being of third-State nationals, and reaffirming that Iraq retains full responsibility in this regard under international humanitarian law including, where applicable, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that in order to make the necessary determination whether or not, for the purposes of paragraphs 3 (c) and 4 of resolution 661 (1990), humanitarian circumstances have arisen, the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait shall keep the situation regarding foodstuffs in Iraq and Kuwait under constant review;

2. *Expects* Iraq to comply with its obligations under resolution 664 (1990) in respect of third-State nationals and reaffirms that Iraq remains fully responsible for their safety and well-being in accordance with international humanitarian law including, where applicable, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

3. *Requests*, for the purposes of paragraphs 1 and 2 above, that the Secretary-General seek urgently, and on continuing basis, information from relevant United Nations and other appropriate humanitarian agencies and all other sources on the availability of food in Iraq and Kuwait, such information to be communicated by the Secretary-General to the Committee regularly,

4. *Also requests* that in seeking and supplying such information particular attention be paid to such categories of persons who might suffer specially, such as children under 15 years of age, expectant mothers, maternity cases, the sick and the elderly;

5. *Decides* that if the Committee, after receiving the reports from the Secretary-General, determines that circumstances have arisen in which there is an urgent humanitarian need to supply foodstuffs to Iraq or Kuwait in order to relieve human suffering, it will report promptly to the Council its decision as to how such need should be met;

6. *Directs* the Committee that in formulating its decisions it should bear in mind that foodstuffs should be provided through the United Nations in cooperation with the International Committee of the Red Cross or other appropriate humanitarian agencies and distributed by them or under their supervision, in order to ensure that they reach the intended beneficiaries;

7. *Requests* the Secretary-General to use his good offices to facilitate the delivery and distribution of foodstuffs to Kuwait and Iraq in accordance with the provisions of the present resolution and other relevant resolutions;

8. *Recalls* that resolution 661 (1990) does not apply to supplies intended strictly for medical purposes, but in this connection recommends that medical supplies should be exported under the strict supervision of the Government of the exporting State or by appropriate humanitarian agencies.

Speaking after the vote, the representative of the United States said that his country had voted in favour of resolution 666 (1990) because it guaranteed the integrity of United Nations efforts to end Iraq's occupation of Kuwait by peaceful means. The resolution gave a strong role to the sanctions Committee in supporting the Council's work in applying sanctions against Iraq. It established a process that included consideration by the Committee of the food situation inside Iraq and Kuwait, and set out a procedure for the distribution of relief supplies of food under the supervision of appropriate humanitarian agencies. It also stressed that medical supplies were to be provided only under the supervision of the Government of the country from which they had been exported. The speaker emphasized that those safeguards were essential, not optional, as the Council could not count on the good faith of the Government of Iraq. Moreover, that Government had stated its intention to allocate foodstuffs not to the needy but to the army it had sent to Kuwait, and it had so far refused cooperation with humanitarian agencies. For those reasons, it had become incumbent upon the Council, in promoting the effectiveness of sanctions against Iraq, to lay down procedures to ensure that food supplies reached those for whom they were intended. The mechanisms established ensured that the international community was ready to respond to cases of genuine human need without destroying the strength

of the sanctions designed to secure Iraq's withdrawal from Kuwait. By contrast, the draft resolution submitted by Cuba, and not adopted by the Council, sought to ignore the clear terms of resolution 661 (1990) and the choice made by the Council in favour of economic sanctions as the response to Iraq's invasion of Kuwait. Rather than strengthening the sanctions by ensuring that the legitimate needs of the civilian population were met, it would have discredited sanctions as the Council's chosen instrument.⁸⁵

The representative of China stated that, on the question of delivering foodstuffs to Iraq in humanitarian circumstances, his delegation had taken the following as its point of departure: first, resolution 661 (1990) should be strictly implemented so as to urge Iraq to withdraw from Kuwait, thereby paving the way for a political settlement of the Gulf crisis; and secondly, no situation should occur in which people in those two countries, particularly children, suffered from hunger. Proceeding from that position, China had found the draft resolution generally acceptable and had thus voted in favour of it. The speaker stressed, however, that the information-seeking and food-distribution mechanisms provided in the resolution just adopted should in no circumstances cause any impediment or delay in the delivery of food. He added that the situation with which the Council was now faced was an urgent one, in response to which it must be prepared to take whatever emergency measures were necessary. Citing the critical predicament faced by Asian nationals in Iraq and Kuwait as a case in point, he said it was imperative for the Council and its sanctions Committee to solve this type of problem as a priority without delay.⁸⁶

The representative of France condemned Iraq's attempts to bypass the embargo imposed on it by the international community by using the distress of a foreign population it was doing nothing to help. While the Iraqi leaders had been asserting that they had several months' worth of foodstuff reserves, hundreds of thousands of foreigners were in a situation of critical shortage. The real solution to this problem lay in the speediest possible evacuation of those concerned, as provided for in resolution 664 (1990). Unable, however, to return to their countries, those concerned must be able to receive from abroad the food that Iraq

⁸⁵ *Ibid.*, pp. 37-42.

⁸⁶ *Ibid.*, pp. 42-43.

had denied them. Security Council resolution 661 (1990) moreover, stipulated that foodstuffs could be sent to Iraq and Kuwait in humanitarian circumstances. Obviously, such supplies must be delivered in strict compliance with that resolution — that is, they must not contravene the embargo and must truly respond to humanitarian considerations without risk of diversion. The resolution just adopted provided a clearly defined framework of action for the Council and its Sanctions Committee, which contained two key elements: it was indispensable that the Committee have available to it objective and impartial information on the situation regarding foodstuffs in Iraq and Kuwait, in particular with regard to children and other vulnerable persons; and it was essential that the foodstuffs supplied reached the intended beneficiaries, which could only be guaranteed if their shipment and distribution were carried out under close supervision by international organizations. France hoped that there would be movement towards Iraqi acceptance of the role of such organizations, and that Prince Sadruddin Aga Khan, whom the Secretary-General had just entrusted with the task of coordinating United Nations humanitarian actions in the region, would be able speedily to discharge his mission.⁸⁷

The representative of Canada welcomed the adoption by the Council, by an overwhelming majority, of a resolution dealing with one of the most tragic aspects of the situation in Iraq and Kuwait. Like previous speakers, he noted that it established a framework by which the Council and its Sanctions Committee would determine the existence of humanitarian circumstances which required foodstuffs to be supplied to the civilian population in Iraq or Kuwait; and stressed the need for such supplies to be provided through appropriate humanitarian agencies and distributed by them or under their supervision: only in that way could the Council be sure that the foodstuffs would reach their intended beneficiaries, including the most disadvantaged individuals. He called upon the Government of Iraq to cooperate fully with Prince Sadruddin Aga Khan, the Personal Representative of the Secretary-General for humanitarian assistance relating to the crisis, and to facilitate the early and full implementation of the resolution just adopted.⁸⁸

⁸⁷ *Ibid.*, pp. 49-53.

⁸⁸ *Ibid.*, pp. 53-55.

The representative of the United Kingdom observed that the Security Council was faced with yet a further breach by Iraq of international law and of its international obligations. The Government of Iraq was refusing to supply food to the poorest and most vulnerable of the third-country nationals in Kuwait, the workers from a number of Asian countries. At the same time, it was boasting that it still had considerable supplies of basic foodstuffs. Iraqi objectives were clear: by provoking a human tragedy, it was seeking to open a breach in the sanctions which the Council had imposed upon it. The resolution just adopted was designed to avoid such an outcome while at the same time meeting the real humanitarian needs of those innocent victims, as was clearly intended when the sanctions were imposed. The Council was laying down guidelines to enable food to be supplied when it could be objectively established that a humanitarian need existed, as had been established, for example, in the case of the Indian and other nationals from Asian countries. The speaker emphasized, as had other speakers, that the supervision of the supply of food must be in the hands of the United Nations and the International Committee of the Red Cross or other appropriate humanitarian agencies: a regime which, as an occupying Power, had looted medical supplies and equipment from Kuwait was likely to have little compunction about diverting food supplies from those in real need towards its own military.⁸⁹

The President, speaking in his capacity as the representative of the Union of Soviet Socialist Republics, recalled that from the beginning of the crisis his country had expressed its unequivocal preference for a diplomatic solution, based on the full use of the machinery and potential of the United Nations. It had considered resolution 661 (1990) to be a necessary and severe lever for collectively influencing Iraq in view of its continuing occupation of Kuwait and its flouting of norms of international law. The Soviet delegation had been aware that the implementation of the comprehensive sanctions would create serious economic, social and humanitarian problems for many States, including its own. However, the Council could not lose sight of the fact that the fundamental reason for those problems was the continuing occupation and annexation of Kuwait by Iraq — not the sanctions adopted as a result of those actions. It was clear, moreover, that the sanctions were

⁸⁹ *Ibid.*, pp. 56-59.

not aimed at causing hunger and disease among the populations of Iraq and Kuwait. On the contrary, as emphasized in a recent joint communiqué, issued by the Presidents of the Soviet Union and the United States, resolution 661 (1990) permitted the export of foodstuffs to Iraq and Kuwait for humanitarian considerations. In the light of these considerations, the Soviet Union viewed the resolution just adopted as embodying the internationally recognized need for procedures to allow for the humanitarian provision of foodstuffs and medical supplies to those two countries. The Soviet delegation had, therefore, actively participated in its preparation and supported it. It had been unable, on the other hand, to support the draft resolution submitted by Cuba since it clearly departed from the spirit and purposes and specific provisions adopted by the Council in resolution 661 (1990).⁹⁰

The other members of the Council stated that, by the resolution just adopted, the Council had demonstrated that it was aware of and attentive to the humanitarian concerns that could arise from the strict application of the sanctions imposed against Iraq.⁹¹ They welcomed the establishment of a clearer framework for considering and responding quickly to problems pertaining to the provision of foodstuffs to the civilian population of Iraq and Kuwait, particularly third-country nationals stranded there, although one would have wished for a more efficient system.

The representative of Kuwait stressed the following points in connection with the resolution just adopted. First, the plight of the Kuwaiti people should be kept in mind in any consideration of solutions to humanitarian questions and the effects of the brutality of the aggressor. While his country had great sympathy for the third-country nationals in Kuwait, their plight should not deflect attention from the basic problem — that is, the problem of the Kuwaitis: their food, safety, rights and land. Secondly, Kuwait had no confidence in the occupying Power. The latter should not be given any role in determining the needs of the Kuwaiti population or in regard to the distribution of food. The competent international organizations should carry out that humanitarian task. Thirdly, in no circumstances should these humanitarian questions — important, indeed vital, as they were — deflect international

attention from the crux of the question: the continued Iraqi occupation of Kuwait and Iraq's refusal to comply with international law by implementing the Security Council resolutions. The speaker observed that the measures the Council had taken since the aggression had begun were appropriate to the situation. He added, however, that it was now called upon to "turn up the heat" on Iraq to bring it to comply with the Council's resolutions and withdraw from Kuwait so that Kuwait's legitimate Government could be restored.⁹²

Decision of 16 September 1990 (2940th meeting): resolution 667 (1990)

By 18 separate letters dated 15 September 1990 addressed to the President of the Security Council,⁹³ the representatives of, respectively, France, Italy, Canada, Denmark, the Federal Republic of Germany, Belgium, Finland, Austria, Hungary, Spain, the Netherlands, Greece, Ireland, Sweden, Norway, Portugal, Australia and Luxembourg requested an immediate meeting of the Council to consider the situation between Iraq and Kuwait, in view of the grave violations of international law and of the Vienna Conventions on diplomatic and consular relations which Iraq had committed by forcibly entering the premises of the embassies of France and other countries in Kuwait and abducting diplomatic personnel and foreign nationals.

At its 2940th meeting, on 16 September 1990, the Council included the 18 letters in its agenda. Following the adoption of the agenda, the Council invited the representatives of Iraq, Italy and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (Union of Soviet Socialist Republics) drew attention to a draft resolution submitted by Canada, Côte d'Ivoire, Finland, France, the United Kingdom and Zaire.⁹⁴

Speaking before the vote, the representative of France explained that his country had called for the immediate convening of the Council in order to consider without delay events of particular gravity that had just occurred in Kuwait. In recent days, Iraq had

⁹⁰ Ibid., pp. 71-73.

⁹¹ Ibid., pp. 43-47 (Zaire); pp. 47-48 (Ethiopia); pp. 59-60 (Malaysia); pp. 61-62 (Finland); pp. 62-63 (Romania); pp. 63-67 (Côte d'Ivoire); and pp. 67-68 (Colombia).

⁹² Ibid., pp. 74-82.

⁹³ S/21755-S/21771 and S/21773, respectively.

⁹⁴ S/21774; subsequently adopted without change as resolution 667 (1990).

violated international law and the Vienna Conventions on diplomatic and consular relations by forcibly entering the diplomatic premises of several countries, some of them members of the Council, and removing from them diplomatic personnel and persons not enjoying diplomatic status. In the residence of the French Ambassador, the Iraqi army had apprehended the Military Attaché of France and three other French nationals not enjoying diplomatic status. Although the former had been released, the others had joined the numerous foreigners held hostage in Iraq and Kuwait. This was a new intolerable act of aggression by Iraq, which was aimed at the international community as a whole. It compounded the initial aggression by Iraq against Kuwait and the second aggression constituted by the taking hostage of several thousand people of various nationalities. The purpose of these latest actions was clear: by attacking diplomatic and consular missions in Kuwait, Iraq was seeking the obliteration of that State. The speaker underlined the importance of the main features of the draft resolution. The Council must act vigorously and swiftly, by firmly condemning the violations that had just been committed and by demanding that Iraq immediately release not only the persons just kidnapped but all foreign nationals that had been taken hostage. It must ensure the success of the strategy chosen by the international community, namely, the embargo — by recalling that it must be strictly respected and its implementation monitored with vigilance. Finally, the Council must send Iraq a clear warning that, in view of its persistent refusal to comply with Security Council resolutions, the international community was determined to adopt other measures. The speaker concluded that it was essential that the international community continue to stand firm against all new acts contrary to international law and to the resolutions of the Council perpetrated by Iraq. He accordingly called upon the members of the Council to support the draft resolution before them.⁹⁵

The representatives of Canada — whose ambassadorial residence had also been unlawfully entered and a diplomat detained — China, Colombia, Côte d'Ivoire, Ethiopia, Finland (speaking on behalf of the five Nordic countries: Denmark, Finland, Iceland, Norway and Sweden), Malaysia, Romania, the United Kingdom, the United States and Zaire, and the President, speaking in his capacity as the representative of the Union of Soviet Socialist Republics, expressed

⁹⁵ S/PV.2940, pp. 6-7.

support for the draft resolution which they either sponsored or endorsed. The representatives of Canada, the United Kingdom, the United States and the Union of Soviet Socialist Republics stressed the warning, contained in paragraph 6 of the draft resolution, that Iraq's failure to respond appropriately and without delay would lead the Council to adopt "further concrete measures", with some calling for immediate consultations to that end. The representative of China expressed a reservation concerning that formulation, the implications of which China found too wide and not conducive to the efforts of all parties in seeking a political settlement. The representative of Malaysia interpreted the significance of paragraph 6 as a collective determination to continue to take action through the Security Council and not unilaterally, and without any need at that stage "to resort to more force".⁹⁶

The draft resolution was then put to the vote and adopted unanimously as resolution 667 (1990), which reads:

The Security Council,

Reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990 and 666 (1990) of 13 September 1990,

Recalling the Vienna Convention on Diplomatic Relations of 18 April 1961 and the Vienna Convention on Consular Relations of 24 April 1963, to both of which Iraq is a party,

Considering that the decision of Iraq to order the closure of diplomatic and consular missions in Kuwait and to withdraw the privileges and immunities of these missions and their personnel is contrary to the decisions of the Security Council, the international conventions mentioned above and international law,

Deeply concerned that Iraq, notwithstanding the decisions of the Council and the provisions of the conventions mentioned above, had committed acts of violence against diplomatic missions and their personnel in Kuwait,

Outraged at recent violations by Iraq of diplomatic premises in Kuwait and at the abduction of personnel enjoying diplomatic immunity and foreign nationals who were present in these premises,

⁹⁶ *Ibid.*, pp. 7-10 (Canada); pp. 11-12 (United Kingdom); p. 12 (Malaysia); pp. 13-15 (Finland); p. 16 (Zaire); pp. 16-17 (China); pp. 18-19 (Côte d'Ivoire); pp. 19-21 (United States); pp. 21-23 (Romania); pp. 23-26 (Colombia); pp. 26-27 (Soviet Union); and pp. 31-32 (Ethiopia).

Considering also that these actions by Iraq constitute aggressive acts and a flagrant violation of its international obligations which strike at the root of the conduct of international relations in accordance with the Charter of the United Nations,

Recalling that Iraq is fully responsible for any use of violence against foreign nationals or against any diplomatic or consular mission in Kuwait or its personnel,

Determined to ensure respect for its decisions and for Article 25 of the Charter,

Considering further that the grave nature of Iraq's actions, which constitute a new escalation of its violations of international law, obliges the Council not only to express its immediate reaction but also to consult urgently in order to take further concrete measures to ensure Iraq's compliance with the Council's resolutions,

Acting under Chapter VII of the Charter,

1. *Strongly condemns* aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, including the abduction of foreign nationals who were present in those premises;

2. *Demands* the immediate release of those foreign nationals as well as all nationals mentioned in resolution 664 (1990);

3. *Also demands* that Iraq immediately and fully comply with its international obligations under resolution 660 (1990), 662 (1990) and 664 (1990), the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law;

4. *Further demands* that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq and take no action to hinder the diplomatic and consular missions in the performance of their functions, including access to their nationals and the protection of their person and interests;

5. *Reminds* all States that they are obliged to observe strictly resolutions 661 (1990), 662 (1990), 664 (1990), 665 (1990) and 666 (1990);

6. *Decides* to consult urgently to take further concrete measures as soon as possible, under Chapter VII of the Charter, in response to Iraq's continued violation of the Charter of the United Nations, of resolutions of the Security Council and of international law.

Speaking after the vote, the representative of Cuba expressed his appreciation to the delegation of France for its willingness to seek compromise formulations that had made it possible for all members of the Council to support the resolution just adopted. He voiced concerns, however, about some of its elements. His delegation found the reference to

“aggressive acts” to be somewhat excessive in this context, noting that such an expression had not been used even in resolution 660 (1990), condemning the Iraqi invasion of Kuwait. It was also concerned about paragraph 6, since it might be inferred that some Powers could use its provisions to exacerbate the conflict and press on to military action. His delegation regretted, moreover, that no mention was made in the text of the need to continue the efforts to find a peaceful solution to the conflict, or of the responsibility that could and should devolve upon the Secretary-General in connection with diplomatic missions in Kuwait.⁹⁷

The representative of Italy stated that the offence against the French Embassy was regarded as an offence against all members of the European Community. However, it was more. Iraq's action against the embassies in Kuwait affected the very bases of civilized relationships between nations. It must, therefore, elicit a response not just from the individual countries affected, but from the whole international community as represented in the Security Council — for Iraq's action constituted an offence against the whole international community. Italy accordingly fully supported the measures contained in resolution 667 (1990), in particular its paragraph 5, calling upon Iraq to respect the Council's previous resolutions. Should that not happen, it was prepared to support such further actions as the Council might take under paragraph 6 of the resolution.⁹⁸

The representative of Kuwait stated that Iraq's act of aggression against the embassies in Kuwait was merely a continuation of Iraq's aggression against the Kuwaiti Embassy and diplomatic personnel in Baghdad, and of the crimes committed by the Iraqi occupation forces in Kuwait. Those actions deserved the Council's most vigorous condemnation. Further, as they were the result of the continued occupation of Kuwait, the Security Council should consider the adoption of further measures to put an end to that occupation: it should tighten the vice by every possible means and procedure to compel Iraq to comply with its decisions and withdraw from Kuwait. In the meantime, he expressed Kuwait's appreciation to all States that had faced up to the difficulties imposed by Iraq and had kept their embassies open in Kuwait. He also

⁹⁷ *Ibid.*, pp. 28-31.

⁹⁸ *Ibid.*, pp. 32-35.

expressed gratitude to the Council, which continued to keep under consideration the situation between Iraq and Kuwait with a sense of responsibility, firmness and persistence in pursuing the need to apply the provisions of the Charter.⁹⁹

The representative of Iraq contended that the claim of intrusion into the residence of the French Ambassador was “false and unfounded”. The instructions given to the local authorities in the “province of Kuwait” stipulated that those residences should not be entered, although they no longer had diplomatic immunity. He asserted that the Government of France had been looking for a pretext to create unfounded tension and escalate the situation. Iraq’s position was clear: it respected the Vienna Conventions on diplomatic and consular relations. He concluded that the resolution adopted by the Council would in no way promote a peaceful solution to the crisis.¹⁰⁰

Decision of 24 September 1990 (2942nd meeting): resolution 669 (1990)

At its 2942nd meeting, held on 24 September 1990 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the item entitled “The situation between Iraq and Kuwait”.

The President (Union of Soviet Socialist Republics) drew the attention of the members to a draft resolution that had been prepared in the course of the Council’s consultations.¹⁰¹ The draft resolution was then put to the vote and adopted unanimously as resolution 669 (1990), which reads:

The Security Council,

Recalling its resolution 661 (1990) of 6 August 1990,

Recalling also Article 50 of the Charter of the United Nations,

Conscious of the fact that an increasing number of requests for assistance have been received under the provisions of Article 50 of the Charter,

Entrusts the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait with the task of examining requests for assistance under the provisions of Article 50 of the Charter and making

⁹⁹ *Ibid.*, pp. 36-37.

¹⁰⁰ *Ibid.*, pp. 38-41.

¹⁰¹ S/21811; adopted without change as resolution 669 (1990).

recommendations to the President of the Security Council for appropriate action.

Decision of 25 September 1990 (2943rd meeting): resolution 670 (1990)

At its 2943rd meeting, held on 25 September 1990 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the item entitled “The situation between Iraq and Kuwait”. Following the adoption of the agenda, the President (Union of Soviet Socialist Republics) observed that the following members of the Council were, like his own country, represented by their Foreign Ministers, whom he welcomed: Canada, China, Colombia, Ethiopia, Finland, France, Malaysia, Romania, the United Kingdom, the United States, Yemen and Zaire. The Council invited the representative of Kuwait, at his request, to participate in the discussion without the right to vote.

The President then drew the attention of the Council members to a draft resolution submitted by Canada, Côte d’Ivoire, Finland, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom, the United States and Zaire.¹⁰² He also drew their attention to several other documents.¹⁰³

At the outset of the Council’s deliberations, the Secretary-General stated that, during the weeks since 2 August, the Security Council had been shouldering the heavy responsibility which the Charter had placed on it but which, in earlier circumstances, it had been unable to exercise. He added that the Council should view its responsibility not just as that of restoring peace, but of upholding and maintaining peace with justice. He stressed that the power of the Security Council was the power of principle, commanded by the solidarity of nations opposed to the transgression of the Charter of the United Nations. What made the Council’s task particularly onerous — but ultimately fruitful — was that principles must be consistently applied and the Council’s actions must be based on equity and perceived to be so. Enforcement provisions under Chapter VII of the Charter had not been used before in such a manner and on such a scale as they

¹⁰² S/21816; subsequently adopted without change as resolution 670 (1990).

¹⁰³ S/21812; and S/21814 and S/21815, containing communications from the representatives of Iraq and Kuwait, respectively, addressed to the Secretary-General.

were in the present crisis. The United Nations was being subjected to an unprecedented test. It needed to demonstrate that the way of enforcement was qualitatively different from the way of war; that as such action issued from a collective undertaking, it required a discipline all its own; that it strove to minimize undeserved suffering to the extent possible, and to search for solutions to the special economic problems confronted by States arising from the carrying out of enforcement measures; that what it demanded from the targeted State was not surrender but the righting of the wrong that had been committed; and that it did not foreclose diplomatic efforts aimed at a peaceful solution consistent with the principles of the Charter and the determinations made by the Security Council. The Secretary-General recalled that during his recent visit to Jordan he had felt the need to emphasize publicly that one wrong did not justify another. He noted, further, that the effort to correct one international wrong did not mean that other wrongs should be left unaddressed. In his view, the world situation generally, and particularly the situation in the Middle East as a whole, presented itself as a proving ground for the international community's probity in establishing the rule of law. If peace were to be made secure, justice must have the last word.¹⁰⁴

The Council then proceeded to vote on the draft resolution before it. Speaking before the vote, the representative of Yemen said that the crisis between Iraq and Kuwait had developed at the end of the cold war era and that the shift from confrontation to cooperation had brought about a new phase in international relations. The application of the principles of the Charter by the organs of the Organization, especially the Security Council, fell within that historical context. He stated that the response to the Iraq-Kuwait crisis would affect the nature and evolution of the new world order. In addressing the crisis, the Council had to choose beforehand between the two options of peace and war. Peace required a commitment to sustained efforts to achieve the aims of the Security Council resolutions through peaceful means in a manner that avoided escalation and confrontation. War, which would break out if force were used by certain Powers, could lead to catastrophe in the region and have wider implications for the world. It would wreck the new world order at the very outset, especially if force was used outside the

¹⁰⁴ S/PV.2943, pp. 6-8.

authority of the Council. Yemen expected the Council to take positive measures towards a peaceful resolution of the crisis so that its resolutions would not be used as a justification and pretext for war but as an inspiration for peace. It had therefore submitted to the Council a draft resolution that called on all parties, including the countries of the region, to intensify diplomatic efforts and on the Secretary-General to continue his good offices. The speaker asserted that the crisis was being escalated through the application of Chapter VII without any parallel effort to encourage peaceful solutions, especially within an Arab framework, and that famine would result from an inhuman interpretation of "humanitarian cases" under resolution 666 (1990). Recalling his country's position on the crisis, he stressed that the road to war would not lead to the promotion of democracy in the region.¹⁰⁵

The representative of Cuba recalled that his country had voted in favour of the resolutions that rejected the inadmissible invasion of Kuwait, but had felt obliged, for the same reasons of principle, not to join with the rest of the Security Council on other occasions. He believed that the Council must be consistent in fulfilling its obligations under the Charter. However, the Council had been inconsistent in the past and continued to be so in cases such as Palestine, Lebanon, apartheid and Cyprus. It had also lacked consistency in the decisions it had hastily taken since August. Deft in adopting one resolution after another, it had been circumspect towards the growing calls from many States under Article 50 of the Charter. It had imposed inhuman sanctions denying thousands of innocent people their fundamental right to basic food and health care. It had acted in haste, in response to alleged violations of the embargo, without awaiting information from the Secretary-General. The Council was again being asked to strengthen the economic measures against Iraq without pausing to consider the consequences for third parties. Moreover, the draft resolution contained threats that other measures, presumably military, would be used against Iraq, and lashed out at any State that might disregard the resolutions already adopted, although no indication to that effect had been received. Cuba viewed this text — whose measures would extend to international air communications between Iraq and other States in a manner that had little to do with the 1944 Charter of the International Civil Aviation Organization — as a

¹⁰⁵ *Ibid.*, pp. 11-18.

step towards a military outbreak, rather than a settlement of the conflict. Finally, the speaker stated that he would have voted in favour of paragraph 13 of the draft resolution, which dealt with the plight of the Kuwaiti population under foreign occupation, had the sponsors accepted a separate vote on that paragraph. In conclusion, he hoped that the Council would soon devote some time to efforts that would give peace a chance.¹⁰⁶

The draft resolution was then put to the vote and adopted by 14 votes in favour to 1 against (Cuba) as resolution 670 (1990), which reads:

The Security Council,

Reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990 and 667 (1990) of 16 September 1990,

Condemning Iraq's continued occupation of Kuwait, its failure to rescind its actions and end its purported annexation and its holding of third-State nationals against their will, in flagrant violation of resolutions 660 (1990), 662 (1990), 664 (1990) and 667 (1990) and of international humanitarian law,

Condemning also the treatment by Iraqi forces of Kuwait nationals, including measures to force them to leave their own country and mistreatment of persons and property in Kuwait in violation of international law,

Noting with grave concern the persistent attempts to evade the measures laid down in resolution 661 (1990),

Noting also that a number of States have limited the number of Iraqi diplomatic and consular officials in their countries and that others are planning to do so,

Determined to ensure by all necessary means the strict and complete application of the measures laid down in resolution 661 (1990),

Determined also to ensure respect for its decisions and the provisions of Articles 25 and 48 of the Charter of the United Nations,

Affirming that any acts of the Government of Iraq which are contrary to the above-mentioned resolutions or to Articles 25 or 48 of the Charter, such as Decree No. 377 of 16 September 1990 of the Revolutionary Command Council of Iraq, are null and void,

Reaffirming its determination to ensure compliance with its resolutions by maximum use of political and diplomatic means,

Welcoming the Secretary-General's use of his good offices to advance a peaceful solution based on the relevant resolutions of the Council and noting with appreciation his continuing efforts to this end,

Underlining to the Government of Iraq that its continued failure to comply with the terms of resolutions 660 (1990), 661 (1990), 662 (1990), 664 (1990), 666 (1990) and 667 (1990) could lead to further serious action by the Council under the Charter, including under Chapter VII,

Recalling the provisions of Article 103 of the Charter,

Acting under Chapter VII of the Charter,

1. *Calls upon* all States to carry out their obligations to ensure strict and complete compliance with resolution 661 (1990) and in particular paragraphs 3, 4 and 5 thereof;

2. *Confirms* that resolution 661 (1990) applies to all means of transport, including aircraft;

3. *Decides* that all States, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before the date of the present resolution, shall deny permission to any aircraft to take off from their territory if the aircraft would carry any cargo to or from Iraq or Kuwait other than food in humanitarian circumstances, subject to authorization by the Security Council or the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait and in accordance with resolution 666 (1990), or supplies intended strictly for medical purposes or solely for the United Nations Iran-Iraq Military Observer Group;

4. *Decides also* that all States shall deny permission to any aircraft destined to land in Iraq or Kuwait, whatever its State of registration, to overfly their territory unless:

(a) The aircraft lands at an airfield designated by the State outside Iraq or Kuwait in order to permit its inspection to ensure that there is no cargo on board in violation of resolution 661 (1990) or the present resolution, and for this purpose the aircraft may be detained for as long as necessary; or

(b) The particular flight has been approved by the Security Council Committee; or

(c) The flight is certified by the United Nations as solely for the purposes of the Military Observer Group;

5. *Decides further* that each State shall take all necessary measures to ensure that any aircraft registered in its territory or operated by an operator who has his principal place of business or permanent residence in its territory complies with the provisions of resolution 661 (1990) and the present resolution;

6. *Decides moreover* that all States shall notify in a timely fashion the Security Council Committee of any flight between its territory and Iraq or Kuwait to which the

¹⁰⁶ Ibid., pp. 19-23.

requirement to land in paragraph 4 above does not apply, and the purpose for such a flight;

7. *Calls upon* all States to cooperate in taking such measures as may be necessary, consistent with international law, including the Chicago Convention on International Civil Aviation of 7 December 1944, to ensure the effective implementation of the provisions of resolution 661 (1990) or the present resolution;

8. *Also calls upon* all States to detain any ships of Iraqi registry which enter their ports and which are being or have been used in violation of resolution 661 (1990), or to deny such ships entrance to their ports except in circumstances recognized under international law as necessary to safeguard human life;

9. *Reminds* all States of their obligations under resolution 661 (1990) with regard to the freezing of Iraqi assets, and the protection of the assets of the legitimate Government of Kuwait and its agencies, located within their territory and to report to the Security Council Committee regarding those assets;

10. *Further calls upon* all States to provide to the Security Council Committee information regarding the action taken by them to implement the provisions laid down in the present resolution;

11. *Affirms* that the United Nations, the specialized agencies and other international organizations in the United Nations system are required to take such measures as may be necessary to give effect to the terms of resolution 661 (1990) and of the present resolution;

12. *Decides* to consider, in the event of evasion of the provisions of resolution 661 (1990) or of the present resolution by a State or its nationals or through its territory, measures directed at the State in question to prevent such evasion;

13. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, applies to Kuwait and that, as a High Contracting Party to the Convention, Iraq is bound to comply fully with all its terms and in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches.

Speaking after the vote, the representative of the United States said that the international community had rarely been so united and determined that aggression should not succeed. By resolution 661 (1990) and its successor resolutions, it had set a high and rising penalty upon Iraq for each day it failed to abandon its aggression. By the resolution just adopted, the Council provided for the following additional measures: (a) it stated explicitly that resolution 661 (1990) would include commercial air traffic; (b) it agreed to consider measures against any Government that might attempt to evade the international quarantine, given that the

more effective the enforcement of the sanctions, the more likely a peaceful resolution of the conflict would be; (c) it reminded Iraq that it must respect its international obligations, especially the humanitarian provisions of the Fourth Geneva Convention; and (d) it put the Government of Iraq on notice that its continued failure to comply could lead to further action, including action under Chapter VII of the Charter. The speaker stated further that, while the international community had made clear its desire to exhaust every peaceful possibility for resolving the crisis, the Charter also envisaged the possibility of further individual and collective measures to defend against aggression and flagrant violations of international humanitarian law. He emphasized that the sanctions were not aimed at the Iraqi people, but at reversing the aggressive policies of the Iraqi Government. The Council had acknowledged that its sanctions could be costly to many Member States. Its members had a duty to make sure that no nation was crippled because it had stood for the principles of international order. The United States was coordinating an international effort in this regard to provide assistance to those desperately in need. The speaker observed that, with the ending of the cold war, the United Nations had been reborn. The vision of the Charter and the promise of international cooperation seemed suddenly within reach, and the United Nations was at last beginning to control the proliferation of conflicts. If the Organization was to fulfil its mission, the Council must reverse Saddam Hussein's aggression.¹⁰⁷

The representative of France said that the new state of international relations allowed the United Nations to deal collectively with the situations it faced in order to foster the new international order. He stated that this new order aimed at ensuring the primacy of law and justice over force and arbitrary power and that, in the case of the Gulf crisis, the embargo was the instrument of that policy. Resolution 670 (1990) strengthened, in the area of air transport, means of control similar to those laid down for sea transport by resolution 665 (1990) and fully met the concerns of the European Community and the Western European Union. He stressed that the resolution was important not just by virtue of its provisions, but also because it demonstrated the Council's confidence in the policy of embargo as a weapon of peace. It was in that spirit that the Council had decided on an embargo, and that the

¹⁰⁷ Ibid., pp. 26-32.

means of monitoring it had been strictly set out and would be further added to if necessary. He concluded by calling on the Arab world to find a political way out of the conflict and, in so doing, to be guided by the resolutions of the Council which had set out the principles on which any solution must be based.¹⁰⁸

The representative of Canada said that the united response to the crisis held great hope for future collective action through the United Nations. The Council's resolutions stated in clear terms the path Iraq must follow if it wished to resume its place in the international community. Once it had withdrawn totally and unconditionally from Kuwait and allowed all those who wished to do so to leave Iraq and Kuwait, Iraq could pursue its disputes with its neighbours through the channels established for the peaceful resolution of disputes, including the United Nations. The speaker paid tribute to the individuals and the countries that had paid a significant price for upholding the Charter and the rule of international law. The resolution just adopted tightened the sanctions against Iraq and set out the means by which their effectiveness was to be assured. It also underlined to Iraq that its continued failure to comply with the Council's resolutions could lead to further action by the Council under the Charter, with potentially severe consequences.¹⁰⁹

The representative of the United Kingdom stated that Iraq's seizure of Kuwait had confronted the post-cold-war world with its first crucial test. The United Nations, for the first time in its history, had responded the way its founding fathers had intended. The United States, the Soviet Union, China, Western and Eastern Europe, Japan and a decisive majority of Arab and Muslim countries stood together in a unique coalition to defeat aggression. To those who had expressed the desire to see the Council concentrate its efforts on the search for peace, he said that it was precisely by adopting resolution 670 (1990), by tightening sanctions and making them more effective that the Council was working for the peaceful reversal of aggression and for a peaceful end to the crisis. There were many small countries with reason to fear a more powerful neighbour, and many international frontiers whose existence was resented by one or another party. If Saddam Hussein were allowed to get away with the spoils of conquest, then other would-be aggressors

would take heart; the Council could not allow that to happen. No member of the Council relished the possibility of war. It was President Saddam Hussein who had used force, to accomplish the invasion. The threat to the security and stability of the Gulf came from Iraq. That was why such a large coalition of peacekeeping forces had been assembled there. The speaker stressed that it was not the United States ranged against Iraq, but the States united — in a coalition against aggression, whose members wanted to see the independence of Kuwait restored by peaceful means, and to secure the release of the foreign nationals being held hostage. He concluded that success in this effort would not only do justice to Kuwait; it would strengthen hopes of a more secure world order, based on the implementation of the resolutions of the Council, whether in the Middle East or elsewhere.¹¹⁰

The representative of Finland said that the adoption of resolution 670 (1990) under Chapter VII signalled the determination of the Security Council to continue to uphold and strengthen the principle of collective security. That principle implied that the security of Kuwait was also the security of all other States, particularly the small Member States. The fact that it had not always been possible in the past to apply the provisions of Chapter VII of the Charter and summon the collective strength of the international community against aggression was no argument against the application of effective sanctions in the current crisis. It was desirable that everyone know that, if needed, the Security Council had the will and the capability to use effectively the instruments at its disposal, as was now being demonstrated by the Council in concrete action. The speaker concluded by emphasizing that the world community wanted a peaceful outcome to the crisis, and that it must be based on the Council's resolutions.¹¹¹

The representative of China recalled that his country had voted in favour of Security Council resolution 660 (1990) and its successor resolutions, including the one just adopted, with a view to safeguarding the basic norms governing international relations and restoring peace and security in the Gulf region. It had done so in the belief that the resolutions were aimed at promoting a political settlement of the

¹⁰⁸ Ibid., pp. 32-34.

¹⁰⁹ Ibid., pp. 36-38.

¹¹⁰ Ibid., pp. 39-42.

¹¹¹ Ibid., pp. 43-46.

crisis by peaceful means, an approach which China advocated. It supported the role played by the Council and the efforts of the Arab States and the Secretary-General in the search for a solution. While China understood and respected the necessary defensive steps taken by some Gulf countries out of consideration for their security, it did not, in principle, favour military involvement in the Gulf region by big Powers since such involvement would only make the situation even more complicated. The speaker called on the countries concerned to exercise maximum restraint so as to prevent further deterioration of the matter. He also stressed that, in implementing the provisions of resolution 670 (1990) with regard to civil aircraft, the countries concerned should strictly abide by relevant international law and take rigorous steps to prevent any action that might endanger the safety of such aircraft and the people on board.¹¹²

The representative of Colombia underlined the urgent need to explore all the possible avenues of diplomacy to solve the problems of the Gulf, and to avoid a military confrontation there. His country believed that the Council should encourage an Arab solution to the conflict, as recommended in resolution 660 (1990). Regional participation in the solution of problems frequently offered more possibilities for success than the intervention of extraregional Powers, as evidenced by the Central American peace process of recent years. Colombia had voted in favour of resolution 670 (1990), which further developed resolution 661 (1990) on an embargo against Iraq. While aware of the price of, and the suffering brought about by, an embargo, it preferred that to the price of war. The speaker added that his delegation wished that the Council, in addition to the resolution just adopted, had adopted another one, calling on all parties, in particular on the countries of the region, to undertake maximum efforts to achieve a peaceful settlement.¹¹³

The representative of Malaysia observed that it was appropriate for the Council to meet at the level of Foreign Ministers to weigh and pronounce on important and critical issues, such as the one before it. However, the meeting should not be taken to mean that the Council was ganging up and closing the door on Iraq. He noted that Malaysia had supported all the resolutions adopted on this crisis, including the one

just adopted, in furtherance of the objective of the international community: to bring about the withdrawal of Iraqi forces and the restoration of Kuwait. As the application of sanctions on air traffic and transportation was risky and complicated, Malaysia had insisted that paragraph 7 of the new resolution refer to the Chicago Convention. It had supported the resolution since its thrust and objective was to make sanctions effective and ensure compliance. The speaker noted, however, that many countries were enduring much suffering because of the sanctions against Iraq, and urged that the Council and its Sanctions Committee do more to address their needs under Article 50. He expressed unease, moreover, about the apparent headlong rush with which the Council had moved from one resolution to another in a period of seven weeks, wondering whether enough time was given for each resolution to take effect. He wondered whether the Council's haste was aimed at making sanctions effective or whether it was readying itself to conclude that sanctions were not effective and that other measures therefore had to be taken. Malaysia did not regard war as inevitable or accept that events were escalating towards a confrontation. It believed that many outside the Council shared its sense of uneasiness and that the Council should take stock of where it was going. The speaker added that his country was averse to the involvement of the armed forces of major Powers in any region, fearing the consequences of their long-term presence. It thus felt uneasy about having been party to authorizing the use of forces of certain countries under resolution 665 (1990), although it knew that the forces of those countries were there also upon the request of Kuwait under Article 51 of the Charter. The speaker urged Iraq to respond positively to the Council's resolutions, and thus remove the reason for the foreign presence and avoid the outbreak of war. In a broader context, Malaysia hoped that the new spirit of cooperation and determination within the Council would be sustained so that it could act effectively in resolving many existing regional conflicts, including in the Middle East. There could be no double standards in the Council and if, on the question of Palestine, Israel continued to be obdurate and unresponsive, the Council should not hesitate to apply all the pressure and sanctions needed to ensure compliance.¹¹⁴

¹¹² Ibid., pp. 48-51.

¹¹³ Ibid., pp. 51-57.

¹¹⁴ Ibid., pp. 59-65.

The President, speaking in his capacity as the representative of the Union of Soviet Socialist Republics, also took note of the unusual nature of the Council's meeting, marked by the participation of so many Ministers for Foreign Affairs of the Council's member States. He thought this might be the first time that discussion of a specific situation in the Council had taken place at such a high level, a fact that showed the critical nature of the situation and the desire to resolve it as speedily as possible. The Council had the task of settling a most drastic crisis that had put the firmness of the civilized world order to the test. The Council's unanimous demand for the unconditional withdrawal of Iraqi troops from Kuwait had set the terms for the solution of the crisis. The Soviet delegation was hopeful that the goal would be achieved in the light of the transformation of the Council into an effective mechanism for the maintenance of international peace and security. By acting consistently and without delay, the Council had justified the mandate entrusted to it by the Charter. The resolution just adopted was a perfectly logical step, given Iraq's stubborn refusal to implement the Council's decisions; it was a completely legitimate reaction to Iraq's continuing challenge to the international community. The speaker emphasized that the new decision was aimed at ensuring compliance with the sanctions against Iraq and was in strict conformity with the Charter of the United Nations and the norms of international law. His Government regarded the expansion of the sphere of monitoring the application of the sanctions as a continuation of the efforts aimed at achieving a peaceful solution of the conflict. The speaker observed that, from the start of the crisis, the Soviet Union had placed the stress on collective efforts based on the rights and capabilities of the United Nations, and on the need to resolve the crisis through non-military, political and diplomatic methods. It remained convinced that the focus of joint efforts must be a de-escalation of the crisis and a political solution. However, that did not diminish its determination to achieve a cessation of the aggression, and if the steps now being taken did not achieve that result, the Soviet Union would be ready to consider the possibility of additional steps, in accordance with the Charter. The speaker added that the extent to which it would be possible to implement the peacemaking potential of the United Nations in this context would depend on the consistency of the efforts made by all States, particularly those of the Arab States, and the Secretary-

General. He hoped that the significant calls made at the meeting for restoration of the international legal order would be heard and correctly understood in Iraq and that the leadership of that country would choose a course of action leading to the peaceful resolution of the crisis. In conclusion, he echoed several previous speakers in calling for the Council, once the Gulf crisis was resolved, to concern itself, without delay, with healing other age-old wounds of that region, first and foremost through a solution of the problems of Palestine and Lebanon.¹¹⁵

Other members of the Council underlined their commitment to the Charter system of collective security and to a peaceful settlement of the Gulf crisis. They stated that they had either sponsored or supported the resolution just adopted, providing for the strengthening of sanctions, as it offered the only option allowing the international community to avoid war.¹¹⁶

The representative of Kuwait stated that the participation of the Foreign Ministers of the States members of the Security Council demonstrated their firm determination to use the capabilities and powers of the Council to implement its resolutions and spare the region and its peoples the scourge of a conflagration. By the resolution just adopted, the Council confirmed that the battle was between the leaders of Iraq on the one hand and the entire world on the other. The rejection by Iraq's leaders of the Council's resolutions had transformed the aggression against Kuwait into an aggression against the entire civilized world, its values and norms of behaviour. The world could no longer accept the continuation of the Iraqi aggression: Iraq must be forced by all means available under the Charter to heed the international will and withdraw its forces from the territory of Kuwait. The speaker observed that the economic embargo against Iraq was not an end in itself. It was a peaceful means to attain an objective: implementation by Iraq of the binding resolutions of the Council. Thus, despite its negative effects for the peoples of Kuwait and Iraq, and indeed for other peoples and States, it was necessary. The speaker added that the Council's resolutions — particularly 660 (1990), 662 (1990) and 664 (1990) — set limits that must not be overstepped, conceded or subjected to negotiation. He noted, moreover, that the elements of those resolutions had

¹¹⁵ *Ibid.*, pp. 73-77.

¹¹⁶ *Ibid.*, pp. 46-47 (Zaire); pp. 57-60 (Côte d'Ivoire); pp. 66-67 (Ethiopia); and pp. 68-73 (Romania).

been adopted in a decision taken at the Emergency Arab Summit Conference, while the resolutions themselves had been endorsed by the Islamic States at a ministerial meeting. The Security Council's will had thus been united with the will of the Arab and Islamic world, isolating the Iraqi regime. He concluded by paying tribute to the courageous and steadfast role played by the Secretary-General in combating the injustice done to Kuwait.¹¹⁷

**Decision of 29 October 1990 (2951st meeting):
resolution 674 (1990)**

At its 2950th meeting, held on 27 October 1990 in accordance with the understanding reached in its prior consultations, the Security Council resumed its consideration of the item entitled "The situation between Iraq and Kuwait". Following the adoption of the agenda, the Council invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote. The item was considered at the 2950th and 2951st meetings.

At the outset of the Council's deliberations, the President (United Kingdom) drew the attention of the members of the Council to a draft resolution submitted by Canada, Finland, the United Kingdom, the United States and Zaire,¹¹⁸ which was subsequently also sponsored by France, Romania and the Union of Soviet Socialist Republics. He also drew their attention to a letter dated 18 October 1990 from the representative of Kuwait addressed to the Secretary-General,¹¹⁹ transmitting the text of a Decree-Law promulgated by the Government of Kuwait concerning the holding in trust by the State of Kuwait of property belonging to Kuwaitis or residents of Kuwait.

The representative of Kuwait stated that the Council was meeting in order to ensure that the focus remained where it should be: on deterring aggression, ending the Iraqi occupation of Kuwait — which was entering its eighty-fifth day — and halting the inhuman practices against Kuwait's people, its identity and its institutions, and against the large number of third-country nationals living in Kuwait. Despite eight binding resolutions adopted thus far by the Security Council, and notwithstanding all the efforts aimed at

resolving the crisis peacefully, Iraq had not shown the slightest sign that it was responding to the call for its complete, immediate and unconditional withdrawal from Kuwait. On the contrary, it had embarked on consolidating its occupation and expanding its military deployment, while practising the harshest forms of oppression and terrorism against the Kuwaiti people. The Kuwaiti people, however, backed by an unprecedented world consensus and by the Security Council, refused to budge from their position and their just demands; they would not accept what had happened as a fait accompli or make any concessions. The speaker emphasized that the Iraqi regime was liable under the Fourth Geneva Convention for all the crimes it had committed against the citizens and foreign residents of Kuwait, and the peace and security of the region. The draft resolution before the Council specifically identified another aspect of Iraq's responsibility: restitution for damages suffered by the Government and people of Kuwait, in accordance with General Assembly resolution 3281 (XXIX) on the Charter of Economic Rights and Duties of States, which provided, under article 16, for restitution and full compensation for the exploitation and depletion of the resources and property of a people and country under occupation. He added that, pursuant to the legal obligations and moral responsibilities of the State of Kuwait towards its citizens and foreign residents who had lost their property and funds, a Decree-Law had been issued by the Emir of Kuwait on 18 October 1990,¹²⁰ proclaiming that all property of Kuwaitis and foreigners resident in Kuwait were held in trust by it. Pursuant to the Decree, the lawful Government of Kuwait would have the right to resort, as necessary or appropriate, to any judicial, administrative or legal mechanisms in any State, with a view to protecting such property. The speaker urged the Iraqi regime to comply with the Council's resolutions and not to underestimate its resolve, and the resolve of Kuwait, its Emir, Government and people, to take all measures to make the aggressor respond to the international will and comply with it by withdrawing unconditionally. He stressed that Kuwait was determined to make full use of the rights safeguarded to it under the Charter of the United Nations. It expected the Council to consider promptly what additional measures were needed to

¹¹⁷ Ibid., pp. 78-83.

¹¹⁸ S/21911; subsequently adopted without change as resolution 674 (1990).

¹¹⁹ S/21887.

¹²⁰ S/21887, annex.

achieve its ultimate goal of dislodging the aggressor and restoring Kuwait's legitimate Government.¹²¹

The representative of the Union of Soviet Socialist Republics observed that, in the decisions of the Security Council calling for the unconditional and immediate withdrawal of the Iraqi forces from Kuwait, a unique solidarity among various countries had appeared for the first time in many decades. In the Gulf, the ability of the world community to act in accordance with the new criteria of international politics was being tested, as was its ability to make those responsible for the conflict obey the norms of international law. The Soviet Union was convinced that Iraq's illegal actions, whose continuation challenged the international community, must be halted immediately. The draft resolution, which the Soviet delegation had participated in drafting, contained a strong indication of the Council's resolve to do everything possible to prevent the very tense situation from degenerating into a military conflict. The Soviet Union believed that if there was even the slightest chance of a political settlement it must be seized and fully exploited. It was doing everything it could to promote such a settlement of the crisis: to that end, the special representative of the President of the Soviet Union was currently in Baghdad. The speaker was pleased to see that many other countries were also active in the search for a peaceful solution — both within the context of the Security Council and the Non-Aligned Movement and within the Arab States themselves. A very important contribution was also being made in this regard by the Secretary-General. The speaker pointed out that the draft resolution also repeated the Council's demand that Iraq implement the will of the world community and strictly observe the norms of international law: that was critical if the world wished to live in a state of legality and good order.¹²²

At its 2951st meeting, on 29 October 1990, the Council resumed its consideration of the item. In accordance with the decisions taken at the previous meeting, the Council invited the representatives of Iraq and Kuwait to take seats at the Council table. The President drew the attention of the members of the Council to a letter dated 19 October 1990 from the representative of Kuwait addressed to the Secretary-

¹²¹ S/PV.2950, pp. 3-15.

¹²² *Ibid.*, pp. 13-17.

General,¹²³ transmitting the texts of the addresses delivered at the opening of the Kuwaiti People's Congress held at Jeddah, Saudi Arabia, from 13 to 15 October 1990.

The representative of Iraq said that each of the eight resolutions adopted by the Council on the "so-called Gulf crisis", as well as the draft resolution currently before it, had been justified as promoting the cause of peace and the avoidance of war, and opposing the use of force. However, those pushing the Council to adopt those resolutions, one after another, had seen nothing wrong in flouting one or other principle of the Charter, international instruments or norms of international law. He feared that such an approach might lead to a slippery slope, endangering the United Nations and its credibility. He wished, therefore, to expose four glaring contradictions between the Council's resolutions and the Charter of the United Nations, on the one hand, and, on the other, between the actions of some permanent members of the Council in relation to the Gulf crisis and especially to Iraq, and the letter and spirit of Security Council resolutions. First, Article 24 (2) of the Charter stipulated that, in discharging its duties concerning the maintenance of international peace and security, the Council must act in accordance with the purposes and principles of the United Nations. The speaker feared that, in adopting the resolutions on the Gulf crisis in quick succession, the Council had not paid enough attention to the purposes and principles of the United Nations; these were the constitutional guarantee that the Council would not exceed its mandate and that no Member State would act arbitrarily in exercising its responsibilities as a member of the Council or in justifying any measure it might take under the pretext of implementing Council resolutions. He stressed that the main purpose of the United Nations, as enshrined in Article 1 (1) of the Charter, was "to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace". This did not suggest that the Council was an international court or a judicial body. The Council was, after all, a political organ. Nevertheless, the Council and its members were duty bound to observe the principles of justice and international law because their very membership of the Council and the rights and privileges as members of

¹²³ S/21892.

the Council derived from the Charter. However, by adopting eight resolutions under Chapter VII of the Charter without consulting with Iraq, the Council had disregarded the most elementary principle of justice, which demanded that each party to a dispute should be given the opportunity to put forward its rights and claims and to clarify what it deemed to be the appropriate means of settling the dispute. Furthermore, the Council, by rushing to adopt resolutions against Iraq, had disregarded the other peaceful means available and avoided the use of good offices to bring to light the causes of the conflict, with a view to finding a peaceful and realistic solution to it.

Secondly, the speaker observed that although some had defended the approach of adopting hasty, harsh resolutions as being in the interests of peace and a peaceful settlement of the conflict, the very opposite was the case. The express purpose of each resolution had been to escalate the situation and abort every international or regional peace effort or initiative. The draft resolution currently before the Council would make it possible for the warmongers to declare that they had exhausted all peaceful means and that the only option left was war. The United States had, in fact, started its military build-up on land and sea even before it had been asked to do so by any State in the region. Before the adoption of resolution 661 (1990), the United States and its ally, the United Kingdom, had taken the initiative of establishing a naval blockade. That was an act of war and an act of aggression under the definition of aggression adopted by the General Assembly. Resolution 661 (1990), moreover, had been designed to provide the United States with cover for its acts of aggression towards Iraq and to allow it to claim that it was acting lawfully even though the resolution did not authorize the United States or any other State to blockade Iraq.

The speaker claimed, thirdly, that the assertion that certain States — especially the United States and its allies — had the right to use force against Iraq in self-defence under Article 51 of the Charter was a falsehood that ran counter to the Charter. The right to use force in individual or collective self-defence was subject to a time scale stipulated in Article 51: it was authorized until such time as the Security Council had taken measures. The speaker maintained that since all the Council resolutions had been adopted under Chapter VII, and the Council had decided to remain seized of the situation until it was resolved, no State

had the right to use force. When the United States and its allies committed acts of aggression against Iraq and described them as peace measures, they were simply using the right of self-defence as a pretext while violating the terms of Article 51.

Fourthly, the speaker drew attention to Article 52, in Chapter VIII of the Charter, which provided that the Security Council should encourage the development of peaceful settlement of local disputes through regional arrangements. It was a grave matter that the Council had completely and deliberately disregarded the Arab initiatives calling for a peaceful Arab solution of the Gulf crisis. This created a dangerous situation in which foreign Powers would benefit at the expense of legitimate Arab interests. There was a need for an Arab framework because the Arab States were interconnected with each other by demography, communications, strategic and immediate interests, water and oil resources, religious beliefs and, above all, by the Palestinian cause. The fact that the United States and the Security Council had ignored the initiative of 12 August 1990 by President Saddam Hussein, in which he called for dealing with all the region's problems on an equitable basis, was proof that the United States was determined to prevent any peaceful Arab solution to the crisis, and that it was motivated by its economic, financial and strategic designs on the region.

Finally, the representative of Iraq commented on the draft resolution before the Council. He noted that it consisted of two parts: part A, which had been prepared by the United States, the United Kingdom and other permanent members; and part B, which had been drafted by the non-aligned countries. The two parts were contradictory in letter and in spirit. Iraq nevertheless welcomed the appeal in part B for peaceful solutions in order to spare the region the devastating war for which the United States was gearing up against Iraq. However, it felt that, if the Council intended to make proper use of the Secretary-General's good offices, it would be inappropriate to limit his freedom of action to implementation of the unjust resolutions. Good offices could not bear fruit if their aim was to secure capitulation and the surrender of Iraq's rights and its national security. With regard to paragraphs 1 to 4, instead of creating conditions for a peaceful settlement, they would further complicate the situation since they ignored Iraq's rights and the negative consequences of the Council's earlier

resolutions. Paragraph 5 of the draft exposed the contradictions in the Council's resolutions, which imposed a blockade and restrictions on the import of foodstuffs into Iraq, but at the same time called on Iraq to provide foodstuffs and other essentials to the nationals of third countries. Paragraphs 8 and 9, concerning restitution and compensation, most severely contradicted the Charter and attempted to paralyse Iraq's economic potential and its international relations. Iraq believed that the Council had exceeded its mandate in this regard: it was a political body consisting of members who sought only to advance their own political interests, not a judicial body consisting of independent, impartial judges competent to rule on matters of compensation for those entitled to it in any conflict. The speaker stressed, moreover, that the losses being suffered by all States, including developing countries, as a result of increased oil prices and the embargo, were far greater than those suffered by third-country nationals forced to leave their work and return to their countries because of the worsening of the Gulf crisis. Furthermore, the losses suffered by third-country nationals had not resulted directly from the Gulf crisis, but from the massing of ground, sea and air forces in the region, particularly by the United States, and the deteriorating economic situation caused by the economic embargo against Iraq and the arbitrary decisions of the Council's sanctions Committee. In conclusion, the speaker reiterated Iraq's desire to avoid war and establish peace in the region, so that Arab solidarity might be strengthened and all the problems might be solved on an equal footing. At the same time, Iraq stressed its right and readiness to defend itself against any foreign aggression.¹²⁴

The representative of Kuwait maintained that it was the Iraqi regime, not the Security Council, which had violated the Charter, when it launched its aggression against Kuwait and occupied and annexed the country by military force. It continued, moreover, to commit vicious acts against the people and foreign residents of Kuwait, in violation of international conventions, including the Fourth Geneva Convention and the Vienna Convention on diplomatic immunity. The speaker recalled that the Kuwaiti authorities had sought for over 12 years to persuade the Iraqi regime to negotiate and solve its problems with Kuwait peacefully, most recently just before the invasion. As for Arab initiatives, he observed that the League of

Arab States had met in Cairo at the very beginning of the aggression and adopted a resolution condemning it and calling on Iraq to withdraw fully and unconditionally before the Security Council meetings. The Arab Summit had, moreover, met in an emergency session in Cairo and adopted a resolution which embodied the Arab view on how the dispute should be solved, through the call of the Arab leaders for the unconditional and complete withdrawal of Iraq, the restoration of Kuwait's legitimacy, and full compensation for the losses it had sustained. However, Iraq had rejected that resolution as it had all the resolutions of the Security Council. As for international initiatives, the latest example was the mission of Mr. Primakov, the emissary of the Soviet President. The speaker observed that the Security Council had deferred voting on the draft resolution in order to give him a chance to convince the Iraqi regime of its isolation and that the only solution, as well as its only salvation, lay in complying with the resolutions of the Council. The meeting had been disappointing. As expected, the Iraqi regime simply wanted to take advantage of such initiatives to gain time in order to try to divide the alliance against it and to consolidate its annexation of Kuwait. The speaker stressed to the representative of Iraq, however, that he and his Government were mistaken: there was international determination to stop the Iraqi aggression and Kuwait would be liberated. The Security Council would stand firm and would adopt resolution after resolution until it forced the Iraqi regime to comply and avoid destroying the region.¹²⁵

The draft resolution was then put to the vote and adopted by 13 votes in favour, none against and 2 abstentions (Cuba, Yemen), as resolution 674 (1990), which reads:

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990 and 670 (1990) of 25 September 1990,

Stressing the urgent need for the immediate and unconditional withdrawal of all Iraqi forces from Kuwait and for the restoration of Kuwait's sovereignty, independence and territorial integrity and of the authority of its legitimate Government,

¹²⁴ S/PV.2951, pp. 2-37.

¹²⁵ *Ibid.*, pp. 37-45.

Condemning the actions by the Iraqi authorities and occupying forces to take third-State nationals hostage and to mistreat and oppress Kuwaiti and third-State nationals, and the other actions reported to the Council, such as the destruction of Kuwaiti demographic records, the forced departure of Kuwaitis, the relocation of population in Kuwait and the unlawful destruction and seizure of public and private property in Kuwait, including hospital supplies and equipment, in violation of the decisions of the Council, the Charter of the United Nations, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law,

Expressing grave alarm over the situation of third-State nationals in Kuwait and Iraq, including the personnel of the diplomatic and consular missions of such States,

Reaffirming that the above-mentioned Geneva Convention applies to Kuwait and that, as a High Contracting Party to the Convention, Iraq is bound to comply fully with all its terms and in particular is liable under the Convention in respect of the grave breaches committed by it, as are individuals who commit or order the commission of grave breaches,

Recalling the efforts of the Secretary-General concerning the safety and well-being of third-State nationals in Iraq and Kuwait,

Deeply concerned at the economic cost and at the loss and suffering caused to individuals in Kuwait and Iraq as a result of the invasion and occupation of Kuwait by Iraq,

Acting under Chapter VII of the Charter,

*
* *

Reaffirming the goal of the international community of maintaining international peace and security by seeking to resolve international disputes and conflicts through peaceful means,

Recalling the important role that the United Nations and the Secretary-General have played in the peaceful solution of disputes and conflicts in conformity with the provisions of the Charter,

Alarmed by the dangers of the present crisis caused by the Iraqi invasion and occupation of Kuwait, which directly threaten international peace and security, and seeking to avoid any further worsening of the situation,

Calling upon Iraq to comply with its relevant resolutions, in particular resolutions 660 (1990), 662 (1990) and 664 (1990),

Reaffirming its determination to ensure compliance by Iraq with its resolutions by maximum use of political and diplomatic means,

A

1. *Demands* that the Iraqi authorities and occupying forces immediately cease and desist from taking third-State nationals hostage, mistreating and oppressing Kuwait and third-State nationals and any other actions, such as those reported to the Council and described above, that violate the decisions of the Council, the Charter of the United Nations, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law;

2. *Invites* States to collate substantiated information in their possession or submitted to them on the grave breaches by Iraq as per paragraph 1 above and to make this information available to the Council;

3. *Reaffirms its demand* that Iraq immediately fulfil its obligations to third-State nationals in Kuwait and Iraq, including the personnel of diplomatic and consular missions, under the Charter, the above-mentioned Geneva Convention, the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, general principles of international law and the relevant resolutions of the Council;

4. *Also reaffirms its demand* that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of those third-State nationals, including diplomatic and consular personnel, who wish to leave;

5. *Demands* that Iraq ensure the immediate access to food, water and basic services necessary to the protection and well-being of Kuwaiti nationals and of third-State nationals in Kuwait and Iraq, including the personnel of diplomatic and consular missions in Kuwait;

6. *Reaffirms its demand* that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq, take no action to hinder these diplomatic and consular missions in the performance of their functions, including access to their nationals and the protection of their person and interests, and rescind its orders for the closure of diplomatic and consular missions in Kuwait and the withdrawal of the immunity of their personnel;

7. *Requests* the Secretary-General, in the context of the continued exercise of his good offices concerning the safety and well-being of third-State nationals in Iraq and Kuwait, to seek to achieve the objectives of paragraphs 4, 5 and 6 above, in particular the provision of food, water and basic services to Kuwaiti nationals and to the diplomatic and consular missions in Kuwait and the evacuation of third-State nationals;

8. *Reminds* Iraq that under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq;

9. *Invites* States to collect relevant information regarding their claims, and those of their nationals and

corporations, for restitution or financial compensation by Iraq, with a view to such arrangements as may be established in accordance with international law;

10. *Requires* that Iraq comply with the provisions of the present resolution and its previous resolutions, failing which the Council will need to take further measures under the Charter;

11. *Decides* to remain actively and permanently seized of the matter until Kuwait has regained its independence and peace has been restored in conformity with the relevant resolutions of the Security Council;

B

12. *Reposes its trust* in the Secretary-General to make available his good offices and, as he considers appropriate, to pursue them and to undertake diplomatic efforts in order to reach a peaceful solution to the crisis caused by the Iraqi invasion and occupation of Kuwait, on the basis of resolutions 660 (1990), 662 (1990) and 664 (1990), and calls upon all States, both those in the region and others, to pursue on this basis their efforts to this end, in conformity with the Charter, in order to improve the situation and restore peace, security and stability;

13. *Requests* the Secretary-General to report to the Security Council on the results of his good offices and diplomatic efforts.

Speaking after the vote, the representative of Yemen stressed the importance of making continuous efforts to contain the crisis by peaceful means within an Arab framework, and expressed his delegation's gratitude that this point was reflected in paragraph 12 of the resolution just adopted. However, his delegation believed that the resolution did not give the Secretary-General sufficient freedom to undertake initiatives independently in order to reach the desired peaceful solution. It also found that there were other constraints on States that could have made endeavours to reach such a solution. The speaker observed that there were those who were frightened by peaceful efforts and opposed them. They included those who tried to deepen divisions among the Arab countries and to weaken the Arab nation in its struggle to realize the inalienable rights of the Palestinian people; those who sought to destroy Iraq's military, economic and social capabilities in order to serve the purposes and ambitions of Israel to achieve hegemony over the region; and those who wished to make the foreign military presence in the Gulf region more than a mere passing phenomenon. The speaker stated that Yemen's support for a peaceful solution was grounded in its close proximity to the conflict, which had greatly

affected the economy of the country and its people. He vowed in conclusion that Yemen would pursue its efforts to reach a peaceful solution, to which there was no alternative.¹²⁶

The representative of Cuba considered it obvious that Kuwait had the right to claim compensation for loss and damage caused as a result of the invasion and occupation of its territory. The Council had stated and reiterated its view as to who was the aggressor and who was the victim. There was therefore no need for another Council resolution reaffirming Kuwait's inherent rights as the victim of aggression. In Cuba's opinion, the resolution just adopted sought, moreover, to give the Council certain tasks outside its purview, and at the same time to prevent the Council from discharging certain obligations it did have. In the first place, neither Chapter VII, under which the resolution was adopted, nor any other Chapter of the Charter gave the Council any authority to make legal decisions. The Council had no power to make decisions as to liability or to determine compensation or restitution, such as a court might do. The only reference in the Charter to such matters appeared in Article 92, which defined the International Court of Justice as the principal judicial organ of the United Nations; and the only reference in the Charter to the issue of compensation or restitution was to be found in Article 36 of the Court's Statute, which formed an integral part of the Charter of the United Nations. Only the General Assembly, moreover, had the power to discuss the functions and powers of the respective organs. The speaker questioned what powers the Council was giving itself under paragraph 2 of the resolution, with regard to the collating of substantiated information on the alleged grave breaches by Iraq, and the calls on States to provide that information. What would the Council do with that information? Was it turning itself into a court of law, despite having no responsibilities in that regard? There were also references to international law in paragraphs 8 and 9 of the resolution, which was contradictory since the Charter and the Statute of the Court were part of international law. It might be inferred from those paragraphs that the Council, too, had some powers to make decisions on questions of liability and responsibility with regard to compensation and restitution "as a result of the invasion and illegal occupation of Kuwait by Iraq". That phrase might have many interpretations, including, for instance, the

¹²⁶ *Ibid.*, pp. 48-55.

possibility that Iraq would have to shoulder the cost of the military deployment by some Powers in the Gulf region or could be held responsible for damages to third States resulting from the measures adopted by the Council in dealing with the crisis. If that were the case, the Council would not only be trying to take on powers beyond its competence, but also indirectly avoiding its responsibilities under Article 50 of the Charter. The speaker welcomed the reference in paragraph 12 of the resolution to the potential use by the Secretary-General of his good offices to reach a peaceful solution to the crisis. However, he regretted that the Council had not expressed more clearly its gratitude and support for the Secretary-General's continuing efforts in this regard. He considered that, despite that positive paragraph, the text was by and large one more step towards war. Finally, he observed that from a political and moral standpoint the Council — and, in particular, some of the sponsors of the resolution — was not in the best position to deal with the issues addressed in it. The Council had been inconsistent in the application of the principles involved and should not accept the imposition of criteria and strategies devised solely for the benefit of certain major Powers.¹²⁷

The representative of Malaysia considered it only logical that the enforcement actions of the Council under Chapter VII of the Charter should be accompanied by diplomatic efforts to secure compliance with its resolutions and achieve a peaceful solution. The intertwining of both elements in the resolution just adopted gave recognition to the fact that neither course of action could be pursued exclusively. As the custodian of international peace and security, the Council did not discharge its responsibilities by a “single-track commitment to a course of action”, but by always leaving the door open to diplomatic efforts and initiatives. Malaysia and three other non-aligned members of the Council — Colombia, Cuba and Yemen — had pressed the idea of the Council's involvement on the diplomatic front, believing that this was needed if the Council was to entrust the Secretary-General with using his good offices and undertaking diplomatic efforts to secure a peaceful settlement of the crisis. This was reflected in paragraph 12 of the resolution, though some would have wished for a more specific and clearer reference. In Malaysia's view, the Council should not be so circumspect about the usefulness and indeed the necessity of using the good

offices of the Secretary-General, especially when such a role was outlined in Articles 98, 99 and 100 of the Charter. Furthermore, it should allow adequate room for the Secretary-General to examine all factors that could contribute towards diplomatic efforts. The speaker believed that the peaceful course of action taken so far by the Council to secure the withdrawal of Iraqi forces and the restoration of Kuwaiti independence and sovereignty must be allowed to show results; economic sanctions were having an impact, and international support for them had been firm and effective. He concluded that the resolution just adopted was a coherent message that the Council stood firm and united in upholding the principles of the Charter and international law, and warned that the Council's ability and determination to take further enforcement measures should not be doubted.¹²⁸

The representative of China stated that resolution 674 (1990) and other relevant Council resolutions reflected the determination of the international community to safeguard the purposes and principles of the Charter of the United Nations and to maintain international peace and security, and constituted a good foundation for the settlement of the Gulf crisis. His Government favoured a peaceful settlement of the crisis on the basis of the implementation of those resolutions and opposed the use of force. The Chinese delegation therefore supported the Secretary-General's mediation and good offices and the Arab and Gulf countries as well as other parties in their endeavours to seek a peaceful solution. It appreciated the inclusion of a provision to that effect in the resolution just adopted.¹²⁹

The representative of Colombia recalled that at the end of September her country, together with Cuba, Malaysia and Yemen, had submitted a draft resolution requesting the Secretary-General to use all the avenues of dialogue and diplomacy to obtain Saddam Hussein's compliance with the Council's resolutions. That text was never considered by the Council as it was argued that it would send the wrong message to the Iraqi leader. Almost a month later, some elements from that draft had been incorporated into what was now resolution 674 (1990). While her delegation would have preferred paragraph 12 of the resolution to be adopted with the broad terms used in the original draft,

¹²⁷ Ibid., pp. 53-68.

¹²⁸ Ibid., pp. 68-72.

¹²⁹ Ibid., pp. 76-77.

it had voted in favour of the resolution as it wished once again to resolutely condemn Iraq's actions.¹³⁰

The representative of the United States observed that the statement by the representative of Iraq had already been well answered in the Council. To listen to the invader of Kuwait attempt to lecture the Council on the meaning of the Charter was astounding and certainly not persuasive. The speaker reiterated his Government's commitment to a policy of seeking peaceful implementation of the Council's resolutions on Iraq. These were clear. The international community had acted in unison to condemn Iraq's unprovoked aggression against Kuwait and had taken appropriate and measured steps to implement the Council's resolution calling for immediate and unconditional withdrawal. Concerted action under Article 41 was already having an effect. However, should Iraq continue to ignore and deny the international community, the Council would have to take further measures as prefigured in the resolution just adopted. The United States would actively support such efforts. In the new resolution, the Council had spoken out clearly against Iraq's efforts to destroy the sovereign State of Kuwait through organized looting, destruction, systematic terrorizing of local and foreign innocent civilians, and even murder. The resolution made it clear, moreover, that Iraq was liable for full restitution or compensation for the losses and damages it had caused by its illegal invasion and occupation of Kuwait. The speaker anticipated that the Council would address this question more fully in the days ahead. Baghdad must hear from the Council clearly: unprovoked aggression entailed crippling costs. By its resolution, the Council also demanded that Iraq cease its deliberate mistreatment of innocent citizens and observe the fundamental principles of international conduct among States. The speaker stressed, in this regard, that every nation had a duty to protect its citizens; this was a fundamental obligation. The United States would do that which was necessary to meet its obligations to its own citizens.¹³¹

The President, speaking in his capacity as the representative of the United Kingdom, stated that the continued assertion by the Iraqi authorities that Kuwait was the nineteenth province of Iraq — in defiance of Security Council resolutions 660 (1990) and 662

(1990) — alone underlined the need for further action by the Council to remind Iraq of the determination of the international community that it should end its illegal acts. He set out the basis for several of the provisions of the resolution just adopted. The arbitrary arrests, beatings and killings by the occupying forces justified the need for States to collate information they had on grave breaches of the Fourth Geneva Convention and of international law, as set out in paragraph 2. Iraq's continued looting and pillaging of Kuwait, and destruction of its infrastructure, provided the basis for the requirements for restitution and compensation set out in paragraphs 8 and 9 of the resolution. The speaker stressed the desirability of a peaceful solution to the crisis, but reiterated that a settlement could come about only through Iraq's compliance with the Council's resolutions. His delegation had complete confidence in the Secretary-General, whose efforts to explore the prospects for a peaceful settlement had been rebuffed by the Government of Iraq late in August. It supported the Secretary-General's use of his good offices, but underlined that this should occur "as and when he considered it appropriate". The resolution just adopted demonstrated the Council's determination to maintain pressure against Iraq until such time as its illegal behaviour was brought to an end. Other measures of enforcement, including those under Chapter VII of the Charter, would need to be taken to bring this about if Iraq showed no willingness to move.¹³²

At the same meeting, the representatives of Canada, Côte d'Ivoire, Ethiopia, Finland, France, Romania and Zaire, who had either sponsored or supported resolution 674 (1990), drew attention to the balanced nature of the text.¹³³ In the face of Iraq's persistent defiance, the Council had sent a clear message that its unity and resolve to end the Iraqi occupation of Kuwait were as strong as ever. Iraq would, moreover, be held responsible for the lawlessness perpetrated by its occupation, with all its attendant consequences. At the same time, the resolution stressed the need to press ahead with the quest for a peaceful solution to the crisis, provided that it resulted in Iraq's withdrawal from Kuwait without further delay. Several speakers emphasized the

¹³⁰ Ibid., pp. 77-80.

¹³¹ Ibid., pp. 88-91.

¹³² Ibid., pp. 92-95.

¹³³ Ibid., pp. 46-48 (Ethiopia); pp. 72-73 (Côte d'Ivoire); pp. 73-76 (France); pp. 81-82 (Romania); pp. 82-85 (Zaire); p. 86 (Finland); and pp. 87-88 (Canada).

importance of encouraging the Secretary-General to use his good offices in this regard,¹³⁴ as reflected in paragraph 12 of the resolution. One¹³⁵ drew attention to the fact that in the resolution the Council once again signalled that should Iraq continue blatantly to ignore the will of the international community, as expressed by the Council, further measures under the Charter would be required.

Decision of 28 November 1990 (2962nd meeting): resolution 677 (1990)

At the 2959th meeting, on 27 November 1990, the President of the Council (United States) stated, before the adoption of the agenda, that he had been informed by the representative of Kuwait that he intended during his statement to utilize audio-visual materials relating to the item under consideration. In keeping with past practice, the President had accordingly requested the Secretariat to make the necessary technical arrangements. He then drew the attention of the members of the Council to the provisional agenda for the meeting.¹³⁶

Speaking on a point of order, the representative of Cuba proposed that an additional item be added to the provisional agenda, so that the Council could consider a draft resolution¹³⁷ on the situation in the territories occupied by Israel. This gave rise to a procedural discussion,¹³⁸ relating to the preparation of the provisional agenda, which concluded with the acceptance of an invitation by the President to Council members to meet in informal consultations immediately following the statement by the representative of Kuwait.

The original agenda was thereupon adopted without objection. The Council continued its consideration of the item entitled “The situation between Iraq and Kuwait” at its 2959th, 2960th and 2962nd meetings, on 27 and 28 November 1990.

Following the adoption of the agenda, the Council invited the representative of Kuwait to take a seat at the Council table, in accordance with the

decisions taken at its 2950th meeting. The following were also invited, at their request, to participate in the discussion without the right to vote: at the 2959th meeting, the representatives of Bahrain, Egypt and Saudi Arabia; at the 2960th meeting, the representative of Qatar; and at the 2962nd meeting, the representatives of Bangladesh, the Islamic Republic of Iran and the United Arab Emirates. The Council also decided, at the request of the representative of Egypt, to extend an invitation at its 2959th meeting to Mr. A. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference to the United Nations, under rule 39 of its provisional rules of procedure.

At the 2959th meeting, the President drew the attention of the Council to a draft resolution submitted by Kuwait,¹³⁹ which was subsequently co-sponsored by Canada, Côte d’Ivoire, Ethiopia, Finland, Romania, the United Kingdom and Zaire. He also drew their attention to a number of other documents.¹⁴⁰

At the same meeting, the representative of Kuwait observed that 116 days had passed since the Iraqi invasion and occupation of Kuwait. During that period, the Security Council had adopted 10 resolutions under Chapter VII of the Charter demanding Iraq’s immediate and unconditional withdrawal from Kuwait. However, the Iraqi regime had rejected any move towards peace: it had rejected the resolutions of the Council, as well as those of the League of Arab States, the Islamic Conference and the Movement of Non-Aligned Countries. It had rejected even the humanitarian endeavours of the Secretary-General, and had refused to receive any team from the International Committee of the Red Cross or any other international or regional humanitarian agency. In its aggression and occupation of Kuwait, the Iraqi regime had not only targeted the territory for expansion, but had gone far beyond that. It had embarked upon unprovoked killings, torture, displacement, rape,

¹³⁹ S/21966; subsequently adopted without change as resolution 677 (1990).

¹⁴⁰ S/21914, S/21943, S/21951, S/21955, S/21961, S/21962, S/21963 and S/21965, which contained letters dated 28 October and 15, 20, 23 and 26 November 1990, respectively, from the representative of Kuwait, concerning the barbaric acts which the Iraqi occupying forces had committed and were continuing to commit in Kuwait, and requesting that the Council meet urgently to resume consideration of the item entitled “The situation between Iraq and Kuwait”.

¹³⁴ Canada, Finland, France, Romania.

¹³⁵ Canada.

¹³⁶ S/Agenda/2959.

¹³⁷ S/21933/Rev.1.

¹³⁸ For the procedural discussion, see S/PV.2959, pp. 2-11.

See also chapter II, case 1, on rule 7 of the Council’s provisional rules of procedure.

humiliation and intimidation of innocent civilians, organized looting of all movable items, and the destruction of immovable assets. The speaker introduced several speakers who spoke on videotape about their experiences under the occupation and its effects on individuals and the economy in Kuwait. He also showed several slides depicting the economic implications of the occupation both on the Kuwaiti economy and on other countries. Following this presentation, the representative of Kuwait contended that the Iraqi goal in all those inhumane practices was to wipe out the Kuwaiti identity by changing the demographic composition of the country. That had been evident when the occupying army had begun confiscating all Kuwaiti identification documents, including citizenship certificates, passports, driving licences and identity cards, and burning the archives of many ministries dealing with citizens' affairs. Some Kuwaitis, however, had managed to transfer out of the country the civil records of Kuwait's total population up to the first day of August 1990. The speaker asked the Council to adopt the draft resolution before it, which would authorize the Secretary-General to keep those records at the United Nations as the legal and official instrument to be relied on when Kuwait was liberated. He added that the current conditions called, *inter alia*, for protection of the civilian population, in accordance with the Fourth Geneva Convention of 1949, and its Additional Protocol II of 1977, as well as the ensuring of their security, safety and their right to remain on their land; and the inviolability of Kuwait's demographic composition. He also requested the Council to form a fact-finding commission and to dispatch it to Kuwait to assess the extent of destruction and sabotage of assets and properties belonging to the Government, individuals and companies, and to assess reparations for them. Further, he requested the Council to protect the Kuwaiti captives and to ensure their humane treatment in accordance with the First and Third Geneva Conventions of 1949. Finally, the speaker observed that, although the Charter called for the peaceful settlement of disputes, in Article 2 (3 and 4), it also provided a remedy when peaceful endeavours failed: in Articles 41 and 42 in Chapter VII. He stated that the Security Council, as custodian of the Charter, must not allow aggression to continue to stand or be rewarded. That would undermine the edifice of the international order.¹⁴¹

¹⁴¹ S/PV.2959, pp. 14-61.

In accordance with the understanding reached earlier in the meeting, the President then adjourned the meeting and invited the members to join him for informal consultations. He stated that the next meeting of the Council to continue consideration of the item on its agenda would be fixed in consultation with the members of the Council.

At the 2960th meeting, on 27 November 1990, the representative of Saudi Arabia expressed abhorrence of the crimes being committed by the Iraqi occupying forces in Kuwait against Kuwaitis and foreigners alike, as described by the representative of Kuwait, condemned the Iraqi regime and charged it with full responsibility for its invasion of Kuwait and violations of law committed during the occupation. He regretted hearing some calls aimed at appeasing the situation and condoning the crimes. He insisted that the Arab and Muslim nation, the international community and the Security Council must shoulder their responsibility to remove injustice from Kuwait, to check the aggressors, return the whole country to its people, make those responsible bear the consequences of their actions, and safeguard the security of the region and its countries from their evil intentions. Noting that the Council would be meeting again on 29 November to discuss the situation, the speaker looked forward to its taking a firm stand, which he hoped would set matters right before they ran out of control.¹⁴²

The representative of Egypt echoed those views, adding that his country joined with Kuwait in calling upon the Council to adopt the resolutions necessary to safeguard the national identity of the Kuwaiti people and to record all instances of subversion and aggression against that identity until the legitimate Government was returned to power and the Kuwaiti people were liberated from the yoke of occupation. With regard to the latter, he stated that the sole way to ensure respect for human rights of peoples under occupation was for that occupation to end: that applied to Kuwait as it did to any other occupied territory or country. The speaker concluded by quoting from a recent statement by the President of Egypt: "In the coming difficult weeks, we will spare no effort to reach a peaceful solution to the Gulf crisis. However, Kuwait

¹⁴² S/PV.2960, pp. 3-11.

must be liberated and the wrongs and injustice against it must be righted.”¹⁴³

At the same meeting and the 2962nd meeting, on 28 November 1990, the representatives of Bahrain, the Islamic Republic of Iran, Qatar and the United Arab Emirates, and Mr. A. Engin Ansary, Permanent Observer of OIC to the United Nations, expressed outrage and grave concern at the horrific acts perpetrated by Iraq’s occupation forces in Kuwait against Kuwaiti citizens and foreigners. Those acts constituted serious violations of international humanitarian law, and included grave breaches of the Geneva Convention relative to the Protection of Civilian Persons in Time of War for which the Iraqi authorities would be held responsible. The representative of the Islamic Republic of Iran added that the only means of establishing peace in the Gulf area was through the implementation of relevant Security Council resolutions and the total withdrawal of foreign forces from this sensitive region.¹⁴⁴

The representative of the United Kingdom recalled that the Council had repeatedly reminded Iraq in recent weeks of its obligations under international humanitarian law, including the Fourth Geneva Convention. It had done so most recently in resolution 674 (1990), adopted on 29 October. Iraq had, however, persistently acted with a callous disregard of the Convention. Far from observing its provisions, it was engaged in a determined campaign to expunge the very identity of the State of Kuwait and to change its demographic structure. Each day, Iraq advanced further down that road. It was the duty of the international community to demonstrate to Iraq that aggression did not pay, and to bring the occupation to an end as quickly as possible in conformity with the resolutions of the Council.¹⁴⁵

The representative of France stated that the shocking testimony they had heard confirmed the reality and magnitude of the human rights violations committed by the Iraqi occupation forces in Kuwait. He stressed that the international community should mobilize to help preserve the national identity of

Kuwait, now threatened with systematic destruction by the occupier.¹⁴⁶

The President, in his capacity as the representative of the United States, cited further instances of grave breaches of the Fourth Geneva Convention committed by Iraqi authorities. Underlying those horrifying Iraqi crimes was a declared policy just as unacceptable and abhorrent as the acts it had engendered: to eradicate the sovereign and independent State of Kuwait. That policy must fail. States Members of the United Nations were all bound by their Charter obligations to oppose Iraq’s policy, accomplish the withdrawal of Iraqi forces from Kuwait and to obtain the re-establishment of legitimate Kuwaiti authority. The speaker was confident that the Council, in line with the careful and patient decisions it had taken since the crisis began on 2 August, retained its determination to take effective measures to suppress the Iraqi aggression and to reaffirm the principles on which a safe, secure and prosperous world must rest.¹⁴⁷

At the 2962nd meeting, the draft resolution was put to the vote and adopted unanimously as resolution 677 (1990), which reads:

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990, 662 (1990) of 9 August 1990 and 674 (1990) of 29 October 1990,

Reiterating its concern for the suffering caused to individuals in Kuwait as a result of the invasion and occupation of Kuwait by Iraq,

Gravely concerned at the ongoing attempt by Iraq to alter the demographic composition of Kuwait and to destroy the civil records maintained by the legitimate Government of Kuwait,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* the attempts by Iraq to alter the demographic composition of Kuwait and to destroy the civil records maintained by the legitimate Government of Kuwait;

2. *Mandates* the Secretary-General to take custody of a copy of the population register of Kuwait, the authenticity of which has been certified by the legitimate Government of Kuwait and which covers the registration of the population up to 1 August 1990;

3. *Requests* the Secretary-General to establish, in cooperation with the legitimate Government of Kuwait, an order

¹⁴³ Ibid., pp. 16-20.

¹⁴⁴ Ibid., pp. 12-15 (Observer of OIC); pp. 21-22 (Bahrain); pp. 23-30 (Qatar); and S/PV.2962, pp. 10-12 (United Arab Emirates); and p. 16 (Islamic Republic of Iran).

¹⁴⁵ S/PV.2962, pp. 3-9.

¹⁴⁶ Ibid., pp. 9-10.

¹⁴⁷ Ibid., pp. 18-22.

of rules and regulations governing access to and use of the said copy of the population register.

Speaking after the vote, the representative of Kuwait expressed his gratitude to all the members of the Council for voting in favour of the resolution just adopted. In doing so, they had reaffirmed that the invading Iraqi regime's practices were null and void in their bid to obliterate Kuwaiti identity.

**Decision of 29 November 1990
(2963rd meeting): resolution 678 (1990)**

At its 2963rd meeting, on 29 November 1990, the Council resumed its consideration of the situation between Iraq and Kuwait and, in accordance with the decisions taken previously, invited the representatives of Iraq and Kuwait to take seats at the Council table.

The President of the Council (United States) noted that the following members of the Council were represented by their Foreign Ministers: Canada, China, Cuba, Ethiopia, Finland, France, Malaysia, Romania, the Union of Soviet Socialist Republics, the United Kingdom, the United States and Zaire. He stated that their presence there, for only the fourth time in the Security Council's history that Foreign Ministers had assembled, symbolized the seriousness of the present situation and the significance of the meeting.

He began the meeting with the following quotation, which he believed aptly set the context for the Council's discussions that day:

There is no precedent for a people being the victim of such injustice and of being at present threatened by abandonment to an aggressor. Also, there has never before been an example of any government proceeding with the systematic extermination of a nation by barbarous means in violation of the most solemn promises made to all the nations of the Earth that there should be no resort to a war of conquest and that there should not be used against innocent human beings terrible poison and harmful gases.

He stated that, although those words could well have come from the Emir of Kuwait, they had not. They had been spoken by Haile Selassie, the leader of Ethiopia, in 1936, a man who had seen his country conquered and occupied, as Kuwait had been since 2 August. Sadly, that appeal to the League of Nations had fallen upon deaf ears, the League's efforts to redress aggression had failed and international disorder and war had ensued. History had now given the international community another chance. With the end of the cold war, there was a chance to build the world

envisaged by the founders of the United Nations, a chance to make the Security Council and the Organization true instruments for peace and justice across the globe. The United Nations must not be allowed to go the way of the League of Nations. The threat to international peace created by Iraq's aggression must be met. The debate the Council was about to have would, therefore, rank as one of the most important in the history of the United Nations. It would surely do much to determine the future of the Organization. The Council's aim must be to convince Saddam Hussein that the just and humane demands of the Council and of the international community could not be ignored. If Iraq did not reverse its course peacefully, then other necessary measures, including the use of force, should be authorized. The choice must be put to the Iraqi leader in unmistakable terms.¹⁴⁸

The President then drew the attention of the Council members to a draft resolution submitted by Canada, the Union of Soviet Socialist Republics, the United Kingdom and the United States,¹⁴⁹ which Romania and France had joined in sponsoring.

The representative of Kuwait expressed the hope that the Council's historic meeting would reflect the true voice of the international community, showing a landmark united stand condemning aggression and demonstrating yet again its resolve to counter it. He paid tribute to the Foreign Ministers attending the meeting, whose presence underlined its historic importance and was viewed by the Kuwaiti people as an expression of support. The Council had convened that day to express its resolve that the principles of the Charter should take concrete form and that the principle of collective security should be the framework for regulating international relations, so that people might rest assured that the strong would not prey on the weak and that those who harboured aggressive intentions should hesitate and consider before resorting to force because they now knew that the world would reverse their aggression. The speaker paid tribute to those countries that had contributed to the multinational force, which was a concrete translation of the international community's determination to stand firm against aggression and to ensure that the use of force bore no rewards. He reiterated that the Iraqi aggression had not been limited

¹⁴⁸ S/PV.2963, pp. 2-6.

¹⁴⁹ S/21969; subsequently adopted without change as resolution 678 (1990).

to the occupation of land but had become a systematic campaign to destroy the economic and social infrastructure of Kuwait, and to transform its demographic composition. He recalled that the Council had adopted 11 mandatory resolutions under Chapter VII of the Charter in which it had demanded the immediate and unconditional withdrawal of Iraq from Kuwait, and had sought to secure Iraqi compliance by peaceful means through the imposition of a total economic embargo, together with other measures; that similar resolutions had been adopted at the pan-Arab, pan-Islamic level and within the framework of the Non-Aligned Movement; that personal initiatives and endeavours had been undertaken by prominent personalities, including the Secretary-General and envoys from the Soviet Union, China and other countries, aimed at persuading the Iraqi leadership to respond to the international will; and that efforts in the same vein had also been made by some Arab States whose positions were not totally in line with the Security Council resolutions and who had kept open the channels of communication with Baghdad. Despite all those efforts and good offices, however, the Iraqi regime persisted in its intransigence and obduracy, rejecting all overtures, disdaining all peaceful attempts, and defying the international community. No one could claim now that the international community had not given Iraq a full opportunity to comply with the international will or that the international community had not offered good, feasible grounds for a peaceful settlement. The speaker observed that the Iraqi regime had sought to deflect attention from its aggression against Kuwait by invoking issues that had nothing to do with it: it cited, for instance, the danger of the foreign presence in the region, but it knew that it was the real reason for that presence; and it attempted to link its aggression against and occupation of Kuwait to the question of Palestine, calling for an Arab solution, from which, however, it was the first to dissent and which it used to sow dissension among Arab ranks. The speaker concluded that the international community, represented by the Security Council, should therefore feel free, at that stage, to use all necessary means available to it and in cooperation with the Government of Kuwait, as provided for in the draft resolution, to implement the Council's resolutions so as to put an end to Iraq's defiance and opposition to the will of the international community.¹⁵⁰

¹⁵⁰ S/PV.2963, pp. 7-18.

The representative of Iraq recalled that when, on 25 August, the Council had been debating the text that became resolution 665 (1990), he had tried in his statement to focus the Council's attention on the legal requirements which it must observe in adopting any resolution involving the use of force. Otherwise, he had argued, the Council would be acting beyond its jurisdiction and its action should be deemed null and void. He believed that the same argument applied in the current situation, for an even better reason. For, under the Charter, any use of force was deemed to be an act of aggression except in three exceptional cases: (1) a case involving self-defence under Article 51, wherein the use of force was limited to the period until the Security Council was seized of the matter; (2) a situation in which sanctions under Article 41 had proved to be ineffective, in which case the Council could act collectively under Article 42 and could use force in accordance with the mechanism provided for in Article 43 — that is, under the command and control of the Security Council, in coordination with the Military Staff Committee; and (3) a case under Article 106, which provided that should the Council fail to reach special agreements with Member States to put forces under Security Council command, the parties to the Four-Nation Declaration of October 1943, together with France, could, in consultation with other Members of the United Nations, undertake joint action on behalf of the Organization against any country. Those were the three exclusive cases in which the use of force might legally be authorized by the Security Council. However, the Council had apparently considered that in the present case the legal requirements were “disposable niceties”.

The speaker accordingly wished to focus attention on the political aspects of the dispute. The implication of the draft resolution before the Council was that Iraq knew nothing but the use of force. That was not correct. His Government had advocated peace, and continued to do so. However, it wanted a comprehensive, durable and just peace that would safeguard the rights of all parties. That entailed dialogue with the Government of his country, but that had been blocked by the United States. As a cover for its aggressive and imperialist policies in the region, the United States alleged that the crisis was not the result of its stand against Iraq; it claimed that the world stood against Iraq in a manner unprecedented in the annals of the United Nations. However, that simply exposed the fact that it was only small States that did not enjoy veto

power in the Security Council or the protection of a super-Power permanent member that were subject to sanctions under Chapter VII of the Charter. Thus, for instance, the United States had, over many years, forestalled international unanimity and prevented the imposition of sanctions on Israel for its expansionist and aggressive policies against the Palestinians and the Arab people at large. Indeed, the current crisis had shown, among other things, that the United States totally dominated the Security Council and its arbitrary and biased procedures. The speaker reiterated that Iraq desired peace — not for itself alone, but for the entire Middle East region, on the basis of the implementation of all Security Council resolutions. That approach had been embodied in the initiative set out by the President of Iraq, Saddam Hussein, on 12 August. He argued that the problems of the Middle East were not isolated from one another, but had common historical roots and were linked politically. It was clear that one problem often caused the eruption of other problems, and that the current situation in the region was also the result of the effects of a chronic problem that remained unresolved. Linkage between the problems in the region was therefore natural and logical. The speaker concluded by asking whether the Council would measure up to its historic responsibility of establishing a comprehensive, just and lasting peace through an integrated approach which dealt with all the problems of the region. For Iraq's part, it desired peace. However, if the United States imposed war upon it, the Iraqi people would defend itself against injustice and tyranny.¹⁵¹

The Council then proceeded to vote on the draft resolution before it. Speaking before the vote, the representatives of Yemen and Cuba expressed their opposition to it and the representative of China his reasons for abstaining.

The representative of Yemen stated that the credibility of the Council was at stake as it was not applying the same standards to another crisis in the Middle East region as it was to the crisis in the Gulf: he drew attention to the plight of the Palestinian people that had been systematically denied its basic right to national self-determination. On the Gulf crisis, he observed that since the invasion of Kuwait by Iraq, the Council had adopted 11 resolutions, calling for the complete withdrawal of Iraqi forces from Kuwait, the immediate release of all hostages and the restoration of

the legitimate Government of Kuwait. Moreover, the Council had imposed on Iraq the most sweeping and enforceable sanctions regime to secure the implementation of those resolutions. The draft resolution before the Council would, in effect, authorize States to use force in order to ensure Iraq's compliance. Yemen could not support a draft resolution that would authorize States to use force, for the following reasons. First, the draft text was so broad and vague that it was not limited to the purpose of enforcing the Council's 11 resolutions. It would thus be up to those States with military forces in the area to decide on the prerequisites for the restoration of international peace and security in the region, which might lead to a military confrontation on a larger scale. Secondly, the draft text was not related to a specific article in Chapter VII of the Charter; hence the Council would have no control over those forces, which would fly their own national flags. Furthermore, the command of those forces would have nothing to do with the United Nations, although their actions would have been authorized by the Security Council. It was a classic example of authority without accountability. Yemen advocated a peaceful approach to resolving the crisis, in accordance with relevant Council resolutions. It believed that the comprehensive and almost totally airtight sanctions regime would eventually force Iraq to comply and withdraw from Kuwait. It was too early to say that sanctions were not working; patience was needed. A peaceful approach to the crisis should also involve active diplomatic activity.¹⁵²

The representative of Cuba stated that his country did not seek to establish any linkage between an Iraqi withdrawal from Kuwait and the situation in the Arab territories occupied by Israel; but he asked whether it was not incongruous to invoke norms for some that were ignored for others. He added that the President of the Council, bypassing the established rules and procedures, had ignored a request to convene the Council in order to consider a draft resolution prepared contemporaneously, on the subject of Palestine.¹⁵³ As for the draft resolution under consideration, Cuba believed that it would not be advisable to adopt a resolution which was a virtual declaration of war, a fixed-term ultimatum before hostilities were launched,

¹⁵¹ Ibid., pp. 19-31.

¹⁵² Ibid., pp. 32-38.

¹⁵³ On the application of rule 2 of the provisional rules of procedure of the Security Council, see chapter I, cases 1-4.

and which was equivalent to giving the United States and its allies *carte blanche* to use their enormous sophisticated military capability. Moreover, the text violated the Charter by authorizing some States to use military force in total disregard of the procedures established by the Charter. Cuba would have favoured a firm resolution aimed at ensuring respect for the will of the international community, and at the same time being generous and magnanimous, a resolution that rectified the decision to prevent food and medicine from reaching vulnerable groups in Iraq. This would have given great moral authority to the United Nations, lending force to its demands.¹⁵⁴

The representative of China stated that, as a result of his visits to countries in the region, he believed that members of the international community, including his country, shared common ground on the Gulf crisis on two points: they all opposed the Iraqi invasion and annexation of Kuwait and called on Iraq to withdraw from Kuwait immediately, while at the same time, they all wished to see the crisis settled through peaceful means. The United Nations, as an international organization for the maintenance of peace and security, should act with caution and avoid taking hasty action on such a major question as authorizing some Member States to take military action against another Member State. China had voted in favour of the resolutions adopted on the subject thus far because, although the sanctions measures were severe, they were not in the domain of the use of force. However, in the draft resolution before the Council, the wording “use all necessary means” was used, which, in essence, permitted the use of military action. That ran counter to the consistent position of the Government of China, which was to try its utmost to seek a peaceful solution. The Chinese delegation could not, therefore, vote in favour of the draft resolution. On the other hand, the Gulf crisis had arisen as a result of the Iraqi invasion and annexation of Kuwait, and Iraq had thus far not taken any practical steps on the key question of withdrawing troops from Kuwait. In this connection, the speaker noted that the draft resolution would call on Iraq to comply fully with resolution 660 (1990) and the subsequent relevant Council resolutions urging Iraq to withdraw from Kuwait immediately. Since China was in favour of that position, it would not cast a negative vote on the draft resolution either. The speaker concluded by stressing that the international

¹⁵⁴ S/PV.2963, pp. 52-60.

community should maintain and strengthen its political, diplomatic and economic pressure on Iraq, in the hope of securing a peaceful solution to the crisis.¹⁵⁵

The representative of Colombia said that it was the Council’s responsibility, in accordance with Chapter VII of the Charter, not merely to threaten Iraq but also to take positive action towards achieving a peaceful settlement. If today the Council was opening the way for the option of using force, let it do the same for the peace option. In Colombia’s view, the best hope of reaching a peaceful solution lay in creating a framework for negotiations. Such a framework would address the future of the economic sanctions, of procedures for settling the financial claims and territorial disputes, and what procedure would be followed in guaranteeing regional peace and stability. Clarifying those issues could facilitate compliance with Security Council resolutions without in any way rewarding the invader for his action. As the countdown began towards the deadline of 15 January 1991 set out in the draft resolution, Colombia wished the Secretary-General to make continuous use of his good offices, and would itself step up its own efforts to promote a peaceful settlement of the conflict. The draft resolution afforded Iraq one last opportunity to react and withdraw its troops peacefully from Kuwaiti territory. This pause of goodwill must not, however, be misinterpreted by the Iraqi authorities since the members of the Council, in authorizing Member States to use all necessary means, were expressing a clear position which, if ignored, would place full responsibility for ensuing developments on them. Hoping that reason would prevail, the speaker announced that his delegation would vote in favour of the draft resolution.¹⁵⁶

The representative of Zaire praised the spirit of cooperation in the Security Council which had enabled its members to act with greater unity. Reminding Iraq of its obligations as a Member of the United Nations and a member of the Non-Aligned Movement, he urged the Iraqi authorities to think again and peacefully withdraw from Kuwait before the deadline laid down in the draft resolution. He stressed that the international community and the members of the Council, motivated by the purposes of the Charter and responsible for maintaining international peace and

¹⁵⁵ *Ibid.*, pp. 61-63.

¹⁵⁶ *Ibid.*, pp. 38-42.

security while guaranteeing the political independence and territorial integrity of States Members of the Organization, could not tolerate this affront by a single Member State. Aware, however, of its historic responsibilities, the Security Council could not envisage other measures against Iraq without giving it a reasonable pause for reflection after four months of refusal to withdraw from Kuwait. The Council had therefore felt that it should be granted an additional delay of at least 45 days so that it might comply with the resolutions adopted by the Council so far and restore to Kuwait its independence and territorial integrity. It was in that context that one must view the current initiative of the Council, authorizing all Member States cooperating closely with the Government of Kuwait to use all necessary means to implement resolution 660 (1990) and to restore international peace and security in the area, unless by 15 January 1991 Iraq had withdrawn all of its forces from Kuwait.¹⁵⁷

The representative of Ethiopia recalled the serious failure of the League of Nations to act in defence of its own Covenant 55 years before, and take a stand against the blatant aggression committed by an expansionist State against the Ethiopian people. With the benefit of hindsight, it was often asserted, perhaps rightly, that had the League of Nations acted more forcefully and in unison at that critical time in defence of international legality, the world might have been spared the destruction and tragedy of the Second World War. In the 1990s, the international community must not repeat the mistakes of the 1930s. Almost four months had elapsed since the invasion of Kuwait. During that time, numerous diplomatic efforts had been made to resolve the crisis peacefully. However, the peaceful measures taken so far, including economic sanctions, had not produced the desired results, for the occupation of Kuwait continued. Although the patience of the world community was running out, the Council was offering Iraq one more chance to respect the will of the international community and withdraw from Kuwait within the time frame provided for in the draft resolution. The speaker observed that many had argued that the international community must wait still longer before considering additional measures. However, experience had shown that economic sanctions could have an effect only with the passage of time, and with complete, universal compliance. More importantly, the

¹⁵⁷ Ibid., pp. 43-48.

people of Kuwait rightfully demanded the immediate restoration of their sovereignty. The Council must not, therefore, wait much longer, for justice delayed could be justice denied. The speaker added that thinking should begin about a post-Iraqi-withdrawal scenario. In that context, the Council should reaffirm and strengthen its determination to work towards peace and stability in the entire region. He concluded that his delegation would vote in favour of the draft resolution to underline its determination that aggression should be thwarted and not rewarded.¹⁵⁸

The draft resolution was then put to the vote and adopted by 12 votes in favour, 2 against (Cuba, Yemen) and 1 abstention (China), as resolution 678 (1990), which reads:

The Security Council,

Recalling and reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990 and 677 (1990) of 28 November 1990,

Noting that, despite all efforts by the United Nations, Iraq refuses to comply with its obligation to implement resolution 660 (1990) and the above-mentioned subsequent relevant resolutions, in flagrant contempt of the Security Council,

Mindful of its duties and responsibilities under the Charter of the United Nations for the maintenance and preservation of international peace and security,

Determined to secure full compliance with its decisions,

Acting under Chapter VII of the Charter,

1. *Demands* that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

2. *Authorizes* Member States cooperating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the above-mentioned resolutions, to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;

3. *Requests* all States to provide appropriate support for the actions undertaken in pursuance of paragraph 2 above;

¹⁵⁸ Ibid., pp. 48-52.

4. *Requests* the States concerned to keep the Security Council regularly informed on the progress of actions undertaken pursuant to paragraphs 2 and 3 above;

5. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of France stated that the fact that the Council was meeting for the second time that year at the level of Foreign Ministers — once again, as on 25 September, to discuss the crisis resulting from Iraq's aggression against Kuwait — underlined the seriousness with which the international community viewed the situation and the extent to which its continuation, in defiance of the Council's successive resolutions, was provocative and unacceptable. In the wake of recent developments in international relations, conditions had been created conducive to a new world order that respected sovereignties and identities. Could the Council then tolerate such a blatant challenge for any extended period of time, especially in a region which was so highly sensitive, where the expectations for security and stability called for special consideration? Since the Council's calls had fallen on deaf ears, it was compelled to resort to a higher level of pressure in the face of the continuing challenge to the international community. That was the meaning of the resolution just adopted: it constituted one last invitation to implement the Council's resolutions, coupled with a warning which opened the way to the use of direct means of action. If Iraq chose to remain locked into the use of force, the Council was left with no other choice but to resort to the same means. While France was committed to the search for a peaceful solution, Iraq's leaders must entertain no doubt as to the Council's resolve. Law must prevail, and the goal the Council had set in its resolutions must be achieved. That was in the interest of all States; at stake was the future of relations among States in building a more secure and stable world. It was in that spirit that France had voted in favour of the resolution just adopted. The speaker added three further comments regarding the meaning of his country's vote. First, assuming there were no adverse changes in the circumstances, France did not intend to introduce or support any further action extending the scope or nature of the sanctions in place, or any new Council measures regarding Iraq until the date of the expiry of the deadline in paragraph 2 of the resolution. Secondly, that undertaking was without prejudice to the rights of his Government under the Charter, including its rights in the event that the Government of Iraq allowed any harm to come to

foreign nationals held against their will by that Government. Finally, his Government recalled the terms of paragraph 13 of resolution 670 (1990), under which individuals were personally responsible for grave breaches of the Fourth Geneva Convention, and stated that those involved in violations of the laws relating to armed conflict, including the prohibition against initiating the use of chemical and biological weapons contrary to the Geneva Protocol of 1925, to which Iraq was a party, would similarly be held personally responsible.¹⁵⁹

The representative of Canada stated that Foreign Ministers had gathered, for a second time in the Council's consideration of Iraq's invasion of Kuwait, to adopt a resolution which demonstrated that their collective resolve was firm. They were determined to respond to the challenge of Iraq's aggression, which went to the heart of what they had been trying to do at and through the United Nations for the previous 45 years: their attempt to build a workable world Organization able to prevent, or to reverse, the most blatant and dangerous of international offences — the acquisition by force of another country's territory and, in this specific case, an effort to extinguish a United Nations Member in its entirety. The speaker quoted the Prime Minister of Canada to the effect that Canada stood with the overwhelming majority of the world community, including its partners on the Security Council, in giving Saddam Hussein an opportunity to reflect carefully on the consequences of his action and a reasonable timetable to withdraw from Kuwait. It saw no contradiction between continuing to apply pressure through economic sanctions — giving diplomacy a chance — and giving President Hussein a period of time to withdraw from Kuwait. The speaker stressed that, in the resolution just adopted, the Council was saying that, should Iraq choose to ignore its obligations under international law, and under Security Council resolutions, the Member States, cooperating with the Government of Kuwait, would be authorized to use all necessary means, including the use of force, to ensure Iraq's compliance with those resolutions. Whether force was actually used was up to Iraq. It had been offered a pause of goodwill — a period of time in which it could reverse the actions it had taken. If Iraq did have legitimate concerns with Kuwait, those should be negotiated by the two Governments, as contemplated in resolution 660 (1990), the first

¹⁵⁹ *Ibid.*, pp. 66-68.

adopted by the Council in response to the invasion. However, Iraq must first comply with the Council's resolutions. As to other existing tensions in the Middle East, Canada believed that, if the new unity of the international community and collective determination of the Security Council could be sustained, then a just, lasting and comprehensive solution to the Arab-Israeli dispute might be within grasp. That was a matter that could only be addressed, however, separately from the current crisis; Iraq's offence was *sui generis* and its undoing, according to the principles of international law and the interests of international security, was essential.¹⁶⁰

The representative of Malaysia observed that the resolution just adopted presented Iraq, in clear terms, with the choice of complying with the relevant resolutions within a specific time frame or facing the certainty of force authorized by the Council. The decision to support the resolution had not been an easy one for his country. However, as a small nation and a member of the Organization of the Islamic Conference and the Non-Aligned Movement, it was Malaysia's duty to support and uphold the unity and resolve of the Council to reverse aggression and to restore peace. Malaysia's stand against strong nations invading or annexing small ones was well known; it applied not only to Iraq but to all others. The international community could not compromise on this if it were to build strong foundations for a new world order. As for allowing more time for sanctions to have the necessary impact, the Council was faced with the reality that it would be months before it could be deduced that sanctions had had effects. In the meantime, Iraq had shown no indication of complying with the Council's resolutions, the destruction of Kuwait and the atrocities against its people continued, and several thousand foreigners remained as hostages. Malaysia wished to make it clear, however, that its support for resolution 678 (1990) was not without reservations. The authorization of force, in the event that Iraq did not comply within the time frame specified, could only be done under the terms of the Charter of the United Nations. Malaysia had not agreed to any attempt unilaterally to apply Article 51 of the Charter once the Council was seized of the matter. In this regard, it had always insisted on the centrality of the United Nations role in the maintenance of international peace and security. Any proposed use of force must be brought

before the Council for its prior approval, in accordance with the provisions of Chapter VII of the Charter. The speaker regretted that the resolution did not adequately reflect the point that when the Council authorized countries to use force, those countries were fully accountable for their actions to the Council through a clear system of reporting and accountability. Such a precedent might not bode well for the future. He added that resolution 678 (1990) did not provide a blank cheque for an excessive or indiscriminate use of force. The Council had not authorized actions outside the context of its resolutions 660 (1990), 662 (1990) and 664 (1990). Malaysia warned against any action purportedly taken under the resolution that would lead to the virtual destruction of Iraq. On the question of the Palestinians in the occupied territories, the speaker expressed his disappointment with the Council over its inability for more than three weeks to address the matter properly and have a vote, which raised questions on the procedure and conduct of the Council.¹⁶¹ While it was absurd to speak of linkages, each action of the Council was evaluated, one against the other. With regard to the situation under consideration, his delegation hoped that Iraq would take advantage of the period given, as a pause of goodwill, for it to take stock of the situation. Steps taken by Iraq to comply with the relevant resolutions would enhance the prospects for a peace framework that would fully address issues between Iraq and Kuwait, bring about an early removal of foreign forces from the region, and allow for a positive consideration of the wider questions of peace and security in the region. Efforts along those lines being pursued by Colombia had Malaysia's support. It felt that such a framework could become a complement to resolution 678 (1990), facilitating Iraqi compliance. The speaker concluded by imploring Iraq to comply with the Council's resolutions, adding that the onus for the avoidance of the use of force was clearly on Iraq.¹⁶²

The representative of the United Kingdom stated that the Council had gathered to make a strong bid for peace. No State represented on the Council had any zest for war. With the resolution just adopted, the Council had put into place the latest and strongest of the peaceful pressures on Iraq. The speaker acknowledged that there had been many acts of

¹⁶⁰ *Ibid.*, pp. 69-74.

¹⁶¹ See also the consideration of rule 2 of the Council's provisional rules of procedure, in chapter I, cases 1-4.

¹⁶² S/PV.2963, pp. 74-78.

international injustice since 1945, and that too many of them still persisted. However, in a world composed of nation States, and in an organization like the United Nations, which consisted solely of nation States, the obliteration of one Member State by another was an act on its own. Such an act of aggression undermined and threatened the whole structure of international order. The response of the international community had therefore been swift and severe, but also peaceful. Nearly four months had passed since the aggression. Sanctions were in place and had been convincingly applied. One of the main purposes of the resolution just adopted was to remove any uncertainties and set out for Iraq exactly how it stood and how the Council stood. There was no ambiguity about what the Council required: Iraq must withdraw all its forces unconditionally and completely to the positions on which they had stood on 1 August. If not, then Member States, acting with the Government of Kuwait, were authorized to use such force as necessary to compel compliance. Like the representative of France, the speaker stated that, from then until the expiry of the 15 January 1991 deadline, unless there was any adverse change in circumstances, his Government did not intend to introduce or support any Council action to extend the scope or nature of the sanctions or any new measures in the Council against Iraq. However, it reserved its rights under the Charter should Iraq allow any harm to come to the foreign nationals whom it was holding against their will. He also recalled the terms of paragraph 13 of resolution 670 (1990), under which individuals were held personally responsible for grave breaches of the Geneva Convention, and stated that the United Kingdom would also hold personally responsible those involved in violations of the laws of armed conflict, including the prohibition against initiating the use of chemicals or biological weapons contrary to the Geneva Protocol of 1925, to which Iraq was a party. The speaker concluded that there was an option for peace, which Iraq held in its hands. The international community had not added that day to its demands. It was not asking for anything except the reversal of the aggression. The Iraqis now had a period of grace in which to respond. By 15 January — the date in the resolution — the aggression would be nearly six months old. No one could accuse the Council of impatience. The military option was reality,

not bluff; if it had to be used, it would be used with the full backing of the Council.¹⁶³

The representative of Finland said that the invasion of Iraq by Kuwait had created a situation of unprecedented danger. Iraqi aggression imperilled the very existence of a State Member of the Organization, had created human suffering on a vast scale, and directly challenged the system of collective security under the Charter. Collective security meant that the security of Kuwait was also the security of all other States, particularly of the smaller ones. The foundations of their own security were at stake. The world community had shown determination in the face of that aggression: the occupation would not be allowed to stand. However, it had also shown much patience. The Council had taken action as provided for under Chapter VII of the Charter, with the sanctions imposed four months before remaining the principal instrument deployed to persuade the Iraqi leadership of the need to change course. According to the Charter, should the Council consider that economic and diplomatic measures have proved to be inadequate, it may take further action as may be necessary to restore international peace and security. Acting under those provisions, the Council was simply giving effect to what was the core of the United Nations system of collective security. The authority of the Council must be upheld. It was confronted with the situation in which one Member State claimed the right to obliterate another. Such an act was precisely the kind of aggression that the drafters of the Charter had intended to prevent, and if necessary, suppress. The speaker concluded that it was late, but not yet too late for Iraq to do what was necessary for the achievement of a peaceful solution to the crisis. The resolution just adopted should be regarded as a warning. As others had noted, there were no plans to extend in the coming period, until the date mentioned in the resolution, the scope of the sanctions already in force. Those weeks should be fully used to achieve a peaceful way out of the crisis. The good offices of the Secretary-General were available in that regard.¹⁶⁴

The representative of Côte d'Ivoire stated that the resolution just adopted was a logical outcome of Iraq's non-compliance with the resolutions adopted earlier by the Council, especially resolution 660 (1990). The Iraqi

¹⁶³ Ibid., pp. 78-83.

¹⁶⁴ Ibid., pp. 83-85.

leaders would not attain their objective of leading the international community to accept out of weariness a situation entailing the occupation, subjugation and destruction of an independent State Member of the United Nations. The international community could not allow a dangerous precedent to be set that would create serious threats to the peace for the great majority of the small States that made up the United Nations and for which the Charter was the best shield in the preservation of their sovereignty and integrity. It could not allow aggression such as that committed by Iraq against a small neighbouring country to thwart the Organization's efforts to establish peace, whether regional or global. The speaker said that his Government hoped that the resolution just adopted would be perceived by Iraq's leaders as a reflection of the international community's determination to ensure respect, by all necessary means, for the purposes and principles of the Charter. Further, it hoped that the ultimate goal of the resolution was, according to the well-known adage, to know how to show one's strength in order not to have to use it.¹⁶⁵

The representative of the Union of Soviet Socialist Republics underlined the logic in the actions of the Council, which from the outset had acted with cohesion and consistency and, at the same time, in a responsible and prudent manner, in strict conformity with the letter and spirit of the Charter in its modern interpretation. There was justice and a large measure of magnanimity in the resolution just adopted. As the end of the fourth month of the crisis approached, the international community was showing genuine magnanimity and giving the side that had breached the peace time to think again. At the same time, it was giving the victim in the crisis a firm pledge that it would not have to wait much longer, that help was on the way and that its rights would be fully restored. The countdown of the "pause of goodwill" had started that day. The Soviet Union believed that it would usher in a transition to a political settlement. No member of the Council wanted or sought a tragic outcome. However, there should be no mistake about the collective will of the international community as expressed in the Council, or about its resolve and readiness to act. Those who had breached the peace should know that "all necessary means" would indeed inexorably be used against them. The speaker added that the Soviet Union, like some previous speakers, did not favour linkages in

¹⁶⁵ Ibid., pp. 86-87.

politics, least of all those that seemed to require the creation of a new problem in order to solve an old one, or the enslavement of one nation in order to promote the freedom of another. However, nor did it see any logic in artificially holding back efforts to solve a long-standing problem just because of the emergence of a new one that had to be addressed first. The Soviet Union believed that the international community and the United Nations should continue what it had been doing for many years: seeking a path towards a comprehensive settlement of the whole complex of Middle East problems that had existed prior to 2 August 1992. For its part, it would continue to do so, while maintaining a clear and straightforward position on the Gulf crisis. The speaker stressed that the purpose of the resolution just adopted was to put an end to the aggression and make it clear to the world that aggression could not be rewarded. He added that the Soviet Union would be guided by the following precepts, to which some previous speakers had already referred. Assuming that there were no adverse changes in the circumstances, his Government did not intend to introduce or support any Council action to extend the scope or nature of the sanctions, or any new measures of the Council against Iraq during the period of the "pause of goodwill". However, the Soviet Union reserved its rights under the Charter, including its rights should the Government of Iraq allow any harm to come to foreign nationals whom it was holding against their will. Lastly, his Government recalled the terms of paragraph 13 of resolution 670 (1990), under which individuals were held personally responsible for grave breaches of the Fourth Geneva Convention, and stated that all those involved in violations of the laws of armed conflict, including the prohibition against initiating the use of chemical or biological weapons contrary to the Geneva Protocol of 1925, to which Iraq was a party, would similarly be held personally responsible. The speaker concluded by expressing the confidence that the international community would be able to overcome the crisis peacefully, in a political way.¹⁶⁶

The representative of Romania said that his country continued to believe that every effort should be made to ease the existing tension politically and to solve the issues at stake by peaceful means, in accordance with the resolutions of the Security Council. He thought full use should be made of the

¹⁶⁶ Ibid., pp. 88-96.

potential of the Charter and the resources offered by it — especially the capabilities of the Security Council and the good offices and other initiatives that might be undertaken by the Secretary-General. At the same time, noting that the current course of events challenged the credibility of the United Nations and of the Security Council, in particular, he stressed that the Council should prove its capacity to ensure the implementation of and respect for its own decisions. This had led his country to conclude that the Security Council should use all the means at its disposal, including those provided for in Chapter VII of the Charter with respect to threats to the peace, breaches of the peace and acts of aggression. Hence its support for the resolution just adopted. He stressed, however, that it was not too late for the Iraqi authorities to heed the voice of reason and choose a course of action leading to the restoration of peace in the area.¹⁶⁷

The President, speaking in his capacity as the representative of the United States, stated that the Council's vote marked a watershed in the history of the United Nations. Faced with Iraq's aggression, the nations of the world had not stood idly by. They had taken political, economic and military measures to quarantine Iraq and contain its aggression. A coordinated international effort involving over 50 States had been worked out to provide assistance to those nations most in need as a consequence of the economic embargo against Iraq. The military forces of over 27 nations had been deployed to defend Iraq's neighbours from further aggression and to implement the resolutions of the Council. The 12 resolutions adopted by the Council had clearly established that there was a peaceful way out of the conflict — through the complete, immediate and unconditional Iraqi withdrawal from Kuwait, the restoration of Kuwait's legitimate Government and the release of all hostages. The speaker observed that all this could not have taken place unless most nations shared his own country's vision of what was at stake. Saddam Hussein's actions, the vast arms he possessed and the weapons of mass destruction he sought indicated clearly that Kuwait was not only not the first, but probably not the last target on his list. If he should win this struggle, there would be no peace in the Middle East. If he should come to dominate the resources of the Gulf, his ambitions would threaten all of them in the Council and the economic well-being of all nations. Finally, if Iraq

¹⁶⁷ Ibid., pp. 97-100.

should emerge from this conflict with territory, treasure or political advantage, then the lesson would be clear: aggression paid. The speaker reiterated that the lesson of the 1930s must be remembered and that aggression must not be rewarded. Since 2 August, many nations had worked together to prove just that. Many unprecedented actions had been taken, resulting in a newly effective Security Council, free of the constraints of the cold war. However, Saddam Hussein had not recoiled from his aggression. He apparently did not believe that the international community would stand united until he withdrew. The Council was meeting that day, therefore, first and foremost, as other speakers had pointed out, to dispel his illusions. He must know from the Council that a refusal to comply peacefully with its resolutions risked disaster for him. The resolution just adopted was very clear. It authorized the use of force. The purpose, though, as many had said, was to bring about a peaceful resolution of the problem. The United States concurred with other Council members that the adoption of resolution 678 (1990) should lead to a pause in the Council's efforts — assuming no adverse change in circumstances. It did so while retaining its rights, as other nations had, to protect its nationals in Iraq, and mindful of the terms of the Fourth Geneva Convention and the Geneva Protocol of 1925, should Saddam Hussein use chemical or biological weapons. By adopting resolution 678 (1990), which was a pause for peace, the Council was presenting the Iraqi leader with a choice: he could choose peace by respecting the will of the international community; or risk all. The speaker concluded that if the Council failed to redress this aggression, more would be lost than just peace in the Gulf. As evidenced in Europe, the end of the Cold War presented a new opportunity to get beyond the whole pattern of settling conflicts by force. That opportunity could be seized, or the international community could slip back into ever more savage regional conflicts in which might alone made right. The speaker thought the Council had the courage and the fortitude to choose what was right.¹⁶⁸

The Secretary-General of the United Nations remarked that the Security Council had taken a decision of immense portent. He stressed that the resolution just adopted envisaged at least 45 days of earnest efforts to achieve a peaceful solution of the crisis. Mindful of the responsibility inherent in his

¹⁶⁸ Ibid., pp. 101-105.

office, he expressed the hope that the time would be used constructively. He emphasized that, in requiring compliance with the resolutions of the Security Council, the United Nations was not seeking surrender but the most honourable way of resolving a crisis in a manner that respected all legitimate interests and was conducive to the wider peace and the rule of law. The situation required that diplomatic efforts be made with renewed determination to resolve the crisis peacefully. He added that a collective engagement required a discipline all its own. Moreover, the actions of the United Nations to correct this international wrong must be perceived as part of the larger endeavour to establish peace through justice, wherever the one was imperilled and the other had been denied.¹⁶⁹

The representative of Kuwait expressed gratitude to the members of the Council on behalf of the Kuwaiti people for the decision taken, which reinforced their hopes and strengthened their resolve. The Council's resolution sent a strong, unequivocal, message to the whole world that aggression would be reversed and that the era of the use of force had come to an end.¹⁷⁰

Decision of 13 February 1991 (2977th meeting, part I): to hold a meeting of the Security Council in private

By a letter dated 23 January 1991 addressed to the President of the Security Council,¹⁷¹ the representatives of Algeria, the Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia, as members of the Arab Maghreb Union, requested an urgent meeting of the Security Council to consider the grave situation in the Gulf region.

By a letter dated 24 January 1991 addressed to the President of the Security Council,¹⁷² the representative of Yemen also requested an immediate meeting of the Security Council to examine the grave situation in the Gulf region.

By a letter dated 28 January 1991 addressed to the President of the Security Council,¹⁷³ the representative of Cuba requested a formal meeting of the Security Council as soon as possible to review the situation in the Gulf. He emphasized that the only

legitimate way for the Council to assume its responsibilities under the Charter of the United Nations for the maintenance of international peace and security was to hold a formal debate and to take appropriate steps to end the hostilities and bring the conflict towards a diplomatic and peaceful solution. Noting that requests for a meeting had been made by a number of delegations, including another member of the Security Council, he explicitly invoked rules 2 and 3 of the Council's provisional rules of procedure and Article 35 of the Charter and stated that the Council was compelled to take action when requested to do so by a Member State.

At the first part of its 2977th meeting, on 13 February 1991, the Council included the three above-mentioned letters in its agenda, under the item entitled "The situation between Iraq and Kuwait".

Following the adoption of the agenda, the representative of the United Kingdom moved, in accordance with rule 48 of the Council's provisional rules of procedure, that the Council should decide to meet in private to consider the item on the agenda. The rules of procedure provided for private meetings in exceptional circumstances and the current circumstances were, in his view, exceptional. In response to Iraq's invasion of Kuwait, the Council had adopted a series of resolutions on the basis of which military action had been undertaken and diplomacy was under way. The Council therefore had responsibilities to take into account when deciding how it should act in the context of the present requests for a meeting. It could not afford to send mixed signals, which might delay the realization that a peaceful solution to the crisis had to begin with an Iraqi withdrawal from Kuwait. If members or non-members of the Council had proposals to make, they should be heard, but the Council ought to explore carefully how those proposals would assist its objectives and, above all, how they had been received by Iraq. Such exploratory discussion was better handled in a private meeting, as had been done in the context of Western Sahara in 1975. His delegation had no intention of restricting participation by Member States or invoking rule 51 of the provisional rules of procedure: the normal verbatim record should be taken and circulated. It did believe, however, that the Council would carry out its functions better if the public aspect of the meeting — the presence of the media — did not

¹⁶⁹ Ibid., p. 106.

¹⁷⁰ Ibid., pp. 107-108.

¹⁷¹ S/22135.

¹⁷² S/22144.

¹⁷³ S/22157.

influence or even distort the course and nature of the debate.¹⁷⁴

There followed a procedural discussion on the proposal made by the United Kingdom that the meeting be continued in private.¹⁷⁵ The proposal was put to the vote and adopted by 9 votes in favour, 2 against (Cuba, Yemen) and 4 abstentions (China, Ecuador, India, Zimbabwe).

Following the vote, the President suspended the meeting and said that the agenda would be revised to reflect the private character of the meeting.¹⁷⁶

Pursuant to the Council's decision, the second part of the 2977th meeting was held in private, with five suspensions and resumptions, from 13 February to 2 March 1991.¹⁷⁷

At the second part of its 2977th meeting, on 14 February 1991, the Council invited the representatives of the following countries, at their request, to participate in the discussion without the right to vote: Argentina, Australia, Bangladesh, Brazil, Brunei Darussalam, Bulgaria, Canada, Chile, Colombia, the Comoros, Cyprus, Czechoslovakia, Denmark, Egypt, Finland, Germany, Greece, Honduras, Hungary, Iceland, Indonesia, the Islamic Republic of Iran, Iraq, Ireland, Israel, Italy, Japan, Kuwait, Liechtenstein, Luxembourg, Malaysia, Mexico, Myanmar, the Netherlands, New Zealand, Norway, Pakistan, Peru, the Philippines, Poland, Portugal, Qatar, Saudi Arabia, Senegal, Singapore, South Africa, Spain, the Sudan, Sweden, the Syrian Arab Republic, Thailand, Turkey, the Ukrainian Soviet Socialist Republic, the United Arab Emirates, Uruguay, Venezuela and Yugoslavia.

At the request of the representatives of Egypt and Belgium, respectively, the Council also extended

invitations under rule 39 of its provisional rules of procedure to Mr. A. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference to the United Nations, and Mrs. Arlette Laurent, Chargé d'affaires of the delegation of the Commission of the European Economic Community.

The President (Zimbabwe) then drew the attention of the members of the Council to letters dated 23 and 24 January 1991, respectively, from the representatives of the Sudan and Jordan addressed to the President of the Security Council,¹⁷⁸ supporting the requests for the meeting. He also drew their attention to a number of other documents.¹⁷⁹

The representative of Kuwait stated that in authorizing the multinational forces that were cooperating with his country to use force, the Council had resorted to the only means left to it by the intransigent Iraqi regime. Iraq had been the first to wage war. It was now escalating its inhuman practices, which had been condemned by an overwhelming majority in the General Assembly. Lamentably, some Arab countries had lagged behind the international consensus by not repudiating Iraq's policy. They were now requesting the convening of the Security Council to consider their allegation that current military operations aimed at destroying Iraq. The speaker stressed that, from the beginning, the Council had pursued the paths prescribed by the Charter. Hence the imposition of sanctions against Iraq, combined with diplomatic endeavours. Since Iraq had rebuffed those efforts, the Security Council, in its resolution 678 (1990), had given it a period of 47 days to withdraw its forces from Kuwait, failing which the international coalition had been authorized to use all possible means to liberate Kuwait. Numerous démarches had been made during that period, including by the United Nations Secretary-General, but they had yielded no noteworthy results. The Iraqi aggression's effects on international peace and security had necessitated a decisive move and military operations had begun. They had been conducted within the context of resolution

¹⁷⁴ S/PV.2977 (Part I), pp. 2-4.

¹⁷⁵ For the procedural discussion, see S/PV.2977 (Part I), pp. 4-65; see also chapter I, case 18.

¹⁷⁶ The agenda for the 2977th meeting was issued in two parts, to reflect the public character of the first part of the meeting and the private character of the second part; see, respectively, S/Agenda/2977 (Part I) and S/Agenda/2977 (Part II) and Rev.1.

¹⁷⁷ See S/PV.2977 (Part II) (closed), S/PV.2977 (Part II) (closed-resumption 1), S/PV.2977 (Part II) (closed-resumption 2), S/PV.2977 (Part II) (closed-resumption 3), S/PV.2977 (Part II) (closed-resumption 4) and S/PV.2977 (Part II) (closed-resumption 5).

¹⁷⁸ S/22138 and S/22147.

¹⁷⁹ S/22136, S/22137, S/22139-S/22146, S/22149-S/22156, S/22158, S/22159, S/22160/Rev.1, S/22162-S/22166, S/22168, S/22169, S/22172, S/22173, S/22174, S/22178-S/22183, S/22185-S/22192, S/22194, S/22195, S/22197, S/22199, S/22200, S/22201, S/22203, S/22204, S/22205, S/22206, S/22210, S/22211, S/22213-S/22219 and S/22222.

678 (1990). The fighting had not been expanded, nor had it aimed at the destruction of Iraq. The speaker stressed that Iraq did not deserve to be rewarded for its aggression, occupation and atrocities and that there should be no ceasefire before the complete liberation of Kuwait. The Iraqi leadership was yearning for disunity to plague the ranks of the Security Council, but the Council had remained united in the face of such flagrant violations of all the principles of the Charter. By their heroic action, the international forces were for the first time in the history of the United Nations reaffirming collective security and self-defence. A world order was dawning, fashioned by the United Nations. The speaker concluded by saying that he was at the President's disposal for any clarifications or questions.¹⁸⁰

The representative of the United States addressed a few questions to the representative of Kuwait, in keeping with the Council's provisional rules of procedure and past practice, and its decision to do everything possible to make the private meeting fruitful and productive. He asked him to describe the status of the efforts of the Government of Kuwait to reach a negotiated settlement of the border and other disputes with Iraq before 2 August 1990. In addition, he enquired whether Kuwait was prepared, in the words of paragraph 3 of Security Council resolution 660 (1990), to begin negotiations with Iraq to resolve that dispute once Iraq had complied with the other elements in that resolution; whether the Government of Kuwait had received from Iraq at any time an indication of any sort that a negotiated settlement consistent with the resolutions of the Security Council was possible; and, finally, whether Kuwait believed or had any reason to believe that a ceasefire would help to resolve the problem and to promote the complete withdrawal of Iraqi forces.¹⁸¹

The representative of Saudi Arabia, the next speaker on the list, said that if the President wished to give the opportunity to the representative of Kuwait to answer the questions that had been addressed to him, he would wait until he had done so; otherwise, he would proceed with his statement.¹⁸²

A procedural debate followed concerning the application of rule 27 of the Council's provisional rules

of procedure.¹⁸³ The President concluded that since the representative of Saudi Arabia had not intended to cede his place on the list of speakers to the representative of Kuwait, the former still had the floor; the representative of Kuwait could reply to the questions at a later stage.

The representative of Saudi Arabia recalled that, for the second time in its history, the United Nations had resorted to war, a war to implement Security Council resolutions and international legitimacy, a war for which the Iraqi regime bore full responsibility. For the apologists of the Iraqi aggression to call for peace at the United Nations instead of in Baghdad was hypocritical and deceptive. Only Iraq's withdrawal and implementation of the Council's resolutions would bring the military operations to a stop.¹⁸⁴

The representative of Qatar, speaking also in his capacity as Chairman of the Gulf Cooperation Council, called on the Council to remain committed to the resolutions it had adopted and to resort to all means to secure their implementation. Any slackening on the part of the Council would constitute a setback to international legitimacy and undermine the ability of the United Nations to restore international peace and security and compel compliance by those who failed to respect its decisions.¹⁸⁵

The representative of Iraq observed that the Council's inability to meet for more than three weeks, in contradiction of its rules of procedure, confirmed that the Council had become an American instrument for the covering up of the worst of international crimes. It had no credibility or legitimacy. Furthermore, the attempt to turn the public meeting, as required by the provisional rules of procedure, into a private meeting was aimed at denying some Member States the opportunity to unmask the crimes being perpetrated in the name of the Council. As a result, the majority of States that had requested the meeting were now boycotting it. Another attempt had just been made to prevent some Member States from speaking at an appropriate time. It had fortunately failed. The speaker claimed that, in resolution 678 (1990), the United States had found a fig leaf to cover up its aggression against Iraq, making the States members of the

¹⁸⁰ S/PV.2977 (Part II) (closed), pp. 7-25.

¹⁸¹ *Ibid.*, pp. 26-27.

¹⁸² *Ibid.*, p. 27.

¹⁸³ For the procedural debate, see S/PV.2911 (Part II) (closed), pp. 27-36; see also chapter I, case 12.

¹⁸⁴ S/PV.2977 (Part II) (closed), pp. 36-45.

¹⁸⁵ *Ibid.*, pp. 46-56.

Council, which adopted it, co-perpetrators of the crime. He pointed out that the only State that had voted against the resolution adopted by the General Assembly on 4 December 1990 prohibiting attacks on nuclear facilities — the United States — was the one that had conducted attacks against the peaceful Iraqi nuclear facilities under international supervision. Such acts not only exceeded the framework of resolution 678 (1990); they represented an international crime to which the provisions of Chapter VII of the Charter should be applied against the United States and its collaborators in aggression. The aggressors had not stopped at violating the Charter and exceeding the objectives and limits of resolution 678 (1990). They had violated the Fourth Geneva Convention, the Treaty on the Non-Proliferation of Nuclear Weapons, the Universal Declaration of Human Rights, the General Assembly resolution prohibiting attacks on nuclear facilities, and all religious and moral values. In sum, they had perpetrated and continued to perpetrate international crimes. Iraq was now in a heroic war against old-time colonialism, whose victims saw the so-called new international order as a new era of terrorism and a threat against peoples striving for their freedom and independence, and to relations of equality among States. It would exercise its right to self-defence until the United States and its co-criminals withdrew.¹⁸⁶

The representative of the United Kingdom deemed it appropriate, in addition to the submission of the regular reports called for in resolution 678 (1990) which States were already providing, to use the occasion of the first formal meeting since the deadline of 15 January 1991 to address a number of issues. Referring to suggestions that military action being taken by the allies was in some way excessive or disproportionate and thus exceeded the “all necessary means” authorized in resolution 678 (1990), he stated that the nature and scope of the military action was dictated by the military capacity of the aggressor. In global terms, Iraq had the fourth largest army in the world. It was that military machine which had to be removed from Kuwait by force. The fighting could not be confined to the territory of Kuwait since the logistical support and resources of the huge Iraqi war machine extended far beyond the confines of Kuwait. However, that did not mean that the allies had extended their objectives beyond those laid down in successive

¹⁸⁶ Ibid., pp. 56-72.

Council resolutions. They were seeking the liberation of Kuwait, no more, no less. The military action would end as soon as that objective had been achieved. With respect to civilian casualties, the allied forces had been instructed to keep them to a minimum, in sharp contrast to Iraq’s performance. However, there was increasing evidence that military equipment and installations were being moved into civilian areas to protect them from allied attacks. As far as diplomatic efforts were concerned, they should not be discouraged so long as they were based on the Council’s resolutions, but, to be realistic, they must begin in Baghdad. In the current circumstances, the idea of an unconditional pause made no sense at all. The conflict was not a war of the weak against the strong, an Arab war, or a Muslim holy war. It was a confrontation between collective security, as provided for in the Charter, and the law of the jungle. In concluding, the speaker addressed a few questions to the representatives of Iraq and Saudi Arabia, and looked forward to hearing the answers to the questions put to the representative of Kuwait. He asked the representative of Iraq whether Iraq would withdraw immediately and unconditionally from Kuwait, whether it would give an undertaking to abide by the Geneva Convention regarding the treatment of prisoners of war, how it was treating prisoners of war from the countries of the allies, and whether Iraq would commit itself to abiding by its international obligations not to use chemical or biological weapons. He asked the representative of Saudi Arabia about the nature of the military threat which Iraq had represented since 2 August 1990 and continued to represent, and whether Saudi Arabia had received any indications of Iraq’s readiness to comply with Security Council resolutions and withdraw from Kuwait.¹⁸⁷

The representative of China recalled his country’s position that the Gulf crisis should be settled through peaceful means. Expressing concern at the possibility of a protracted and expanded war, he called upon the belligerent parties to exercise the greatest restraint and seek a peaceful solution. Progress towards peace also required that Iraq should signify its immediate withdrawal from Kuwait, that the settlement of the Middle East question should be scheduled, that post-war arrangements should be made mainly by the

¹⁸⁷ Ibid., pp. 72-79.

countries in the region and that foreign military forces should withdraw from the Gulf region.¹⁸⁸

The representative of Romania informed the Council that, in accordance with paragraph 3 of resolution 678 (1990), in which all States were requested to provide appropriate support for the actions undertaken to liberate Kuwait and to restore international peace and security in the Gulf area, Romania had decided to send a surgical hospital and a decontamination unit to Saudi Arabia. Invoking Article 50 of the Charter, he pointed out that the sanctions against Iraq had meant considerable losses for his country; but Romania was nevertheless strictly implementing them. He strongly rejected any suggestion made during the debate of manipulation or malpractices by the Council. At the same time, he urged that, even at this critical stage in the conflict, the Council make maximum use of political and diplomatic means.¹⁸⁹

The representative of Austria also believed that diplomatic efforts should be intensified. The way in which the Council dealt with, and finally resolved, the conflict would be of paradigmatic importance not only for the future of the region, but also for the concept of collective security and the role of the United Nations. The Council ought to uphold, and if necessary enforce, the rule of law in a just and fair manner and its decisions should, as much as possible, represent the collective will of the international community. Only in that way would it maintain its political and moral legitimacy.¹⁹⁰

The representative of Ecuador pointed out that a substantive debate had begun the day before, which militated against continuing the meeting in private. Emphasizing that Iraq had violated the most important principles of the Charter, he urged that diplomatic efforts be redoubled and that flexibility be shown to find a solution based on strict compliance with the Council resolutions which embodied those principles. He added that it would be necessary in due course to consider the framework within which to seek implementation of all resolutions of the Council pertaining to the problems of the region, but that implementation of the 12 Council resolutions on the

Gulf problem was not conditional upon any considerations extraneous to that specific problem.¹⁹¹

The representative of Belgium recalled that similar violations of international law had led to the Second World War and that the United Nations had been founded precisely to put a rapid end to any such threat. On the proposals put forward by the countries that had requested the meeting, the position of his Government was that a truce would be interpreted by Iraq as a sign of weakness and would only prolong hostilities, but that the use of force should not put a halt to diplomacy. He added that States had all been urged to show solidarity with States cooperating in the liberation of Kuwait, the resolutions leaving it up to them freely to determine the level of their commitment. To that end, Belgium had contributed to the collective effort through military support and by means of considerable medical assistance. It would provide humanitarian assistance to the civilian population in Iraq and Kuwait and to the refugees, and was providing financial assistance to those countries most affected by the economic consequences of the conflict.¹⁹²

The representative of the Union of Soviet Socialist Republics pointed out that, because of Iraq's rigid intransigence, the world had found itself faced with a most dangerous armed confrontation whose alarming reverberations went far beyond the boundaries of the Middle East. Further escalation of the conflict might create a danger exceeding the mandate of the Council's resolutions. Acts of provocation attempting to involve Israel and other States in the armed conflict, as well as the possible use of weapons of mass destruction, above all chemical and bacteriological weapons, were of concern to his country. Through its diplomatic initiatives, the Soviet Union wished not only to assist in ending the war, but also to begin preparations for a lasting system of security on an equal footing in the region. As to the present meeting of the Council, it was a clear signal to the Iraqi leadership that it had to comply with all the just and well-founded decisions of the Security Council and declare an immediate, full and unconditional withdrawal from Kuwait.¹⁹³

¹⁸⁸ Ibid., pp. 80-82.

¹⁸⁹ Ibid., pp. 82-88.

¹⁹⁰ Ibid., pp. 88-92.

¹⁹¹ Ibid., pp. 93-102.

¹⁹² Ibid., pp. 102-110.

¹⁹³ Ibid., pp. 111-114.

The President of the Council, with the concurrence of the members of the Council, then suspended the meeting until the following morning.

Upon the resumption of the 2977th meeting on 15 February 1991, the President of the Council drew the attention of the members of the Council to a letter dated 14 February 1991 from the representative of Iraq to the Secretary-General,¹⁹⁴ and a letter dated 13 February 1991 from the representative of Tunisia to the President of the Council.¹⁹⁵

The representative of India drew the attention of the Council to a communiqué issued by the Revolutionary Command Council of Iraq that morning regarding Security Council resolution 660 (1990) with the aim of reaching an honourable and acceptable political solution, including withdrawal.¹⁹⁶ Underlining the Council's responsibility both to ensure implementation of resolution 660 (1990) and to save the Gulf region from further bloodshed and destruction, he said that the Council should not miss any opportunity for peace, however small it might seem. In taking note of the reported offer from Iraq, it should discuss what it could do to promote a peaceful resolution of the crisis. This would strengthen its prestige, credibility and functioning. Secondly, the Council's efforts should be underpinned by an immediate cessation, or at the least a suspension, of hostilities in the Gulf. Finally, the Council should request the Secretary-General urgently to examine what needed to be done to achieve a peaceful settlement of the crisis.¹⁹⁷

The representative of France recalled his country's approach to the Gulf crisis and its attempts to make Iraq abide by the Security Council's resolutions, including a recent initiative, which provided for a final appeal by the United Nations to the Iraqi leaders before the end of the pause of good will set out in resolution 678 (1990). Those proposals were still valid. Turning to the declaration of the Iraqi Revolutionary Command Council, he remarked that, for the first time, the Iraqi authorities envisaged withdrawal from Kuwait. However, they added impossible conditions that did not fall under resolution 660 (1990), which provided for immediate and unconditional withdrawal from

Kuwait. Therefore, their proposal could not be accepted, rendering a Security Council initiative aimed at the suspension of hostilities pointless. France understood the emotion aroused by the military operation in Arab and Islamic public opinion as well as the solidarity felt by non-aligned countries. However, this was not an action pitting the West against the Arab world or the North against the South. It was the result of resolutions adopted by the Security Council on behalf of the entire international community. In due time, it would be for the Council to play its full role in helping to lay down the conditions for lasting peace in the region. In concluding, the speaker hoped that Iraq, whose existence as a sovereign State was not in question, would abide fully by the Council's resolutions.¹⁹⁸

At the same meeting, the representative of Cuba introduced three draft resolutions.¹⁹⁹ Under the first draft resolution, which explicitly invoked Article 24 of the Charter in its preamble, the Council would have demanded that the bombing of the cities of Iraq be immediately halted and requested that negotiations be intensified without further resort to force. Under the second draft resolution, the Council would have requested the Secretary-General to renew his good offices and report to the Council as soon as possible. Under the third draft resolution, which contained in its preamble explicit references to Article 29 of the Charter and rule 28 of the provisional rules of procedure, the Council would have decided to establish an ad hoc committee, composed of all its members, to consider formulas for achieving a peaceful settlement of the conflict on the basis of its resolutions. The speaker believed that, as mentioned by the representative of India, the Council ought to try to create a framework in which démarches undertaken by others might enjoy the greatest possible success. It should also consider any idea presented by Member States in order to give peace a chance and save lives.²⁰⁰ The draft resolutions submitted by Cuba were not put to the vote.

The representative of Canada noted that any constructive signal to be drawn from the Iraqi

¹⁹⁴ S/22224.

¹⁹⁵ S/22225.

¹⁹⁶ S/22229.

¹⁹⁷ S/PV.2977 (Part II) (closed-resumption 1), pp. 115-121.

¹⁹⁸ *Ibid.*, pp. 122-125.

¹⁹⁹ For the texts of the draft resolutions, see (in the order in which they were introduced): S/22232/Rev.3 (as subsequently revised by Cuba); S/22233/Rev.2 (as subsequently revised by Cuba); and S/22231.

²⁰⁰ S/PV.2977 (Part II) (closed-resumption 1), pp. 126-131.

declaration might well be entirely nullified by the series of conditions it contained. He urged those who had issued that statement to comply fully with the decisions of the Council. The disappointing and painful recourse to force had been the result of reaching the limits of diplomacy. Ultimately, after unprecedented sanctions had been applied and a pause for peace provided, force had been authorized by the Council, under its legal and moral authority. The international community should be gratified that the United Nations, which all too often in its history had not dealt decisively with aggression and conflict, had now proved itself capable of fulfilling the collective security function that its founders had intended. Canada was participating in the military operation precisely because it was authorized by, and in support of, the United Nations. Since the rationale of this conflict was not only the liberation of Kuwait but also the protection of United Nations values, its pursuit and aims had to meet the highest international standards. This meant minimizing the civilian casualties and otherwise adhering to the laws of war. Indeed, the coalition forces had taken great care to restrict their attacks to military targets. As to the aims of the war, they ought to be limited to those agreed to by the United Nations, which did not include the destruction of Iraq. Stressing the need for an early planning of peace, the speaker advocated a significant United Nations role in the field of security, peacekeeping, mediation, disarmament, humanitarian assistance and economic reconstruction and development.²⁰¹

During the course of the debate, a number of representatives of the countries participating in, or contributing to, the multinational forces made similar remarks as to the justification, conduct and goals of the military operation and the efforts needed to restore peace in the whole region. They gave an account of the military, humanitarian and economic assistance they had provided and urged Iraq to fully comply with all Security Council resolutions.²⁰²

The representative of Malaysia appealed to the Council to weigh every aspect of the Iraqi statement, which, it was hoped, indicated a positive step in the right direction. He stressed that the military action against Iraq was not based on Article 51 nor was it a war between any of the allied countries and Iraq. It was

a United Nations enforcement action under Chapter VII of the Charter, which no country could conduct on the basis of its own imperatives and interests. He expressed alarm at the escalation of the military offensive, which might well go beyond the original objectives contained in the relevant resolutions, and concern at the lack of a clear monitoring role for the United Nations. It was high time that the Council took stock of the conduct of the war; the pursuit of international objectives must not dehumanize it as an institution. It should entrust the Secretary-General with reactivating and intensifying all diplomatic efforts. If the current operation were to constitute a new dimension of United Nations action in the post-cold-war era, Malaysia had to conclude that the initial attempt did not bode well for the future.²⁰³

The representative of Yugoslavia recalled that his country had fully supported the resolute stance of the Security Council and that, at its initiative, as current Chairman of the Movement of Non-Aligned Countries, the Movement had adopted a similar position. Yugoslavia, whose diplomatic efforts had been stepped up since the outbreak of the military operations, believed that the Iraqi announcement deserved to be studied further. As to the Foreign Ministers of the non-aligned countries, they had recently decided to continue individual and joint efforts directed both towards Iraq and towards the countries of the coalition. Yugoslavia stood ready to cooperate with the Security Council and the Secretary-General to contribute to peace in the Gulf. A stable peace could only be achieved on the basis of the principles of international law and the Charter of the United Nations, and a political solution to the conflict could only be based on the relevant Security Council resolutions.²⁰⁴

The representative of the United States indicated that Iraq's statement in the Council offered little hope and that reports coming from Baghdad were not much more encouraging. Iraq had put forward at least a dozen conditions that were unacceptable, in return for purported compliance with resolution 660 (1990). The Council would never accede to the demand that it should abolish 11 of its 12 resolutions on Iraqi aggression against Kuwait. Linkage with the Arab-Israeli issue in the demand for the withdrawal of foreign military forces and equipment from the region,

²⁰¹ *Ibid.*, pp. 136-142.

²⁰² *Ibid.*, pp. 132-135 (Japan); pp. 143-146 (Italy); pp. 146-152 (Australia); and pp. 161-165 (Germany).

²⁰³ *Ibid.*, pp. 167-176.

²⁰⁴ *Ibid.*, pp. 176-182.

including Israel, had been unacceptable to the United States Government and to many other Governments. Meeting such demands would turn the purported withdrawal from Kuwait into a system of rewards for Iraq, which was inconceivable. Terming the Iraqi announcement “an obvious attempt to buy time”, the speaker reiterated that a ceasefire without concrete implementation of complete withdrawal was not acceptable. With respect to the three draft resolutions submitted by Cuba, he noted that two of them were unnecessary and one unacceptable. He believed that the Secretary-General needed no further encouragement to use his good offices, since his role under the Charter was clearly set out in paragraphs 12 and 13 of resolution 674 (1990). He did not, moreover, know what a committee of the whole might do that the Council was not able to do then and there, with the participation of all Member States. Finally, he argued that the last draft resolution, which called for a halt in all further use of force, was in effect a ceasefire and that it was not the time for the Council to reverse its course of action and permit the President of Iraq to regroup, repair and rebuild his military machine.²⁰⁵

The representative of the Islamic Republic of Iran charged that the Security Council was being misused again by certain permanent members. The United States and its allies had yet to convince the people of the region that domination and control of the political, economic and social life of the region were not among the objectives they were pursuing. The Security Council also had a clear responsibility in that regard — to give guarantees and assurances that all the foreign forces would leave the area immediately after the termination of the hostilities. The international community expected the Council not to be aloof on the diplomatic front. Iraq’s announcement provided the Council with a basis to redouble its efforts to convince Iraq to comply with its resolutions. Moreover, it was incumbent upon it to monitor the situation closely and to take positions of principle on the prevention of violations of international humanitarian law and of both the prolongation and the widening of the conflict, so as not to undermine the credibility of the United Nations as a whole.²⁰⁶

At the end of the meeting, the representatives of Cuba, the United States and the United Kingdom

²⁰⁵ *Ibid.*, pp. 182-187.

²⁰⁶ *Ibid.*, pp. 188-195.

discussed the draft resolutions submitted by Cuba, in particular the merits of a committee of the whole as compared to official or unofficial meetings of the Council. The representative of Cuba remarked that the proposed committee would report to the Council, preferably in public. He also noted that unofficial meetings were so informal that no record was kept of what was discussed and agreed, which allowed for distortion of the proceedings.²⁰⁷

The President, with the concurrence of the members of the Council, then suspended the meeting until the next day.

Upon the resumption of the 2977th meeting on 16 February 1991, the President of the Council drew the attention of the Council members to the three draft resolutions submitted by Cuba, and to a number of other documents.²⁰⁸

The representative of Pakistan advocated united diplomatic efforts by the Muslim Ummah.²⁰⁹ The representative of the Sudan also believed that the crisis could be handled within an Arab and Islamic context. He called for an immediate cessation of hostilities, as did the representative of Yemen.²¹⁰

The representative of Mexico stressed the need for multilateral efforts and the fundamental role of the Secretary-General. He said that the Security Council should consider a broader debate on the conduct of the war and shoulder its responsibilities under the Charter.²¹¹

The President, in his capacity as the representative of Zimbabwe, said he believed that the Council should seize the opportunity for peace that the Iraqi announcement might offer.²¹² The representative of Sweden also considered that no openings for a peaceful solution that could lead to the implementation of United Nations resolutions should be overlooked

²⁰⁷ *Ibid.*, pp. 196-202 and 204 (Cuba); p. 202 (United States); and pp. 202-204 (United Kingdom).

²⁰⁸ S/22223, S/22227, S/22228, S/22229, S/22230, S/22235 and S/22237, letters dated 14 and 15 February from, respectively, the representatives of Algeria, the United States, Jordan, Iraq, Tunisia and Colombia, and collectively from Algeria, the Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia.

²⁰⁹ S/PV.2977 (Part II) (closed-resumption 2), pp. 206-212.

²¹⁰ *Ibid.*, pp. 213-217 (Sudan); and pp. 282-287 (Yemen).

²¹¹ *Ibid.*, pp. 217-222.

²¹² *Ibid.*, pp. 287-290.

and emphasized the severe humanitarian consequences of the prolonged crisis.²¹³

The representative of Turkey emphasized that peace initiatives could not succeed without Iraq's full compliance with the relevant Security Council resolutions.²¹⁴

At the same meeting, the representative of Saudi Arabia replied to the questions addressed to him earlier by the representative of the United Kingdom. Regarding the nature of the military threat posed by Iraq against Saudi Arabia, he stated that Iraq had the same offensive designs towards his country as it had had towards Kuwait, and that Saudi Arabia had had no choice but to take defensive measures. With respect to Iraq's readiness to comply with the Security Council resolutions, he said that his country had not had any more indications than members of the Council had. The latest announcement by Iraq, in which Kuwait was not mentioned, did not augur well for a peaceful settlement. If the Iraqis really meant to stop the war, they would settle the matter that day in one letter from their President as had been done in the case of the question with the Islamic Republic of Iran.²¹⁵

The representative of Kuwait read out the statement issued by his Government following the Iraqi communiqué and answered the questions put to him earlier by the representative of the United States. With respect to the first question, on Kuwait's efforts to negotiate a border demarcation with Iraq before 2 August 1990, he pointed out that since the signing of the border agreement of 1963, Kuwait's many attempts to start the demarcation process had been met with rejection and prevarication. On 15 July 1990, the Government of Iraq had sent to the League of Arab States a note containing four baseless accusations against Kuwait. It had later rejected the Kuwaiti proposal for the establishment of an Arab or international arbitration panel. A meeting had just been held at Jeddah and was to continue in Baghdad, when the Iraqi aggression occurred. As to the second question, whether Kuwait was prepared to begin negotiations with Iraq after it had complied with paragraph 3 of resolution 660 (1990), the speaker declared that, after the complete and unconditional withdrawal of Iraqi forces, Kuwait was ready to

consider with the Government of Iraq all pending matters and solve them by peaceful means. On the question of Iraq's readiness to accept a negotiated solution, he noted that the representative of Iraq found it difficult to say the word "Kuwait", which was not mentioned in the communiqué allegedly indicating Iraq's acceptance of resolution 660 (1990). Replying to the fourth question, he reiterated his country's position that a ceasefire, temporary or durable, partial or comprehensive, would be a wrong signal from the Council to Iraq, which could regroup and again carry out aggression — not only against Kuwait but also against other neighbouring Arab States.²¹⁶

The representative of Iraq restated his reservations regarding the Council's meeting in private. He quoted a statement issued the previous day by Algeria, according to which the military intervention against Iraq was assuming the dimensions of a crime against humanity. He then replied to the questions addressed to him earlier by the representative of the United Kingdom. With regard to Iraq's readiness to withdraw from Kuwaiti territory, he reminded the representatives that resolution 660 (1990), which Iraq was ready to accept, referred not only to withdrawal from Kuwaiti territory, but also to immediate and intensive negotiations. Some countries turned a blind eye to that provision and concentrated on the former, which proved the correctness of the Iraqi position that all the resolutions of the Security Council should be implemented, and that international legitimacy was indivisible and should not be selectively applied. As to whether Iraq respected all the Geneva Conventions, he declared that it did. The prisoners of war were well treated and their safety, health and dignity were guaranteed. Finally, Iraq was committed not to use chemical weapons. However, even in the original Convention on the prohibition of chemical weapons, Iraq had reserved its right to use them in retaliation for their use. Iraq regarded chemical weapons as equivalent to nuclear and other weapons of mass destruction. If any such weapons were used, Iraq would use them too. Moreover, if the intensive high-altitude aerial bombardment continued, Iraq would consider it to be tantamount to the use of weapons of mass destruction. The speaker then put four questions to the representative of the United Kingdom. First, to what extent had the United Kingdom and its allies observed the Geneva Convention relative to the Protection of

²¹³ Ibid., pp. 226-230.

²¹⁴ Ibid., pp. 223-226.

²¹⁵ Ibid., pp. 231-235.

²¹⁶ Ibid., pp. 236-251.

Civilian Persons in Time of War, particularly in the light of the indiscriminate nature of the bombing by the United States and the United Kingdom? Secondly, why had the United Kingdom prevented the shipment of medical supplies previously contracted for by Iraq with British companies even though those were not covered by Security Council resolutions? Thirdly, to what extent had the United Kingdom observed the resolution adopted by the General Assembly on 4 December 1990 prohibiting attacks on nuclear facilities? Fourthly, had the British Government taken the necessary measures to prevent the spread of radiation when it had participated in the attacks on those nuclear facilities?²¹⁷

The representative of the United Kingdom observed that the reply given by the representative of Iraq about withdrawal was not the full answer required to get back on all fours with the Council's own resolutions. What was needed was a firm commitment to withdraw and the taking of concrete steps implementing it. Unconditional withdrawal from Kuwait was simply not negotiable. The speaker noted the categorical assertion by the representative of Iraq that his country applied the Geneva Conventions in respect of prisoners of war, and expressed the hope that the Government of Iraq would now fulfil all its obligations in that regard, and that it would, in particular, notify the names of the prisoners and give the International Committee of the Red Cross unconditional access to them. Commenting on the Iraqi communiqué, the speaker said that the offer of withdrawal was hedged about by conditions that contradicted any apparent willingness to accept resolution 660 (1990). As to the three draft resolutions circulated by Cuba, two of them — about the setting up of an ad hoc committee of the Council and the use of the Secretary-General's good offices — were unnecessary, and one, on the bombing of Iraq, was unacceptable.²¹⁸

The representative of the United States stated that, given Iraq's intransigence, the best and only way to bring the conflict to the earliest possible conclusion was to press ahead on all fronts, military and diplomatic. There was no contradiction between the two. Pressure on the battlefield had to be complemented by efforts to convince Iraq that it had to

come to terms with reality. The future and credibility of the United Nations were at stake and the effort to stop aggression through international collective security could not and would not falter. A ceasefire without concrete implementation of withdrawal would not accomplish the objectives of resolution 660 (1990) and would not bring the aggression to a close. The speaker stressed that the coalition was acting under the authority given to it by the Security Council and that its goals, which were simple and straightforward, would be achieved by all its members, in cooperation with the other countries of the Middle East. In keeping with those goals, the coalition had done all it could to minimize civilian casualties, even though Iraq had deliberately placed military materiel and command-and-control centres in or near schools, medical facilities, places of worship and public buildings. This stood in stark contrast with the terror policy of Iraq, which had launched indiscriminate attacks on the civilian population of Saudi Arabia and of Israel, in an effort both to widen and change the nature of the conflict. Iraq had also committed atrocities against Kuwaiti civilians, threatened to use chemical weapons, unleashed an environmental disaster and flouted the Geneva Convention relative to the Treatment of Prisoners of War. The speaker added that, just as a collective effort was required to defeat the aggressor, a collective effort would be needed to work for justice and security in the future. He stressed that respect for the sovereignty of the peoples of the Gulf and the Middle East must lie at the heart of such an effort. The United States joined others in saying that the future of the Gulf region was in the hands of its own people and looked to the Gulf States to take the lead in developing new security arrangements after two major wars in 10 years. No regional State should be excluded and the United Nations and the rest of the international community had a role in encouraging such arrangements. The United States also believed that the time had come to deal with arms proliferation and arms control in the region and that a programme of economic recovery, in which Iraq should participate, had to accompany the effort to improve security. Its hope was that this tragedy would open new prospects for peace in the Gulf and for conciliation and solutions in the Middle East as a whole and that it would confirm the role of the Security Council as a force for collective security.²¹⁹

²¹⁷ *Ibid.*, pp. 251-257.

²¹⁸ *Ibid.*, pp. 257-262.

²¹⁹ *Ibid.*, pp. 263-275.

With the concurrence of the members of the Council, the President then suspended the meeting until the following week.

Upon the resumption of the 2977th meeting on 23 February 1991, the President drew the attention of Council members to a number of documents.²²⁰

The representative of the Union of Soviet Socialist Republics informed the Council of the results of talks held in Moscow during the past few days with the special representative of Iraq. Iraq had agreed to comply with Security Council resolution 660 (1990), that is, immediately and unconditionally to withdraw all its troops from Kuwait to the positions occupied on 1 August 1990. The withdrawal of troops would begin the day after a ceasefire and a halt to all land, sea and air hostilities. The withdrawal of troops would be carried out over 21 days, and troops would be withdrawn from Kuwait City in the course of the first four days. Immediately after the completion of the withdrawal of troops from Kuwait, the reasons for the adoption of other Security Council resolutions would have lapsed, and those resolutions would thus cease to be in force. All military prisoners of war would be released and repatriated in the course of three days following a ceasefire and cessation of hostilities. Confirmation, monitoring and observance of the ceasefire and the withdrawal of troops would be carried out by observers and/or peacekeeping forces to be determined by the Security Council. This proposal raised real prospects for a peaceful settlement of the conflict. It could be further improved, but it represented the best that the Soviet Union had been able to achieve, and stemmed from the unanimity displayed by the international community and the Security Council throughout the conflict. Calling for continued efforts towards a peaceful resolution of the crisis, the speaker observed that all Security Council resolutions should be complied with and that all existing proposals should be integrated into the settlement.²²¹

The representative of the United States said that, while the Soviet announcement represented a serious and useful effort, major obstacles remained. The world had to make sure that Iraq had in fact renounced its claim to Kuwait and accepted all relevant Security

Council resolutions. Only the Security Council could lift sanctions against Iraq, and the world needed to be assured in concrete terms of Iraq's peaceful intentions before such action could be taken. So, in a final effort to obtain Iraqi compliance with the will of the international community, his Government, after consulting with the Government of Kuwait and its other coalition partners, had declared that a ground campaign would not be initiated against Iraqi forces if, prior to noon, Saturday, 23 February, New York time, Iraq publicly accepted the following terms and authoritatively communicated that acceptance to the United Nations: Iraq had to begin large-scale withdrawal from Kuwait by noon, New York time, Saturday, 23 February, and complete it in one week; within the first 48 hours, Iraq had to remove all of its forces from Kuwait City and allow for the prompt return of the legitimate Government of Kuwait; in cooperation with the International Red Cross, Iraq had to release within 48 hours all prisoners of war and third-country civilians being held against their will and return the remains of killed and deceased servicemen; Iraq had to remove all explosives and booby traps, cease combat-aircraft flights over Iraq and Kuwait, except for transport aircraft carrying troops out of Kuwait, and allow coalition aircraft exclusive control over, and use of, all Kuwaiti airspace; and it must cease all destructive actions against Kuwaiti citizens and property and release all Kuwaiti detainees. The coalition forces would not attack retreating Iraqi forces and would exercise restraint so long as the withdrawal proceeded in accordance with the above-stated guidelines and there were no attacks on other countries. However, any breach of those terms would bring an instant and sharp response from them, in accordance with Security Council resolution 678 (1990). The speaker also pointed out that the idea of declaring that Security Council resolutions on Iraq-Kuwait somehow ceased to exist, were null and void or without effect, was unacceptable. Those resolutions called for actions that remained to be taken. Once Iraq had fully complied with them, the Council might examine whether to introduce the novel practice of declaring a resolution as ceasing to be in force, or null and void, or without further effect. It was not a practice, however, that should be taken on lightly.²²²

The representatives of China, India, Cuba, Ecuador and Yemen welcomed Iraq's positive response

²²⁰ See S/PV.2977 (Part II) (closed-resumption 3), pp. 291-295.

²²¹ S/PV.2977 (Part II) (closed-resumption 3), pp. 296-297.

²²² *Ibid.*, pp. 297-306.

to the peaceful initiative of the Soviet Union and underlined that the Security Council had to fulfil its responsibilities by considering and adopting an appropriate peace plan. The representatives of Cuba, Ecuador and Yemen supported India's suggestion that the Security Council should remain in continuous session, if necessary, to try to sort out a plan of action and that its non-permanent members had a special role to play in this respect. The representative of Zaire believed that all members of the Council should take part in its formal and informal work, with a view to finding the most appropriate way to take the Soviet-Iraqi proposals into account. The representative of Yemen noted that, in view of Iraq's acceptance of Security Council resolution 660 (1990), matters had to return to the Council. He wondered whether any party, including the members of the coalition, had the right to escalate military action without returning to the Council.²²³

The representative of the United Kingdom said that his Government stood firmly by the offer set out by the United States on behalf of a number of allies of Kuwait. Commenting on the six points worked out by the Soviet Government with the Iraqi Foreign Minister, he noted that some of them contradicted Iraq's purported acceptance of resolution 660 (1990). He concentrated on the fourth point, relating to the status of the Security Council's resolutions after an Iraqi withdrawal, which seemed to be fundamentally flawed. It was wrong to state that the resolutions would lose their force after an Iraqi withdrawal. Formally, only the Security Council could make that judgement. Furthermore, it was not the case that the reasons for adopting a number of those provisions would have been removed.²²⁴

On that point, the representative of Romania agreed that only the Security Council could lift the sanctions against Iraq. In his view, the question of declaring null and void a number of the resolutions on the situation needed careful consideration. Such a nullification should not be viewed as a precondition to Iraqi action.²²⁵

²²³ *Ibid.*, p. 306 (China); pp. 307-311 (India); pp. 317-322 (Cuba); pp. 325-327 (Ecuador); pp. 327-332 (Yemen); and pp. 348-351 (Zaire).

²²⁴ *Ibid.*, pp. 312-316.

²²⁵ *Ibid.*, pp. 332-333.

At the same meeting, the Secretary-General appealed to the Security Council to seize the opportunities that had been created to bring the destructive conflict to a speedy end in consonance with the Council's resolutions. Since the beginning of the crisis, there had been devastation on a vast scale, with incalculable consequences for a vital and strategically most important region of the world. The United Nations had the obligation both to uphold the principles which had prompted the Security Council's resolutions, and to respond to the supreme moral imperative of preventing further destruction of life. Those two objectives should not be irreconcilable.²²⁶

The representative of Kuwait stated that his country agreed with the plan and programme announced by the United States. He stressed that Iraq should inform the Secretary-General in writing of its acceptance of all the Security Council resolutions and that its legislative authorities must abrogate all legislation concerning the annexation of Kuwait. He called upon the Council to demand that Iraq cease its inhuman practices against the Kuwaiti people, its crimes against the Kuwaiti economy and environment, and the destruction of the Kuwaiti social and economic infrastructure.²²⁷

The representative of Egypt made similar points regarding the need for Iraq to rescind its annexation of Kuwait and the need for an official communication by Iraq to the Secretary-General in regard to its acceptance of all Security Council resolutions. He insisted on the necessity of an immediate withdrawal by Iraq, to be followed at once by negotiations between Iraq and Kuwait. He also stressed that the Council's resolutions could not be rescinded or regarded as null and void before being fully implemented. Finally, referring to India's proposal for discussions by the 10 non-permanent members, he warned against "formalistic attempts to procrastinate". Any effort had to focus on calling upon Iraq to withdraw its forces and accept the Security Council's resolutions unconditionally.²²⁸

The representative of the Union of Soviet Socialist Republics supported the proposal that the Council should urgently continue work on the plan of action to produce an integrated solution of the crisis on

²²⁶ *Ibid.*, p. 336.

²²⁷ *Ibid.*, pp. 337-342.

²²⁸ *Ibid.*, pp. 342-347.

the basis of the provisions worked out in Moscow and the proposals of the United States and other members of the coalition.²²⁹

With the concurrence of the members of the Council, the President then suspended the meeting.

Upon the resumption of the 2977th meeting on 25 February 1991, the President of the Council drew the attention of the Council members to several documents.²³⁰

The representative of the Union of Soviet Socialist Republics reported to the Security Council that the President of his country had received a message a few hours before from the President of Iraq, informing him that the Iraqi leadership had decided, in accordance with resolution 660 (1990), immediately to withdraw all its troops from Kuwait, and that an order to that effect had already been issued. The message contained a request that the Soviet Union make urgent efforts for the adoption of a resolution of the Security Council calling for a ceasefire, adding that the time frame for the implementation of the troop withdrawal, which had already begun, would be very brief. The speaker stressed that since, as the Iraqis had declared, the troop withdrawal had actually begun, the Security Council could adopt the relevant decision.²³¹

The representative of Yemen welcomed the announcement of the Iraqi withdrawal and proposed that the Council adopt a resolution that would affirm in its preamble all the relevant resolutions adopted by the Council. It would then demand a ceasefire, determine the period within which the withdrawal would take place — a short period of time — and organize supervision by the United Nations of the withdrawal process.²³²

The representative of the United States made it clear that, up to that point, the coalition forces continued to prosecute their efforts to remove Iraqi forces from Kuwait, using the military force authorized by the Council. At that stage, the United States saw no reason to change that approach since there was no evidence on the ground of an Iraqi withdrawal. The

speaker reaffirmed that retreating forces would not be attacked if they laid down their arms and left. Anxious to have a serious proposal put forward by Iraq, he hoped that its representative would attend the Council meeting and state the position of his Government. He also wished to hear from the President of Iraq personally and publicly. In view of the many duplicitous statements made by Iraq in the past, he asked Iraq to make clear that it was prepared to accept the Security Council's resolutions and the method of implementation contained in the statement of the coalition partners made on their behalf by the President of the United States on 22 February.²³³

The representative of Kuwait reiterated that Iraq had to rescind all resolutions and decisions regarding the annexation of Kuwait and send an official letter to the Security Council or the Secretary-General, which must include acceptance of all the Security Council resolutions. That was the only thing that could lead to the consideration of any other measures to be taken later.²³⁴

The representative of Iraq, whose arrival had been welcomed by the representative of India, recalled that several members at the Council table had protested at his not mentioning Kuwait in previous statements. He noted that Kuwait had always existed as a geographic fact, but that its constitutional status had been in question. With respect to the official position of his Government on resolution 660 (1990), he affirmed that his Government completely supported what the Soviet Ambassador had told the Council. While accepting resolution 660 (1990), which it sought to implement fully, it had already issued orders to Iraqi troops in Kuwait to withdraw to the positions they had held before 2 August 1990. His country was interested in completing its withdrawal as quickly as possible, in a manner that guaranteed the safety of its troops. He therefore reiterated his request that the Council should immediately adopt a resolution for a ceasefire, establishing the necessary machinery to guarantee respect for the ceasefire and the completion of the withdrawal of Iraqi troops as soon as possible. In concluding, he warned that certain parties, whose aims entailed the elimination of Iraq and its military capability, would, in response to Iraq's request to implement resolution 660 (1990), find pretexts to

²²⁹ *Ibid.*, pp. 347-350.

²³⁰ S/22260, S/22264, S/22261, S/22262, and S/22265, containing letters from the representatives of the Libyan Arab Jamahiriya, Iraq and the Soviet Union, respectively, dated 23-25 February 1991.

²³¹ S/PV.2977 (Part II) (closed-resumption 4), p. 356.

²³² *Ibid.*, pp. 357-361.

²³³ *Ibid.*, pp. 361-365.

²³⁴ *Ibid.*, pp. 367-371.

violate it. They would set conditions and preconditions incompatible with the spirit and letter of the resolution.²³⁵

The representative of the United Kingdom expressed satisfaction at speaking after the representative of Iraq because it was essential that the Council conduct its business on the basis of the clearly defined and announced policy of the Government of Iraq, and it was useful to have had that now. It was worrying, however, that the representative of Iraq seemed to be stating that his country had no problem with describing Kuwait as a geographical area, but that he did not accept it as a constitutional entity. That was at the heart of all the problems. Secondly, he had mentioned only resolution 660 (1990), as if that resolution were somehow different in nature from all other Security Council resolutions on the subject. Such a division did not exist in the jurisprudence of the Council. All those resolutions were a single corpus of international law adopted under Chapter VII of the Charter of the United Nations, as exemplified by resolution 678 (1990), which demanded that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions. Finally, the representative of Iraq had not responded to the document issued on 22 February by the United Kingdom and other Governments cooperating with the Government of Kuwait, setting out the basis on which they would be prepared to consider the withdrawal from Kuwait by Iraqi forces and the military and political provisions that would accompany the withdrawal. The speaker hoped the representative of Iraq would be able to respond to that document so that they could move forward.²³⁶

The representative of China called on the parties concerned to exercise the utmost restraint. He believed that the Security Council should give serious consideration to the role it should play and help to promote Iraq's speedy and complete withdrawal and a comprehensive and peaceful solution of the Gulf crisis.²³⁷

The representative of Iraq reiterated that his Government was eager to see the Council adopt a resolution that would guarantee the complete and rapid implementation of resolution 660 (1990), after which

measures should be adopted to implement what could or should be implemented in other resolutions. In that respect, he pointed out that some of those resolutions had already been implemented.²³⁸

The representative of Kuwait emphasized that selectivity regarding the measures adopted by the Council against Iraq's aggression was unacceptable.²³⁹

The representative of Cuba said that he had heard neither the representative of the Soviet Union nor the representative of Iraq say that, in order to implement resolution 660 (1990) fully and thus withdraw Iraqi troops from Kuwait, anyone was demanding the nullification or modification of the Council's resolutions. It had been requested simply that the Council should take the basic measures that had always been a part of the process of the withdrawal of military forces in any conflict situation. He was worried that, at a time when the Council should be taking decisions that would permit it finally to achieve implementation of the principal resolution adopted with regard to the crisis, it would once again be paralysed. If it failed to act, his delegation would protest vehemently.²⁴⁰

With the concurrence of the members of the Council, the President then suspended the meeting.

Decision of 2 March 1991 (2977th meeting, part II): adjournment of the private meeting

Upon the resumption of the 2977th meeting on 2 March 1991, the President (Austria) drew the attention of the Council members to a number of documents.²⁴¹ These included letters dated 27 February 1991 from the Deputy Prime Minister and Minister for Foreign Affairs of Iraq addressed to the President of the Security Council and to the Secretary-General, respectively,²⁴² confirming Iraq's agreement to comply fully with resolution 660 (1990) and all subsequent resolutions; and his letter of the same date addressed to the President of the Security Council,²⁴³ stating Iraq's intention to release prisoners of war immediately.

In accordance with the understanding reached in the course of the Council's prior consultations, the

²³⁵ Ibid., pp. 372-376.

²³⁶ Ibid., pp. 376-378.

²³⁷ Ibid., pp. 379-381.

²³⁸ Ibid., pp. 381-382.

²³⁹ Ibid., pp. 382-387.

²⁴⁰ Ibid., pp. 390-397.

²⁴¹ S/22266, S/22267, S/22271-S/22278, S/22282, S/22283, S/22284, S/22288, S/22290, S/22293 and S/22299.

²⁴² S/22275 and S/22276.

²⁴³ S/22273.

President then proposed to adjourn the private meeting. He drew attention to a draft communiqué²⁴⁴ prepared by the Secretariat for the part of the Council's meeting that had been held in private, in accordance with rule 55 of the provisional rules of procedure of the Council. He also recalled that the verbatim record of that portion of the meeting would be circulated as an unrestricted document, in accordance with rule 49. The Council thereupon approved the draft communiqué.

**Decision of 2 March 1991 (2978th meeting):
resolution 686 (1991)**

At its 2978th meeting, on 2 March 1991, the Council continued its consideration of the item entitled "The situation between Iraq and Kuwait". The Council invited the representatives of Iraq, Kuwait and Saudi Arabia, at their request, to participate in the discussion without the right to vote.

The President (Austria) drew the attention of the Council members to a draft resolution submitted by the United States,²⁴⁵ and informed them that Belgium, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom and Zaire had joined in sponsoring the draft resolution. He also drew their attention to 18 amendments to the resolution, submitted by Cuba.²⁴⁶

The representative of the United States presented a number of oral revisions to the draft resolution which he understood were generally agreeable to the members of the Council.²⁴⁷

The representative of Cuba said that his country's amendments were self-explanatory. They sought to ensure that the Council was able to establish a ceasefire and that it would fully assume its responsibility for the way in which the ceasefire was implemented and for the other steps to be taken to restore international peace and security in the region. Other amendments aimed at adjusting the language of the draft resolution to achieve a sense of balance and moderation.²⁴⁸

The Council then commenced the voting procedure on the draft resolution, as orally revised, and the proposed amendments. The President stated that he intended to put the amendments to the vote in the order envisaged by rule 36 of the Council's provisional rules of procedure.²⁴⁹

Speaking before the vote on the amendments, the representative of the United States observed that, in the opinion of the sponsors, the profusion of amendments submitted by Cuba was not helpful; their number and form did not improve the text of the draft resolution. Since the sponsors regarded the text in its current form as effective, balanced and appropriate, it was their intention not to support those amendments.²⁵⁰

The Council proceeded to vote on the amendments as follows:

(a) The amendment in document S/22300, seeking to delete the words "and reaffirming" from the first preambular paragraph, received 2 votes in favour, 1 against and 12 abstentions and was not adopted, having failed to obtain the necessary majority.

(b) The amendment in document S/22301, seeking to delete the words "Article 25 of" from the second preambular paragraph, received 1 vote in favour, none against, and 14 abstentions and was not adopted, having failed to obtain the necessary majority.

(c) The amendment in document S/22302, seeking to delete the words "pursuant to resolution 678 (1990)" from the fifth preambular paragraph, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(d) The amendment in document S/22304, seeking to delete the whole of preambular paragraph 8, received 1 vote in favour, none against, and 14 abstentions and was not adopted, having failed to obtain the necessary majority.

(e) The amendment in document S/22310, seeking to add the phrase "and in conformity with article 118 of the Third Geneva Convention of 1949" between the words "International Committee of the Red Cross" and "return the remains" in operative paragraph 3 (c), received 6 votes in favour, none

²⁴⁴ S/22319.

²⁴⁵ S/22298.

²⁴⁶ For the texts of the amendments, see documents S/22300-S/22317.

²⁴⁷ S/PV.2978, pp. 5-6.

²⁴⁸ *Ibid.*, p. 6.

²⁴⁹ *Ibid.*, p. 7.

²⁵⁰ *Ibid.*, pp. 8-10.

against, and 9 abstentions and was not adopted, having failed to obtain the necessary majority.

(f) The amendment in document S/22311, seeking to delete the phrase starting with the words “in the areas of Iraq where ...” up to the end of operative paragraph 3 (d), received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(g) The amendment in document S/22312, seeking to delete the whole of operative paragraph 4, received 3 votes in favour, none against, and 12 abstentions and was not adopted, having failed to obtain the necessary majority.

(h) The amendment in document S/22317, seeking to delete the whole of operative paragraph 7, received 2 votes in favour, none against and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(i) The amendment in document S/22305, seeking to replace operative paragraph 1 with the words “Welcomes the restoration of the independence, sovereignty and territorial integrity of Kuwait”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(j) The amendment in document S/22315, seeking to insert a new operative paragraph by which the Council would have “Decid[ed] to declare null and void all provisions contained in the pertinent resolutions of the Security Council regarding trade in foodstuffs and in all other products essential for the health and well-being of the Iraqi people”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(k) The amendment in document S/22306, seeking to insert a new operative paragraph by which the Council would have “Decid[ed] an immediate ceasefire”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(l) The amendment in document S/22307, seeking to insert a new operative paragraph by which the Council would have “Request[ed] the Secretary-General to immediately dispatch a military observer mission to the area with the aim of monitoring and supervising compliance with the ceasefire decided

above” was not put to the vote. The representative of Yemen suggested that the representative of Cuba might wish to withdraw that amendment since the preceding amendment calling for a ceasefire had not been adopted.²⁵¹ The representative of Cuba stated that he was not withdrawing the amendment, but since it was connected with the amendment just rejected, the suggestion not to vote on it seemed logical.²⁵²

(m) The amendment in document S/22308, seeking to replace the chapeau in operative paragraph 2 with the words “Notes that Iraq has committed itself to”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(n) The amendment in document S/22309, seeking to replace the introductory phrase in operative paragraph 3 with the words “Further notes that Iraq is fully willing to”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(o) The amendment in document S/22314, seeking to insert a new operative paragraph by which the Council would have “Request[ed] the Secretary-General to urgently draw up plans for the deployment of a United Nations peacekeeping force in the area, in consultation with the countries where it would be deployed, and report back to the Security Council for consideration and approval”, received 5 votes in favour, none against, and 10 abstentions and was not adopted, having failed to obtain the necessary majority.

(p) The amendment in document S/22313, seeking to insert a new operative paragraph by which the Council would have “Affirm[ed] the obligation of all Member States to respect fully the independence, sovereignty and territorial integrity of Iraq and Kuwait” and noted “the commitment of the Member States cooperating with Kuwait under paragraph 2 of Security Council resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible”, received 2 votes in favour, none against, and 13 abstentions and was not adopted, having failed to obtain the necessary majority.

(q) The amendment in document S/22303, seeking to replace the phrase starting with the words “and the objective in resolution ...” in the sixth

²⁵¹ Ibid., p. 16.

²⁵² Ibid., p. 17.

preambular paragraph by the words “and the role that the United Nations has to play in restoring and maintaining international peace and security in the region”, received 4 votes in favour, none against, and 11 abstentions and was not adopted, having failed to obtain the necessary majority.

(r) The amendment in document S/22316, seeking to insert a new operative paragraph by which the Council would have “Request[ed] all Member States, the United Nations, the specialized agencies, as well as other international organizations to provide, on an urgent basis, humanitarian assistance, including foodstuffs and medical supplies, to Iraq and Kuwait”, received 5 votes in favour, none against, and 10 abstentions and was not adopted, having failed to obtain the necessary majority.

The Council then began its voting procedure on the draft resolution, as orally revised by the representative of the United States on behalf of the sponsors.

Speaking before the vote, the representative of Yemen stated that, although the draft resolution had a number of positive aspects that could contribute to a peaceful diplomatic solution of the crisis, it was deficient in several respects: (1) it did not call for a ceasefire, although it contained arrangements relating to the release of prisoners of war and the removal of mines which usually accompanied a ceasefire; (2) it did not mention the end of the embargo against Iraq, particularly with regard to food; (3) it did not attribute a role to the United Nations or its Secretary-General, particularly at this early phase of the ending of the crisis; (4) it did not refer in any way to the withdrawal of the alliance troops now on Iraqi territory; and (5) paragraph 4 of the draft resolution related to the continued use of force, which seemed strange and excessive since Iraqi troops had been completely withdrawn from Kuwait and the purposes of resolution 660 (1990) had been implemented. The speaker added that the Council should start without delay to ensure the implementation of the other resolutions relating to other disputes in the region, particularly the Arab-Israeli conflict.²⁵³

The representative of Cuba remarked that the Council was now involved in the voting process on the draft resolution although 24 hours had not yet elapsed

since it was first officially presented to the non-permanent members of the Council. His delegation did not claim to abide by this rule of courtesy regarding the submission of draft resolutions, but wished that fact to be noted. He stated that his delegation would vote against the draft resolution since it was another step towards conduct that would constitute a violation of the Charter. The text reiterated that resolution 678 (1990) remained in effect, as did its provisions, by which the Council had relinquished its fundamental obligation to preserve international peace and security and authorized others to take this on without monitoring or supervision of any kind. By paragraph 4, the Council would once again relinquish its obligations in this regard and place them on the shoulders of some States, in language that could be used for any purpose upon which the generals decided. The draft resolution did not — as the Security Council was obliged to do — establish a ceasefire, but established conditions for one that might in fact increase tensions and complicate a situation that was already quite complex. Nor did it give any functions to the United Nations, the Security Council or the Secretary-General. Moreover, some parts of the text appeared to be designed to justify the military occupation of the territory of Iraq, which his delegation rejected.²⁵⁴

The representative of Zimbabwe regarded the draft resolution as an important step in the process of normalizing the situation in the Gulf and in the Middle East region as a whole. Although his country would have preferred the Council to formalize a ceasefire immediately, it understood that the draft resolution constituted a necessary first step towards such formalization. It welcomed the intention of the States cooperating with the Government of Kuwait to bring their military presence in Iraq to an early end, as expressed in the last preambular paragraph of the text, and the provisions that facilitated the rescission of the annexation of Kuwait. At the same time, it hoped that no situation would arise in which paragraph 4 would be invoked to resume military operations in the area. The speaker added that Zimbabwe would have preferred to have representatives of the Secretary-General present during the meeting of the military commanders to arrange the military aspects of the cessation of hostilities referred to in paragraph 3 (b). Touching upon the responsibilities of the Council with respect to

²⁵³ Ibid., pp. 16-30.

²⁵⁴ Ibid., pp. 31-36.

other political problems of the region, he said that the international community now expected the Council to maintain the same standards it had applied in dealing with the situation between Iraq and Kuwait — where it had acted with speed, resolve and single-mindedness to uphold its resolutions and international law — as it addressed the other issues in the Middle East, particularly the question of the Palestinian and other Arab territories occupied by Israel. He concluded that the credibility and integrity of the Council would be damaged and international law undermined if the Council continued to be perceived as inconsistent and as guilty of applying double standards.²⁵⁵

The draft resolution,²⁵⁶ as orally revised, was then put to the vote. It received 11 votes in favour, 1 against (Cuba) and 3 abstentions (China, India, Yemen), and was adopted as resolution 686 (1991), which reads:

The Security Council,

Recalling and reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, 677 (1990) of 28 November 1990 and 678 (1990) of 29 November 1990,

Recalling the obligations of Member States under Article 25 of the Charter of the United Nations,

Recalling also paragraph 9 of resolution 661 (1990) regarding assistance to the Government of Kuwait and paragraph 3 (c) of that resolution regarding supplies strictly for medical purposes and, in humanitarian circumstances, foodstuffs,

Taking note of the letters dated 27 February 1991 from the Deputy Prime Minister and Minister for Foreign Affairs of Iraq addressed to the President of the Security Council and to the Secretary-General, confirming Iraq's agreement to comply fully with all of the resolutions noted above, and of his letter of the same date addressed to the President of the Security Council stating Iraq's intention to release prisoners of war immediately,

Noting the suspension of offensive combat operations by the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990),

Bearing in mind the need to be assured of Iraq's peaceful intentions, and the objective expressed in resolution 678 (1990) of restoring international peace and security in the region,

Underlining the importance of Iraq taking the necessary measures which would permit a definitive end to the hostilities,

Affirming the commitment of all Member States to the independence, sovereignty and territorial integrity of Iraq and Kuwait, and noting the intention expressed by the Member States cooperating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with achieving the objectives of that resolution,

Acting under Chapter VII of the Charter,

1. *Affirms* that all twelve resolutions noted above continue to have full force and effect;

2. *Demands* that Iraq implement its acceptance of all twelve resolutions noted above and in particular that Iraq:

(a) Rescind immediately its actions purporting to annex Kuwait;

(b) Accept in principle its liability under international law for any loss, damage or injury arising in regard to Kuwait and third States and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq;

(c) Immediately release under the auspices of the International Committee of the Red Cross, Red Cross Societies or Red Crescent Societies all Kuwaiti and third-State nationals detained by Iraq and return the remains of any deceased Kuwaiti and third-State nationals so detained;

(d) Immediately begin to return all Kuwaiti property seized by Iraq, the return to be completed in the shortest possible period;

3. *Also demands* that Iraq:

(a) Cease hostile or provocative actions by its forces against all Member States, including missile attacks and flights of combat aircraft;

(b) Designate military commanders to meet with counterparts from the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990) to arrange for the military aspects of a cessation of hostilities at the earliest possible time;

(c) Arrange for immediate access to and release of all prisoners of war under the auspices of the International Committee of the Red Cross and return the remains of any deceased personnel of the forces of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990);

(d) Provide all information and assistance in identifying Iraqi mines, booby traps and other explosives as well as any chemical and biological weapons and material in Kuwait, in areas of Iraq where forces of Member States cooperating with Kuwait pursuant to resolution 678 (1990) are present temporarily, and in the adjacent waters;

²⁵⁵ *Ibid.*, pp. 36-40.

²⁵⁶ S/22298.

4. *Recognizes* that during the period required for Iraq to comply with paragraphs 2 and 3 above, the provisions of paragraph 2 of resolution 678 (1990) remain valid;

5. *Welcomes* the decision of Kuwait and the Member States cooperating with Kuwait pursuant to resolution 678 (1990) to provide access to and commence immediately the release of Iraqi prisoners of war under the auspices of the International Committee of the Red Cross, as required by the terms of the Geneva Convention relative to the Treatment of Prisoners of War, of 12 August 1949;

6. *Requests* all Member States, as well as the United Nations, the specialized agencies and other international organizations in the United Nations system, to take all appropriate action to cooperate with the Government and people of Kuwait in the reconstruction of their country;

7. *Decides* that Iraq shall notify the Secretary-General and the Security Council when it has taken the actions set out above;

8. *Also decides*, in order to secure the rapid establishment of a definitive end to the hostilities, to remain actively seized of the matter.

Speaking after the vote, the representative of China was gratified to see that all parties to the conflict had now suspended their military action. In his country's view, the Security Council should play a positive role in establishing a formal and stable ceasefire in the Gulf region and in seeking a practical formula for a political solution within the framework of the relevant Security Council resolutions. Although the resolution just adopted referred to securing the establishment of a definitive end to the hostilities, it fell short of stating that the Council should have an important role to play with regard to the arrangement and monitoring of the ceasefire. In fact, it extended the time limit during which resolution 678 (1990) remained effective. That went against the desire of the peoples of all countries for an early end to the war and for the achievement of peace. It was well known, moreover, that China had stood throughout for settling conflicts through negotiations and had abstained in the vote on resolution 678 (1990). In those circumstances, the Chinese delegation found it difficult to vote in favour of the draft resolution.²⁵⁷

The representative of India said that his delegation's approach to the problem before them was guided by two broad considerations: re-establishment of peace and security in the area as soon as possible, and the role of the United Nations and the Security

Council. With regard to the resolution just adopted, his delegation had a number of concerns. The important element of a permanent or formal ceasefire was missing. Moreover, the procedure to verify compliance by Iraq with whatever it was required to do for a ceasefire was vague. His delegation would have preferred to have the Secretary-General involved in that process. A further concern was that a provision kept open the possibility of the resumption of hostilities, which was unacceptable. Yet another point of concern was the continuation of sanctions, which were playing havoc not only with Iraq's economy but also with the economies of India and many other countries. It was for these reasons that India had abstained in the vote. The speaker added that his country believed that the United Nations had an important role in re-establishing the conditions of peace in the area by providing a tangible presence: even a token United Nations presence would provide renewed hope and assurance to the people in the area.²⁵⁸

The representative of the United States observed that, since the end of November 1990, the Council had focused on the implementation of resolution 678 (1990). Key goals it had adopted had now been achieved: aggression had been decisively beaten and Kuwait liberated. With the resolution just adopted, the Council turned its attention from the war to the challenge of building lasting peace and security. The first priority was to secure a definitive end to hostilities. The resolution set out the measures which Iraq must take and the arrangements which must be put in place to bring that about: Iraq must make clear that it no longer harboured aggressive intent, and must take the steps needed immediately to implement the 12 preceding Security Council resolutions. Until it was clear that Iraq had complied with those requirements, the provisions of resolution 678 (1990), authorizing Kuwait and those cooperating with Kuwait to use all necessary means to ensure Iraqi compliance with the Council resolutions, clearly would remain in effect. The United Nations and the Security Council had been and remained at the centre of the effort to fulfil the overarching tasks set by the previous 12 resolutions: to repel aggression and to build genuine peace and stability. In the resolution just adopted, the Council was providing a broad framework for dealing with the latter, new phase of its task. At the same time, the

²⁵⁷ S/PV.2978, pp. 50-52.

²⁵⁸ *Ibid.*, pp. 72-78.

United States, other members of the Council and other States in the region were beginning to consult on the future steps which would be required to ensure that the peace secured was a lasting one. The nations of the region would clearly take the lead in finding answers to those questions. In the long and difficult road ahead, the Council, too, had a most important role to play. Its task now, the one started upon in the resolution just adopted, was to point the way to building a peaceful and secure system which would deter the repetition of aggression and suffering seen over the past seven months.²⁵⁹

The representative of the Union of Soviet Socialist Republics noted that for the first time the international community had shown its united will in the face of the seizure of one State by another and had been able to bring the aggressor to heel. He hoped that this precedent would prevent the emergence in the future of similar situations. The Council now faced some priority tasks. First and foremost, it must exclude the resumption of any type of military activities. That was the purpose of the resolution just adopted. In the near future, the Council would have to become deeply involved in the final political settlement of the conflict and the elimination of the consequences of Iraqi aggression. The international community also faced the urgent task of beginning to work out post-crisis arrangements in the region, an important element of which had to be the establishment of a security system that not only marked the culmination of recent events, but was a safeguard against military conflicts in the future. Like the previous speaker, the Soviet Union considered that the security structure in the Gulf must be based primarily on the interests of the countries of the region, adding that Iraq must play a positive role in it. It was natural, moreover, that the establishment of that system should involve a role for the United Nations, including the Security Council and its permanent members. The speaker added that the conflict had put into sharp relief the fact that the international community must make the most determined efforts to convene an international conference on the Middle East; his country believed that such a conference would enable long-term peace and security for the entire region to be guaranteed.²⁶⁰

²⁵⁹ *Ibid.*, pp. 41-46.

²⁶⁰ *Ibid.*, pp. 46-50.

The representative of France attributed the international community's success in restoring the sovereignty and independence of Kuwait to two essential factors: the unanimous and unequivocal condemnation by the States Members of the United Nations of the aggression against Kuwait; and action by the Security Council, working cohesively and with determination. He took note of Iraq's acceptance of all the resolutions adopted by the Security Council on behalf of the international community, which was a prerequisite for the re-establishment, on a sound and lasting basis, of stability in the region. The resolution just adopted was an indispensable step; it charted the course for a final cessation of hostilities, which France hoped could be announced soon. The United Nations was now faced with a prodigious undertaking. It must first consolidate effectively the cessation of hostilities and then, together with the countries of the region and all interested parties, define the conditions for the lasting restoration of peace and security in the region. The Security Council, in close coordination with the Secretary-General, would continue fully to shoulder its responsibilities. The speaker stressed that the determination the Council had shown for the past seven months, without which the liberation of Kuwait would not have been possible, must be sustained and utilized to settle other conflicts, starting with those of the Near and Middle East. France would strive to ensure that there was one law for all.²⁶¹

The representative of Belgium, too, welcomed the suspension of military operations in the Gulf and Iraq's official announcement of its commitment to comply with the 12 relevant resolutions of the Council. It was now up to the Council to make the necessary arrangements to put an end to the conflict. That was the goal of the resolution just adopted, which in its military, political and humanitarian aspects met his country's concerns. The speaker added that, above and beyond those immediate steps, the Security Council must in due course focus its attention on more long-term arrangements aimed at restoring peace and security in the region, in which the countries of the region and the active members of the coalition would have a major role to play. Belgium was convinced that the Council's action in this regard should be based on four considerations: (1) Kuwait's security must be strengthened and guaranteed, by insisting on respect for international borders; (2) a situation in which Iraq

²⁶¹ *Ibid.*, pp. 52-53.

might again gain an offensive military potential and possess weapons of mass destruction must be avoided, by, initially, maintaining a military embargo against Iraq; (3) the international community must renew its efforts to arrive at a speedy, comprehensive, just and lasting solution of the Israeli-Arab conflict and the Palestinian question; and (4) a comprehensive approach to the region should be developed, one which would deal with security questions, political problems and economic cooperation — akin to the approach adopted in the period after the Second World War. That could be done through a conference on security and cooperation in the Middle East, for which it would be useful to appoint a mediator. The speaker added that Belgium hoped that, in the near future, the Council would take a stand on the necessary renunciation by Iraq of any form of appeal for and support of terrorism, on the sending of a United Nations observer force and on the lifting of the food embargo.²⁶²

The representative of the United Kingdom was gratified that, in the liberation of Kuwait, the will of the international community and the Security Council had prevailed. It was a triumph for the rule of international law and collective security. The United Nations and the international community could now turn to the more difficult task, that of assisting in the establishment of a durable system of peace and security in the Gulf region, and in the Middle East more widely, and also to the reconstruction of Kuwait and the rehabilitation of its population. First, however, it was necessary to deal with the immediate aftermath of the hostilities. Though some of that task was properly work for the military commanders in the field, it was right that the Security Council should establish the basic framework within which the conditions could be created for a definitive end to the hostilities. That was what the resolution just adopted was designed to do. The requirements it placed on Iraq were not new: they flowed from the resolutions previously adopted by the Council and from the statements previously made on behalf of the Governments assisting and cooperating with the Government of Kuwait. It was essential that they be explicitly accepted by Iraq, to permit a definite end to the hostilities. The speaker concluded that Iraq should make its contribution to the climate of confidence and reconciliation by a rapid and formal compliance with the provisions of the resolution just adopted. That would enable the Council to meet

²⁶² *Ibid.*, pp. 53-60.

again in the near future and to take the next steps towards the restoration of international peace and stability in the area. It would then be possible to move on to the broader problems of the Middle East which so urgently needed to be resolved.²⁶³

The representative of Ecuador stated that his country had voted in favour of the resolution just adopted, as it was a positive first step towards the establishment of peace in the area and security machinery for the region. He added, however, that Ecuador would have liked to see additional elements in the resolution: namely, greater clarity with regard to the declaration of a ceasefire and a definitive cessation of hostilities; recognition of the leading role of the United Nations and the Security Council with regard to international peace and security; a request to the Secretary-General for a report on the establishment and dispatch to the region as soon as possible of an observer mission to cooperate in the establishment of lasting peace; and measures to ensure that humanitarian aid was given to all those who were suffering, whatever their nationality. Ecuador had therefore favoured some of the amendments proposed by the delegation of Cuba. In connection with paragraph 4 of the resolution, the speaker reiterated his country's desire that there should be no need to use force again to ensure compliance with the Council's resolutions.²⁶⁴

The President, speaking in his capacity as the representative of Austria, stated that the Council's immediate task, as reflected in the resolution just adopted, was to consolidate the de facto cessation of hostilities. The next step would be the rapid establishment of a formal ceasefire. During that phase of the Council's work, serious consideration should be given, in consultation with countries of the region, to a United Nations role in monitoring such a ceasefire. At the same time, there should be a review of the resolutions adopted by the Council, including the question of sanctions, as part of the process of re-establishing peace and cooperation in the area. The speaker added that, in a third phase, the Council would have to take other important and far-reaching decisions. The Council was responsible not only for maintaining security but also for promoting peace. That should be done in cooperation with regional

²⁶³ *Ibid.*, pp. 68-72.

²⁶⁴ *Ibid.*, pp. 78-85.

mechanisms. Lessons should be learned, moreover, from the Gulf crisis. One important lesson was the desirability of strengthening the preventive role of the United Nations and of the Council in particular. Another was that ultimately only political solutions would provide the necessary framework for a just and lasting settlement of this and other problems of the region. Confidence-building measures, disarmament and the strengthening of non-proliferation arrangements would have to be part of such comprehensive solutions. Noting with satisfaction the increased — almost universal — awareness that dealing with the Arab-Israeli conflict and the Palestinian problem would be especially important in the aftermath of the Gulf crisis, Austria was confident that the Security Council could make a substantial contribution to the achievement of a comprehensive settlement in the Middle East.²⁶⁵

Other members of the Council remarked on the unprecedented nature of the response to the Iraqi aggression, leading to the liberation of Kuwait, and considered its implications. The representative of Zaire noted that 28 nations had undertaken the task of ensuring the security of small States, thereby demonstrating the determination of the United Nations and the international community to institute a new era of peace based on respect for the rules of international law. He wondered whether it was not now imperative for the Security Council to take the steps that would build confidence and peace in the entire region, including the Middle East.²⁶⁶ The representative of Romania similarly considered that these positive events marked a victory for the values of international law. In his view, they should have a positive impact on the further strengthening of the role of the United Nations and its institutions in the establishment of a system of collective security.²⁶⁷ For the representative of Côte d'Ivoire, the liberation of Kuwait symbolized the triumph of justice over brutal force, marking the dawn of a new international era that he hoped would not stop at the gates of Kuwait. In his view, the action of the coalition forces, authorized by the Security Council, would find its true justification in the Council's ability to meet objectively and in a balanced way the many challenges to peace with which it would continue to be confronted. He joined other speakers in

expressing the hope that the forthcoming ceasefire would be monitored by the United Nations.²⁶⁸

The representative of Kuwait expressed his gratitude that Kuwait had been liberated, thanks to the resolutions of the Security Council and the leadership of those States that had cooperated with his country to implement them. He hoped that the Iraqi regime would implement resolution 686 (1990) promptly, and would remember that the international community, through the coalition forces, would not accept any stalling tactics and had the means to impose compliance by force, if necessary.²⁶⁹

The representative of Saudi Arabia, too, expressed his thanks and appreciation to the Council for the historic role it had played in formulating a strong international position that had given the United Nations and its Charter the place that the founders had intended them to have, and to the coalition forces that had cooperated with Kuwait and Saudi Arabia to help defeat the aggression. He also expressed his appreciation to the Secretary-General for his diplomatic efforts and constructive role.

**Decision of 3 March 1991 (2979th meeting):
statement by the President**

At its 2979th meeting, on 3 March 1991, the Council continued its consideration of the item entitled "The situation between Iraq and Kuwait". In accordance with the decisions taken at the previous meeting, the President invited the representatives of Iraq and Kuwait to take seats at the Council table, and the representative of Saudi Arabia to take a seat at the side of the Council Chamber.

The President then stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²⁷⁰

The Security Council welcomes the decisions taken to date relating to food and medical needs by the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait, including those just taken to facilitate the provision of humanitarian assistance including infant formula and water purification material.

It calls upon the Committee to continue to act promptly on requests submitted to it for humanitarian assistance.

²⁶⁵ Ibid., pp. 86-87.

²⁶⁶ Ibid., pp. 59-63.

²⁶⁷ Ibid., pp. 66-68.

²⁶⁸ Ibid., pp. 54-66.

²⁶⁹ Ibid., pp. 88-98.

²⁷⁰ S/22322.

It urges the Committee to pay particular attention to the findings and recommendations on critical medical/public health and nutritional conditions in Iraq which have been and will continue to be submitted to it by the World Health Organization, the United Nations Children's Fund, the International Committee of the Red Cross and other relevant organizations, consistent with the relevant resolutions, and urges these humanitarian agencies to play an active role in this process and cooperate closely with the Committee in its work.

The Council welcomes the Secretary-General's announcement that he plans to send urgently a mission led by Under-Secretary-General Martti Ahtisaari comprising representatives of the appropriate United Nations agencies to Iraq and Kuwait to assess the humanitarian needs arising in the immediate post-crisis environment. The Council invites the Secretary-General to keep it informed in the shortest possible time on the progress of his mission, on which it pledges to take immediate action.

**Decision of 3 April 1991 (2981st meeting):
resolution 687 (1991)**

At its 2981st meeting, on 3 April 1991, the Council reserved its consideration of the item entitled "The situation between Iraq and Kuwait", and invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (Belgium) drew the attention of the Council members to a draft resolution submitted by France, Romania, the United Kingdom and the United States,²⁷¹ which was subsequently also sponsored by Belgium and Zaire, and informed them of a technical correction in the text of paragraph 19.

He also drew their attention to a number of other documents.²⁷² These included the following: (a) letters dated 3 March 1991 from the Deputy Prime Minister and Minister for Foreign Affairs of Iraq addressed to the President of the Council and the Secretary-General,²⁷³ confirming Iraq's agreement to fulfil its obligations under Security Council resolution 686 (1991); (b) his identical letters dated 5 March addressed to the President of the Council and the Secretary-General,²⁷⁴ concerning the return of property seized by Iraq after 2 August 1990; (c) a letter dated 19 March 1991 from the President of the Security

Council to the Secretary-General,²⁷⁵ informing him that, with regard to resolution 686 (1991), which demanded, *inter alia*, that Iraq "immediately begin to return all Kuwaiti property seized by Iraq, the return to be completed in the shortest possible period", the members of the Security Council were of the view that the modalities for return of property from Iraq should be arranged through the Secretary-General's office in consultation with the parties, and that this procedure had the agreement of Iraq and Kuwait;²⁷⁶ and (d) a note by the Secretary-General dated 22 March 1991,²⁷⁷ circulating for the attention of all States a letter of the same date he had received from the President of the Security Council. The President had informed him that the members of the Council, in consultations of the whole held on 22 March 1991, had taken note of the decision of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, adopted at its 36th meeting on 22 March 1991, with regard to the determination of humanitarian needs in Iraq. Having considered the report of the Under-Secretary-General of 20 March 1991 on his recent visit to Iraq,²⁷⁸ as well as the report of the International Committee of the Red Cross, the Security Council Committee had decided, *inter alia*, that there was an urgent humanitarian need to supply foodstuffs to Iraq in order to relieve human suffering, and that civilian and humanitarian imports to Iraq should also be allowed with immediate effect. Both were to be subjected to simplified procedures — simple notification for foodstuffs, and a no-objection procedure for civilian and humanitarian imports.

Speaking at the start of the discussion, the representative of Kuwait said that the draft resolution before the Council could be regarded as epitomizing all the resolutions on Kuwait that the Council had adopted earlier in implementing decisively the principles of international law and international legitimacy. That effective action revealed the Council's interest in the concept of collective security derived from the Charter of the United Nations. It also reflected the content and concepts of the new world order that the international community was determined to establish and, if need be,

²⁷¹ S/22430 and Corr.1; subsequently adopted without change as resolution 687 (1991).

²⁷² See the list in S/PV.2981, pp. 3-6.

²⁷³ S/22320 and S/22321.

²⁷⁴ S/22330.

²⁷⁵ S/22361.

²⁷⁶ On the return of property, see also paragraph 15 of resolution 687 (1991) and the case study in chapter V on the United Nations Coordinator for the return of property from Iraq to Kuwait under that resolution.

²⁷⁷ S/22400.

²⁷⁸ S/22366.

impose. It was no exaggeration to say that the Charter, with all its principles, had become law when the international community effectively dealt with the Iraqi aggression against Kuwait. That action proved that the Organization, with its Security Council, was an effective instrument for collective security and the maintenance of international peace and security, and that all States, large and small, could depend on the security guarantees afforded by the Charter; and it proved that the collective commitment of States to the Charter was the best guarantee for the stability, peace and security of nations. Noting that the Council was now turning to the next phase in facing up to Iraq's aggression, the speaker stressed that the completion of the political aspect of this effort was as important as the military aspect that had been carried out by the coalition forces. It was inconceivable that an aggressive regime, which had tried to eliminate a peaceful State, brutalized its population, polluted its marine environment and destroyed its oil wells, should be allowed to return to the former situation without being held fully responsible. Kuwait called upon the Council to take all necessary measures to guarantee for it and for all peoples of the region respect by the Iraqi regime for all its obligations and duties provided for in all agreements applicable to it. The speaker drew attention in this regard to the Iraqi regime's lack of credibility, noting, for instance, that although Baghdad had declared its acceptance of Security Council resolution 686 (1991), it had yet to return property looted from Kuwait and had not even issued a statement, as required under that resolution, in which it officially accepted the principle of reparations from a legal standpoint. The international community had to take a decisive and strict stand against this kind of aggressive regime to the very end. The historic draft resolution before the Council must be a shield to protect the region from the Iraqi regime in the future. It must also be a lesson for any other regime in any other part of the world that might be tempted to carry out such evils. The Council must thus deal decisively and effectively with all questions, including — in addition to reparations, guarantees and rights — the question of Iraq's armaments.²⁷⁹

The representative of Iraq recalled his country's objections to resolution 678 (1990), voiced at the time of its adoption: in authorizing the use of force by members of the alliance in the way it did, the

resolution had gone beyond the Security Council's mandate and contravened the Charter. He affirmed, nevertheless, that Iraq had accepted resolutions 660 (1990) and 678 (1990) and the other resolutions adopted by the Council under the item entitled "The situation between Iraq and Kuwait". However, he alleged that, in their violence and brutality, the actions of the alliance had gone beyond the objectives of resolution 678 (1990), which related only to the withdrawal of Iraqi forces from Kuwait and the restoration of the legitimate authorities. He pointed to the destruction they had wrecked upon Iraq — as evidenced by the report of the mission sent to Iraq by the Secretary-General in mid-March,²⁸⁰ the bombing of civilian targets and the killing of civilian populations; and claimed that the United States and its allies should bear full responsibility for such excesses. With regard to the draft resolution before the Council, the speaker said that since Iraq had announced its commitment to all the resolutions adopted since 2 August 1990, one would have expected the draft resolution to be confined to lifting the economic blockade imposed on Iraq, freeing its frozen assets and property, and announcing a permanent ceasefire and the end of hostilities. However, the draft raised questions that previous resolutions had never tackled or had dealt with in a substantially different way.

The speaker summarized Iraq's position on the substantive paragraphs of the draft resolution as follows. On the question of boundaries, the Security Council had never before imposed disputed international boundaries on States Members of the United Nations. Iraq viewed that question and the manner in which it had been addressed in the draft resolution as an infringement upon its sovereignty and territorial integrity. The text contravened paragraph 3 of resolution 660 (1990), in which Iraq and Kuwait were called upon to begin negotiations for the resolution of their differences, among which was that of boundaries. Iraq reserved the right to demand its legitimate territorial rights in accordance with international law. As to the question of reparations, Iraq reserved its right to request reparations for all losses that it had incurred through any excess in the use of force as authorized by resolution 678 (1990). The imposition of reparations on Iraq alone and in the coercive manner of the draft resolution would only lead to the paralysis of Iraq's capacity to rebuild its

²⁷⁹ S/PV.2981, pp. 7-21.

²⁸⁰ S/22366.

economy. With regard to the question of destroying weapons, if the text aimed at restoring international peace and security in the region, Iraq's undertaking this alone would not secure that objective. The Council would have to follow it up with a similar and comprehensive integrated programme to disarm the entire region of all weapons of mass destruction. Finally, as to the economic blockade, the Government of Iraq believed that maintaining the land, sea and air blockade and the freeze of assets — in spite of all that was mentioned in the report of the United Nations mission to Iraq and in spite of the fact that Iraq had accepted the implementation of all 13 Security Council resolutions on the issue and thus removed the reasons for the sanctions — would be in contravention of the Charter of the United Nations. It could also be viewed as economic aggression and a clear violation of the Charter of Economic Rights and Duties of States and covenants on human rights, foremost among which were the rights to life, dignity and freedom.²⁸¹

Speaking before the vote on the draft resolution, the representative of Yemen stated that the draft resolution before the Council included unjust and harsh conditions for Iraq and its people in order to achieve an official and formal ceasefire. He remarked on three salient features. First, the draft resolution tended to exceed the Charter and the Security Council mandate and resolutions. This was so in several respects. Echoing the views of the representative of Iraq, the speaker referred to the unprecedented and inappropriate role of the Council in the "imposition of the boundaries between Iraq and Kuwait", a task which belonged to the parties or to the International Court of Justice. Furthermore, there was no precedent whatsoever for the Security Council to guarantee the boundaries of any country, as it was being asked to do in the draft resolution. Also objectionable was the specification of the way in which Iraq should pay reparations resulting from its responsibility for the war. While agreeing that, under international law, Iraq should pay reparations, the speaker questioned why the Secretary-General should be involved in a matter that fell within the purview of the International Court of Justice. As there would no doubt be many claims made from different quarters, he suggested that a neutral party should decide on them, in accordance with specified procedures. Secondly, the draft resolution was narrow in its outlook, both politically and

geographically. It did not address the real needs that must be met if long-term peace and security were to be established, not only in the Gulf area but in the region as a whole — including the Middle East. Once again there was the matter of the imposition of boundaries, instead of a call upon the two countries to negotiate; the fact that they were imposed and not agreed upon might expose them to future challenge. There was also the question of the destruction of weapons of mass destruction. Yemen supported any action aimed at eradicating weapons of mass destruction in the Middle East region. However the destruction of the Iraqi weapons alone would not help in eradicating similar weapons elsewhere in the region, and the resulting military imbalance would benefit only Israel. Thirdly, the draft resolution was characterized by the application of the same logic as that of resolution 678 (1990), in which the Council gave unlimited authority to an unlimited number of countries to do unspecified things under the banner of guaranteeing peace and security in the region. That was quite clear from the following: firstly, the draft resolution aimed only at the formal declaration of a ceasefire. Thus the state of war would continue between Iraq and the forces of the alliance until a definitive end was put to the hostilities. That would be determined by the forces of the alliance, but might take years because the cessation of hostilities was related to the guaranteeing of peace and security in the region, let alone the guaranteeing of the boundaries between Iraq and Kuwait. Second, the forces of the alliance, which occupied about 20 per cent of the territory of Iraq would, according to paragraph 6 of the draft resolution, withdraw only when certain conditions were met. Those conditions would be those accepted by the coalition forces; they were not specified in the draft resolution. Third, the United Nations would not be the party establishing security in the region, but the Security Council would have to accept or coexist with the security arrangements that would be applied because they would be made under the authority of the United Nations. Fourth, the draft resolution ignored the needs and requirements of the Iraqi people. The speaker acknowledged that the Council had approved the recommendation made by the United Nations mission that had assessed the humanitarian needs of Iraq in mid-March, and had eased the embargo on foodstuffs and humanitarian needs. However, he stressed that the insistence of the sponsors of the draft resolution that the embargo be continued with regard to the other needs of the Iraqi civilians would hurt only

²⁸¹ S/PV.2981, pp. 21-35.

the Iraqi people. The speaker concluded that the delegation of Yemen would not support the draft resolution for those reasons.²⁸²

The representative of Cuba adduced similar reasons to explain why his delegation intended to vote against the draft resolution, adding that the economic sanctions should be lifted as the conditions on the basis of which they had been established had ceased to exist.²⁸³

The representative of Zaire, by contrast, indicated why his country had decided to become a sponsor of the draft resolution. It was true that the draft, the longest and most complex the Council had ever taken up, dealt with various areas which in some respects had never before been examined in the Council. The extraordinary nature of the Gulf crisis required that the Council find extraordinary solutions. His delegation believed that the areas covered by the draft resolution — boundaries, troop withdrawal, sanctions, the system of compensating for damages, the elimination of weapons of mass destruction, international terrorism — all of which were to lead to a genuine and permanent ceasefire, were essential elements for the establishment of a lasting peace. With regard to boundaries, Zaire noted that the crisis that had broken out on 2 August 1990 between Iraq and Kuwait had primarily been caused by border disputes between the two countries. As a member of the Organization of African Unity, which enshrined the principle of inviolability of borders in its Charter, Zaire believed that strict compliance with that principle would avoid potential conflicts and ensure stability among neighbouring States, both in Africa and elsewhere. The speaker pointed out, moreover, that the draft resolution acknowledged the importance of negotiations between the two countries regarding the demarcation of the boundary. It also added a key element designed to preserve the future: the Council was asked to safeguard the inviolability of that boundary. As to the withdrawal of troops, Zaire was pleased that the draft resolution advocated the deployment of a United Nations observer unit, which would enable those troops still in the region to withdraw. Regarding sanctions, Zaire had been concerned to ensure that the civilian population obtained adequate, regular supplies of foodstuffs and

medicines. As those concerns had been met in the decision of the Committee established under resolution 661 (1990), it agreed with the provisions in the draft resolution. As to compensation, it was only fair that Iraq, the aggressor, should bear responsibility for its acts and pay for them. The machinery set up would ensure that the system functioned harmoniously and impartially as it had been placed under the guidance of the Secretary-General. With regard to weapons of mass destruction, Zaire believed that the countries of the region should work together to set up a collective security system. However, in the light of the dangers posed by the accumulation of such weapons in Iraq, it was appropriate that steps be taken to eliminate them. Finally, as to the establishment of a formal ceasefire, Zaire hoped that Iraq would comply quickly with its obligations in order to bring that stage closer.²⁸⁴

The representative of Zimbabwe, too, considered that the several unprecedented decisions that the Council was about to take in adopting the draft resolution had to be interpreted in the light of the unique situation created by the invasion and illegal occupation of Kuwait by Iraq. It was Zimbabwe's understanding that measures contained in the draft resolution were intended to address some of the major issues that had led to the conflict between Iraq and Kuwait; and that some provisions, which ordinarily would have caused it great discomfort, were designed to ensure that there would be no recurrence of the tragedy inflicted upon Kuwait in August 1990. It had also noted that, in the implementation of some of the measures, the requirements of the people of Iraq, as well as the needs of the Iraqi economy, would be taken into account. Zimbabwe thought the draft had two shortcomings, however. While it believed that the objectives of a zone free from weapons of mass destruction in the Middle East and of a global ban on chemical weapons could contribute to durable stability and security in the region, it had misgivings regarding whether the approach suggested in the draft resolution constituted the best way to achieve those objectives. It would have preferred to have the measures specified in section C of the text applied within the framework of the whole region. On sanctions, Zimbabwe had expected that the Council would, in the draft resolution, proceed beyond the recent decision taken by the Committee established under resolution 661 (1990) and lift all remaining restrictions on the supply

²⁸² *Ibid.*, pp. 36-50.

²⁸³ *Ibid.*, pp. 58-71.

²⁸⁴ *Ibid.*, pp. 51-55.

of foodstuffs and essential civilian needs to Iraq. He believed that to be the appropriate response to the report of the United Nations mission to Iraq in mid-March 1991. The speaker concluded by stating that his country's interpretation of operative paragraph 32 of the draft resolution, requiring Iraq to renounce international terrorism, was that nothing contained in that paragraph referred to or applied to the struggles of peoples under occupation who were struggling for self-determination.²⁸⁵

The representative of India, noting that the draft resolution dealt with issues that the Council had never before been called upon to consider, observed that its sponsors had assured Council members that they had put together the various elements of the text in the understanding that the international community was dealing with a unique situation in the history of the United Nations, and had urged members to look at the resolution in that light. He was pleased that some of his delegation's ideas had been incorporated in the final text. India welcomed the fact that a formal ceasefire would become effective upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions of the draft resolution; that was a noteworthy improvement on resolution 686 (1990), on which India had abstained. With regard to the provisions relating to the international boundary, India insisted that it would never support any decision whereby the Council would impose arbitrarily a boundary line between two countries. Boundaries were an extremely sensitive issue that had to be settled by the countries concerned, freely in the exercise of their sovereignty. In this case, the boundary between Iraq and Kuwait had been agreed upon by the highest authorities of the respective countries as two fully independent and sovereign States, who had registered their agreement with the United Nations. Thus, the Council was not itself establishing any new boundary between Iraq and Kuwait, but was calling upon them to respect its inviolability. Concerning operative paragraph 4 of the draft resolution, by which the Council would guarantee the inviolability of the boundary, it was India's understanding that that provision did not confer authority on any country to take unilateral action under any of the previous resolutions of the Council. Rather, the sponsors had explained that, in case of any threat or actual violation of the boundary in future, the Council

would meet to take, as appropriate, all necessary measures in accordance with the Charter. Having long stressed that the United Nations and Secretary-General should have a role in the post-crisis situation in the region, India welcomed the fact that the United Nations was now being called upon to send an observer unit to monitor the border between Iraq and Kuwait. Although it would have preferred to have a United Nations contingent also deployed between the Iraqi troops and the forces of countries cooperating with the Government of Kuwait, it noted that it was the intention of those countries to withdraw their forces once the United Nations observer unit was deployed along the Iraq-Kuwait border. On sanctions, India was pleased that the Council had taken action in devising a much-simplified procedure to meet humanitarian needs. However, it thought that the Council should have gone further and lifted the sanctions against the supply of all the commodities listed in Mr. Ahtisaari's report to the Secretary-General of 20 March 1991. India believed, moreover, that all non-military sanctions against Iraq should be lifted as soon as Iraq conveyed acceptance of the draft resolution under consideration. With regard to military sanctions, it was glad that the sponsors had introduced an element of review. As for the framework and measures aimed at creating a durable peace and stability in the region, while India fully supported the objective, it was not convinced that the implementation of the provisions of the draft resolution would, by itself, create the necessary conditions or atmosphere for solving the basic conflicts there. It shared the view of others that the region would not enjoy lasting peace and stability until the complex of issues dividing the Arabs and the Israelis was resolved in a just and mutually satisfactory manner. In India's view, the consideration of those issues should not be delayed any longer. As to modalities, the speaker recalled that his country had consistently held that regional initiatives or arrangements for peace and stability deserved encouragement, provided they evolved through negotiations based on the exercise of the free and sovereign will of the countries of the region. Such arrangements could not be imposed by external pressure nor could they be lasting if they were of a discriminatory nature taken in the global context. Nor was it legitimate to make such arrangements under the mandatory provisions of Chapter VII of the Charter. The international community, acting under the Charter, could at best encourage, acknowledge and, if requested

²⁸⁵ Ibid., pp. 56-57.

by the countries concerned, take appropriate action to impart legitimacy to them.²⁸⁶

The draft resolution,²⁸⁷ as orally revised, was then put to the vote, and adopted by 12 votes in favour, 1 against (Cuba) and 2 abstentions (Ecuador, Yemen), as resolution 687 (1991), which reads:

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, 677 (1990) of 28 November 1990, 678 (1990) of 29 November 1990 and 686 (1991) of 2 March 1991,

Welcoming the restoration to Kuwait of its sovereignty, independence and territorial integrity and the return of its legitimate Government,

Affirming the commitment of all Member States to the sovereignty, territorial integrity and political independence of Kuwait and Iraq, and noting the intention expressed by the Member States cooperating with Kuwait under paragraph 2 of resolution 678 (1990) to bring their military presence in Iraq to an end as soon as possible consistent with paragraph 8 of resolution 686 (1991),

Reaffirming the need to be assured of Iraq's peaceful intentions in the light of its unlawful invasion and occupation of Kuwait,

Taking note of the letter dated 27 February 1991 from the Deputy Prime Minister and Minister for Foreign Affairs of Iraq addressed to the President of the Security Council and of his letters of the same date addressed to the President of the Council and to the Secretary-General, and those letters dated 3 March and 5 March he addressed to them, pursuant to resolution 686 (1991),

Noting that Iraq and Kuwait, as independent sovereign States, signed at Baghdad on 4 October 1963 "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters", thereby formally recognizing the boundary between Iraq and Kuwait and the allocation of islands, which Agreed Minutes were registered with the United Nations in accordance with Article 102 of the Charter of the United Nations and in which Iraq recognized the independence and complete sovereignty of the State of Kuwait with its boundaries as specified in the letter of the Prime Minister of Iraq dated 21 July 1932 and as accepted by the ruler of Kuwait in his letter dated 10 August 1932,

²⁸⁶ Ibid., pp. 72-80.

²⁸⁷ S/22430 and Corr.1.

Conscious of the need for demarcation of the said boundary,

Conscious also of the statements by Iraq threatening to use weapons in violation of its obligations under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and of its prior use of chemical weapons, and affirming that grave consequences would follow any further use by Iraq of such weapons,

Recalling that Iraq has subscribed to the Final Declaration adopted by all States participating in the Conference of States Parties to the 1925 Geneva Protocol and Other Interested States, held in Paris from 7 to 11 January 1989, establishing the objective of universal elimination of chemical and biological weapons,

Recalling also that Iraq has signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972,

Noting the importance of Iraq ratifying the Convention,

Noting also the importance of all States adhering to the Convention and encouraging its forthcoming review conference to reinforce the authority, efficiency and universal scope of the Convention,

Stressing the importance of an early conclusion by the Conference on Disarmament of its work on a convention on the universal prohibition of chemical weapons and of universal adherence thereto,

Aware of the use by Iraq of ballistic missiles in unprovoked attacks and therefore of the need to take specific measures in regard to such missiles located in Iraq,

Concerned by the reports in the hands of Member States that Iraq has attempted to acquire materials for a nuclear-weapons programme contrary to its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968,

Recalling the objective of the establishment of a nuclear-weapon-free zone in the region of the Middle East,

Conscious of the threat that all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons,

Conscious also of the objective of achieving balanced and comprehensive control of armaments in the region,

Conscious further of the importance of achieving the objectives noted above using all available means, including a dialogue among the States of the region,

Noting that resolution 686 (1991) marked the lifting of the measures imposed by resolution 661 (1990) in so far as they applied to Kuwait,

Noting also that despite the progress being made in fulfilling the obligations of resolution 686 (1991), many Kuwaiti and third-State nationals are still not accounted for and property remains unreturned,

Recalling the International Convention against the Taking of Hostages, opened for signature in New York on 18 December 1979, which categorizes all acts of taking hostages as manifestations of international terrorism,

Deploring threats made by Iraq during the recent conflict to make use of terrorism against targets outside Iraq and the taking of hostages by Iraq,

Taking note with grave concern of the reports transmitted by the Secretary-General on 20 March and 28 March 1991, and conscious of the necessity to meet urgently the humanitarian needs in Kuwait and Iraq,

Bearing in mind its objective of restoring international peace and security in the area as set out in its recent resolutions,

Conscious of the need to take the following measures acting under Chapter VII of the Charter,

1. *Affirms* all thirteen resolutions noted above, except as expressly changed below to achieve the goals of the present resolution, including a formal ceasefire;

A

2. *Demands* that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters", signed by them in the exercise of their sovereignty at Baghdad on 4 October 1963 and registered with the United Nations;

3. *Calls upon* the Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait to demarcate the boundary between Iraq and Kuwait, drawing on appropriate material including the maps transmitted with the letter dated 28 March 1991 addressed to him by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations, and to report back to the Council within one month;

4. *Decides* to guarantee the inviolability of the above-mentioned international boundary and to take, as appropriate, all necessary measures to that end in accordance with the Charter of the United Nations;

B

5. *Requests* the Secretary-General, after consulting with Iraq and Kuwait, to submit within three days to the Council for its approval a plan for the immediate deployment of a United Nations observer unit to monitor the Khawr 'Abd Allah and a demilitarized zone, which is hereby established, extending ten kilometres into Iraq and five kilometres into Kuwait from the boundary referred to in the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of

friendly relations, recognition and related matters"; to deter violations of the boundary through its presence in and surveillance of the demilitarized zone and to observe any hostile or potentially hostile action mounted from the territory of one State against the other; and also requests the Secretary-General to report regularly to the Council on the operations of the unit and to do so immediately if there are serious violations of the zone or potential threats to peace;

6. *Notes* that as soon as the Secretary-General notifies the Council of the completion of the deployment of the United Nations observer unit, the conditions will be established for the Member States cooperating with Kuwait in accordance with resolution 678 (1990) to bring their military presence in Iraq to an end consistent with resolution 686 (1991);

C

7. *Invites* Iraq to reaffirm unconditionally its obligations under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925, and to ratify the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972;

8. *Decides* that Iraq shall unconditionally accept the destruction, removal, or rendering harmless, under international supervision, of:

(a) All chemical and biological weapons and all stocks of agents and all related subsystems and components and all research, development, support and manufacturing facilities related thereto;

(b) All ballistic missiles with a range greater than one hundred and fifty kilometres, and related major parts and repair and production facilities;

9. *Decides also*, for the implementation of paragraph 8, the following:

(a) Iraq shall submit to the Secretary-General, within fifteen days of the adoption of the present resolution, a declaration on the locations, amounts and types of all items specified in paragraph 8 and agree to urgent, on-site inspection as specified below;

(b) The Secretary-General, in consultation with the appropriate Governments and, where appropriate, with the Director-General of the World Health Organization, within forty-five days of the adoption of the present resolution shall develop and submit to the Council for approval a plan calling for the completion of the following acts within forty-five days of such approval:

(i) The forming of a special commission which shall carry out immediate on-site inspection of Iraq's biological, chemical and missile capabilities, based on Iraq's declarations and the designation of any additional locations by the special commission itself;

(ii) The yielding by Iraq of possession to the Special Commission for destruction, removal or rendering harmless, taking into account the requirements of public safety, of all items specified under paragraph 8 (a), including items at the additional locations designated by the Special Commission under paragraph (i) and the destruction by Iraq, under the supervision of the Special Commission, of all its missile capabilities, including launchers, as specified under paragraph 8 (b);

(iii) The provision by the Special Commission to the Director General of the International Atomic Energy Agency of the assistance and cooperation required in paragraphs 12 and 13;

10. *Decides further* that Iraq shall unconditionally undertake not to use, develop, construct or acquire any of the items specified in paragraphs 8 and 9, and requests the Secretary-General, in consultation with the Special Commission, to develop a plan for the future ongoing monitoring and verification of Iraq's compliance with the present paragraph, to be submitted to the Council for approval within one hundred and twenty days of the passage of the present resolution;

11. *Invites* Iraq to reaffirm unconditionally its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, of 1 July 1968;

12. *Decides* that Iraq shall unconditionally agree not to acquire or develop nuclear weapons or nuclear-weapon-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to the above; to submit to the Secretary-General and the Director General of the International Atomic Energy Agency within fifteen days of the adoption of the present resolution a declaration of the locations, amounts and types of all items specified above; to place all of its nuclear-weapon-usable materials under the exclusive control, for custody and removal, of the Agency, with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General discussed in paragraph 9 (b); to accept, in accordance with the arrangements provided for in paragraph 13, urgent on-site inspection and the destruction, removal or rendering harmless as appropriate of all items specified above; and to accept the plan discussed in paragraph 13 for the future ongoing monitoring and verification of its compliance with these undertakings;

13. *Requests* the Director General of the International Atomic Energy Agency, through the Secretary-General and with the assistance and cooperation of the Special Commission as provided for in the plan of the Secretary-General referred to in paragraph 9 (b), to carry out immediate on-site inspection of Iraq's nuclear capabilities based on Iraq's declarations and the designation of any additional locations by the Special Commission; to develop a plan for submission to the Council within forty-five days calling for the destruction, removal or rendering harmless as appropriate of all items listed in paragraph 12; to carry out the plan within forty-five days following approval by the Council and to develop a plan, taking into account the rights and obligations of Iraq under the Treaty

on the Non-Proliferation of Nuclear Weapons, for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12, including an inventory of all nuclear material in Iraq subject to the Agency's verification and inspections to confirm that Agency safeguards cover all relevant nuclear activities in Iraq, to be submitted to the Council for approval within one hundred and twenty days of the adoption of the present resolution;

14. *Notes* that the actions to be taken by Iraq in paragraphs 8 to 13 represent steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons;

D

15. *Requests* the Secretary-General to report to the Council on the steps taken to facilitate the return of all Kuwaiti property seized by Iraq, including a list of any property that Kuwait claims has not been returned or which has not been returned intact;

E

16. *Reaffirms* that Iraq, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms, is liable under international law for any direct loss, damage — including environmental damage and the depletion of natural resources — or injury to foreign Governments, nationals and corporations as a result of its unlawful invasion and occupation of Kuwait;

17. *Decides* that all Iraqi statements made since 2 August 1990 repudiating its foreign debt are null and void, and demands that Iraq adhere scrupulously to all of its obligations concerning servicing and repayment of its foreign debt;

18. *Decides also* to create a fund to pay compensation for claims that fall within paragraph 16 and to establish a commission that will administer the fund;

19. *Directs* the Secretary-General to develop and present to the Council for decision, no later than thirty days following the adoption of the present resolution, recommendations for the Fund to be established in accordance with paragraph 18 and for a programme to implement the decisions in paragraphs 16 to 18, including the following: administration of the Fund; mechanisms for determining the appropriate level of Iraq's contribution to the Fund, based on a percentage of the value of its exports of petroleum and petroleum products, not to exceed a figure to be suggested to the Council by the Secretary-General, taking into account the requirements of the people of Iraq, Iraq's payment capacity as assessed in conjunction with the international financial institutions taking into consideration external debt service, and the needs of the Iraqi economy; arrangements for ensuring that payments are made to the Fund; the process by which funds will be allocated and claims paid; appropriate procedures for evaluating losses, listing claims and verifying their validity, and resolving disputed claims in respect of Iraq's liability as

specified in paragraph 16; and the composition of the Commission designated above;

F

20. *Decides*, effective immediately, that the prohibitions against the sale or supply to Iraq of commodities or products other than medicine and health supplies, and prohibitions against financial transactions related thereto contained in resolution 661 (1990), shall not apply to foodstuffs notified to the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait or, with the approval of that Committee, under the simplified and accelerated “no-objection” procedure, to materials and supplies for essential civilian needs as identified in the report to the Secretary-General dated 20 March 1991, and in any further findings of humanitarian need by the Committee;

21. *Decides* to review the provisions of paragraph 20 every sixty days in the light of the policies and practices of the Government of Iraq, including the implementation of all relevant resolutions of the Council, for the purpose of determining whether to reduce or lift the prohibitions referred to therein;

22. *Decides also* that upon the approval by the Council of the programme called for in paragraph 19 and upon Council agreement that Iraq has completed all actions contemplated in paragraphs 8 to 13, the prohibitions against the import of commodities and products originating in Iraq and the prohibitions against financial transactions related thereto contained in resolution 661 (1990) shall have no further force or effect;

23. *Decides further* that, pending action by the Council under paragraph 22, the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait shall be empowered to approve, when required to assure adequate financial resources on the part of Iraq to carry out the activities under paragraph 20, exceptions to the prohibition against the import of commodities and products originating in Iraq;

24. *Decides* that, in accordance with resolution 661 (1990) and subsequent related resolutions and until it takes a further decision, all States shall continue to prevent the sale or supply to Iraq, or the promotion or facilitation of such sale or supply, by their nationals or from their territories or using their flag vessels or aircraft, of:

(a) Arms and related materiel of all types, specifically including the sale or transfer through other means of all forms of conventional military equipment, including for paramilitary forces, and spare parts and components and their means of production for such equipment;

(b) Items specified and defined in paragraphs 8 and 12 not otherwise covered above;

(c) Technology under licensing or other transfer arrangements used in the production, utilization or stockpiling of items specified in paragraphs (a) and (b);

(d) Personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in paragraphs (a) and (b);

25. *Calls upon* all States and international organizations to act strictly in accordance with paragraph 24, notwithstanding the existence of any contracts, agreements, licences or any other arrangements;

26. *Requests* the Secretary-General, in consultation with appropriate Governments, to develop within sixty days, for the approval of the Council, guidelines to facilitate full international implementation of paragraphs 24, 25 and 27, and to make them available to all States and to establish a procedure for updating these guidelines periodically;

27. *Calls upon* all States to maintain such national controls and procedures and to take such other actions consistent with the guidelines to be established by the Council under paragraph 26 as may be necessary to ensure compliance with the terms of paragraph 24, and calls upon international organizations to take all appropriate steps to assist in ensuring such full compliance;

28. *Agrees* to review its decisions in paragraphs 22 to 25, except for the items specified and defined in paragraphs 8 and 12, on a regular basis and in any case one hundred and twenty days following the adoption of the present resolution, taking into account Iraq’s compliance with the resolution and general progress towards the control of armaments in the region;

29. *Decides* that all States, including Iraq, shall take the necessary measures to ensure that no claim shall lie at the instance of the Government of Iraq, or of any person or body in Iraq, or of any person claiming through or for the benefit of any such person or body, in connection with any contract or other transaction where its performance was affected by reason of the measures taken by the Council in resolution 661 (1990) and related resolutions;

G

30. *Decides* that, in furtherance of its commitment to facilitate the repatriation of all Kuwaiti and third-State nationals, Iraq shall extend all necessary cooperation to the International Committee of the Red Cross by providing lists of such persons, facilitating the access of the International Committee to all such persons wherever located or detained and facilitating the search by the International Committee for those Kuwaiti and third-State nationals still unaccounted for;

31. *Invites* the International Committee of the Red Cross to keep the Secretary-General apprised, as appropriate, of all activities undertaken in connection with facilitating the repatriation or return of all Kuwaiti and third-State nationals or their remains present in Iraq on or after 2 August 1990;

H

32. *Requires* Iraq to inform the Council that it will not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism;

I

33. *Declares* that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the above provisions, a formal ceasefire is effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990);

34. *Decides* to remain seized of the matter and to take such further steps as may be required for the implementation of the present resolution and to secure peace and security in the region.

Speaking after the vote, the representative of the United States heralded resolution 687 (1991) as unique and historic. It endeavoured to get at the core problems which had led to the Gulf crisis and laid the groundwork for the permanent ceasefire and for the withdrawal of coalition forces from Iraqi territory. It established clear incentives for rapid implementation. As soon as Iraq accepted the provisions of the resolution, a formal ceasefire would become effective, and as Iraq met the stipulations of the resolution, the sanctions regime would be modified, the role of the Secretary-General in overseeing the return to normal relations would be solidified, the coalition forces would be withdrawn, and the various mechanisms created by the resolution would come into being. The resolution relied heavily on the Secretary-General and the United Nations for its implementation, in an unprecedented elaboration of the role of the United Nations in peacekeeping and peacemaking. They were involved in the demarcation of the Iraq-Kuwait border, the deployment of observers, the activation of a special commission to oversee the elimination of weapons of mass destruction, the creation of a compensation regime, the return of Kuwaiti property and the control of arms sales to Iraq. The resolution was tough, but fair. It was fair because it set out the path by which Iraq could take its place again in the world community. It was desirable that that happen with an Iraq that was protected from dismemberment. The Council's task now, consistent with its responsibilities under Chapter VII, was to establish peace in such a way that Iraq never again threatened Kuwait's sovereignty and integrity. For that reason, the resolution demanded that

Iraq and Kuwait should respect their international boundary, agreed upon in 1963, asked the Secretary-General to lend his assistance to make arrangements with the two countries to demarcate the boundary and decided to guarantee its inviolability. Noting that the circumstances before the Council were unique in the history of the United Nations, and that the resolution was tailored exclusively to those circumstances, the speaker stressed that the United States did not seek, nor would it support, a new role for the Security Council as the body that determined international boundaries. Border disputes were issues to be negotiated directly between States or resolved through other pacific means of settlement. Next, the resolution created a demilitarized zone and called for the immediate deployment of an observer force; its purpose was to deter threats to peace through its very presence astride the Iraq-Kuwait border. It also dealt with the problem of weapons of mass destruction and the missiles with which to deliver them. Extraordinary care had been taken in those sections of the resolution to be precise and thorough, as required by the extraordinary circumstances of Iraq's past use of, and threats to use or develop, such weapons. Since the region could not be secure if those weapons remained at Iraq's disposal, the Council had decided that they must be eliminated under the supervision of a Special Commission and the International Atomic Energy Agency. The resolution broke further new ground in requiring Iraq to forswear future efforts to develop such weapons and in establishing a mechanism for international monitoring of Iraq's compliance. In order to facilitate the work of the Special Commission, the United States proposed to play an active role in that body where it and other permanent members of the Security Council had necessary expertise which they could make available. Finally, on the measures to rebuild the peace, the text made clear that this attempt by the international community to deal with the unique problem posed by Iraq took place in a regional context.

The speaker added that other major steps had been taken in the area of liability for damage and compensation. The resolution established a process of settlement by which all who had suffered direct damage or injury as a result of the illegal Iraqi aggression could claim and receive compensation. It created a fund, supported by Iraq's contribution of a certain percentage of its oil revenues, to pay compensation for future claims and a Commission to administer the fund. The Secretary-General would have

a key role in bringing that process into being and would make recommendations to the Council. On the question of sanctions, the resolution created a dynamic and flexible process, which linked the removal of sanctions to the implementation of the resolution. That was the incentive to implement fully the resolution as soon as possible. The Council also provided for the continuation of the return of Kuwaiti property. In addition, as a result of Iraq's unprecedented taking of hostages and its open threats to use terrorism in the recent conflict, the resolution required a commitment from Iraq that it would not in the future commit or support acts of terrorism or terrorist organizations. The speaker concluded by underlining the unprecedented nature of the resolution just adopted: troops had gone into battle before under the Charter of the United Nations, but the United Nations had never before taken measures to rebuild the peace such as those contained in this historic resolution. Iraq's active participation was essential for this approach to work. If stability were restored to the Gulf region and military tensions receded, the international community could turn to assisting with the reconstruction of Iraq as well as Kuwait. The United States, for its part, would exploit whatever opportunities there might be for unlocking progress on the resolution of other problems in the region, including Arab-Israeli issues.²⁸⁸

The representative of France remarked that the purpose of the resolution just adopted was to establish a proper ceasefire between Iraq and Kuwait as well as the Member States cooperating with Kuwait under resolution 678 (1990), noting that it also set forth conditions for the withdrawal from Iraqi territory of the forces of the States cooperating with Kuwait. Beyond that, however, it provided important elements that should contribute in the longer term to re-establishing regional security. A number of provisions were fundamental in that regard: the guarantee of the inviolability of the international boundary between Iraq and Kuwait; the deployment there of a United Nations observer unit; and the disarmament measures with regard to Iraq. The speaker noted that his country had been very insistent that the prohibition on Iraq's possessing biological or chemical weapons and all the arms restriction measures concerning Iraq should be seen in the context of regional measures approved by the international community. Nevertheless, France agreed that under the present circumstances their

²⁸⁸ S/PV.2981, pp. 82-91.

application should be confined in the immediate future to the case of Iraq. Their global and regional scope was, however, clearly brought out by the resolution, which reflected France's position on this essential point. The resolution also reaffirmed Iraq's responsibility under international law for the losses and damages of all kinds resulting from its aggression against Kuwait, and provided a mechanism for the payment of claims. The speaker pointed out that the Secretary-General and the United Nations bore heavy responsibility in each of these three areas — the border, disarmament and reparations — responding to his country's desire to see the Organization play an important role in re-establishing peace in the region. He added that France was gravely concerned about the plight of the civilian population in Iraq, which was not only suffering from serious material difficulties, but was the victim of unjustifiable violence in both the south and the north, where the inhabitants of Kurdish origin had once again, tragically, been attacked. France believed that the Security Council had a duty to say something about this situation. It recognized that the return to normal living conditions in Iraq was not dependent solely on the easing and lifting of sanctions, as had been provided for in the resolution just adopted. France appealed, therefore, to the Iraqi authorities to put an immediate end to repression in all its forms and to enter into dialogue about respect for rights, democratization of public life and the realization of the legitimate aspirations of all sections of the Iraqi people. It was essential, *inter alia*, that the just claim of the Kurdish community for respect for its identity within the Iraqi State be fully recognized. In conclusion, the speaker urged that the Council's momentum of the past eight months in response to the Gulf crisis should be maintained, as should its determination to defend the law, a determination that should be applied to settling other conflicts in the Near and Middle East.²⁸⁹

The representative of China said his delegation had voted in favour of the resolution just adopted since it would establish a formal ceasefire in the region. However, he pointed out that, although the resolution made it clear that the deployment of a United Nations observer unit would "establish conditions" for the withdrawal of foreign military forces, it failed to provide an explicit time frame for that withdrawal. Furthermore, the resolution included some unnecessary

²⁸⁹ *Ibid.*, pp. 92-95.

restrictions on the lifting of economic sanctions against Iraq. Stressing that the Iraqi people were innocent, the speaker stated that, in the light of the development of the situation, the Security Council should ease and lift economic sanctions as soon as possible, so as to bring the economy of all the countries in the region back to normalcy at an early date. China also believed that the Security Council should be responsible for handling questions concerning the implementation of the resolution; there should be no other interpretation. It was of the view, moreover, that the general goal of the post-war arrangements in the Gulf region should be to ensure a lasting peace in the region and peaceful coexistence of peoples of all countries there. The relevant arrangements should be made mainly by the countries in the Gulf region, in conformity with the interests of their peoples, and with respect for the principles of State sovereignty, territorial integrity, and non-interference in internal affairs.²⁹⁰

The representative of the Union of Soviet Socialist Republics remarked on the successful interaction between the permanent members and the members of the Security Council as a whole, which had enabled the Council to elaborate a sound international legal document in a relatively short time — in the form of the resolution just adopted —, thereby drawing a line under one of the most serious regional conflicts of recent times and promoting the establishment of lasting peace and stability in the Gulf region, and in the long run in the Middle East as a whole. The Kuwait crisis and the process of addressing it had been a serious test of the new system of international relations following the end of the cold war, which the international community, in the form of the United Nations and its Security Council, had passed. The Security Council had proved its ability to implement its obligation under the Charter of the United Nations to maintain and restore international peace and security. He stressed that resolution 687 (1991) aimed not only at restoring justice but at issuing a serious warning to all those who might be inclined to embark on the path of aggression, occupation and annexation. The crux of the resolution, as other speakers had observed, was the establishment of a permanent ceasefire between Iraq and Kuwait and those States cooperating with Kuwait, after official notification by Iraq of its acceptance of the resolution. He emphasized, in that regard, that the deployment on

the boundary between Kuwait and Iraq of United Nations observers would create conditions for the withdrawal of the multinational forces from the region. An important element in the process was the demarcation of the boundary between Iraq and Kuwait in accordance with the agreement to that effect deposited with the United Nations. It was of prime importance, in his view, to observe the provision that the task of ensuring the inviolability of the boundary between Iraq and Kuwait lay with the Security Council, which, to that end, could take all necessary steps in accordance with the Charter of the United Nations.

The speaker further observed that the resolution paved the way for a post-crisis settlement. The most acute issue in that regard was that of creating an effective barrier against the use of weapons of mass destruction in the region. Of great importance from that viewpoint were the provisions in the resolution regarding Iraq's destruction of chemical and biological weapons and longer-range missiles, which represented a direct threat to countries in the region, and the role of the International Atomic Energy Agency in supervising nuclear sites in Iraq. It was also important that all Middle Eastern countries accede to the Nuclear Non-Proliferation Treaty and to international agreements prohibiting chemical and biological weapons. He noted that an important function in ensuring the post-crisis settlement in the region belonged to the United Nations, which should play the role of a reliable guarantor of security. That derived logically from the role of the Security Council in organizing the collective efforts to repel the Iraqi aggression, and from Security Council resolution 598 (1987) on the situation between Iran and Iraq. Although the speaker considered that a key role in determining the parameters of such a settlement must belong to the States of the region, he cautioned that the creation of bloc groupings should not be allowed, as they would lead to perpetuating old and promoting new problems and disagreements. The post-crisis settlement should not be aimed against anyone, but should rather be intended to promote cooperation among all the States of the region concerned, as well as those States that were not directly involved but made an important contribution to the maintenance of peace and stability there. In that context, he emphasized that Iraq, as a sovereign State, must take its rightful place in the political and economic infrastructure of the region. He concluded by observing that, with the adoption of

²⁹⁰ Ibid., pp. 95-98.

resolution 687 (1991), detailed work should begin on its technical aspects and the financial implications of its implementation. Considerable work in preparing the necessary plans and recommendations would have to be done by the Secretary-General. The Council, for its part, should play a key role in keeping under constant supervision the entire process of implementing the resolution and take such additional steps as might be required as its provisions were implemented.²⁹¹

The representative of Ecuador considered the resolution just adopted to be of vital importance for two reasons: it formally marked the end of hostilities in the Gulf conflict and sought to establish the foundations for a stable, permanent peace in the region; and its provisions reflected a genuine advance towards consolidating the rule of law in international relations. Many of its measures constituted a suitable response by the international community, and the Security Council in particular, to the crisis, which his country supported. Ecuador had misgivings, however, in respect of section A of the resolution, concerning the boundary between Iraq and Kuwait, impelling it to abstain in the vote. In taking a position on the boundary between the two countries and in requesting the Secretary-General to make arrangements with them to demarcate the boundary, acting under Chapter VII of the Charter, the Council had apparently decided that this was an exceptional case, falling outside Article 36, under which 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". Ecuador did not share that view. While Chapter VII of the Charter authorized the use of all necessary means to implement the resolutions of the Council, it could not confer on the Council more powers than those set forth in the Charter itself. A position of the Council in this matter, an extremely sensitive one, had to fall unequivocally within the bounds of international law and the Charter if it were not to become a fresh source of conflict. If it had been possible, therefore, to vote separately on the individual paragraphs of the draft resolution, Ecuador would have indicated its disagreement with those points dealing with the boundary. In the meantime, it had taken note with satisfaction of the statement by the representative of the United States to the effect that the present case of the boundary between Iraq and Kuwait

²⁹¹ Ibid., pp. 98-105.

could not be considered as a precedent; its distinguishing feature was its uniqueness. The speaker added that his country also considered that the Council should approve the lifting of the sanctions, which were affecting the civilian population of Iraq. Further, it must move towards taking the necessary action, provided for by the resolution, so that the definitive withdrawal of the coalition forces could take place.²⁹²

The representative of the United Kingdom observed that resolution 687 (1991) marked an important milestone both in the Gulf crisis and in the overall development of the United Nations. The expulsion of Iraq from Kuwait and the latter's liberation marked a firm and effective determination of the world community not to allow the law of the jungle to prevail over the rule of law. They had shown that the Security Council — with not only the solidarity of its permanent members but with supporting votes from countries representing every region of the world — had been able to act to repel aggression in the way its founding fathers had intended it to do. Now the Council faced the far more difficult task of securing the peace. Just as the Security Council had the primary responsibility to reverse the aggression, so it also had the responsibility to lay sound foundations for the future and to ensure that the international community was not again confronted with such a ruthless and comprehensive challenge to international law. That was the object of resolution 687 (1991), and the yardstick by which it would be measured.

Noting that the resolution was a complex and detailed one, the speaker stressed that only such a comprehensive approach could achieve the balance between firmness and fairness which was essential if lasting peace and stability were to be achieved. He commented on three central issues. First was the question of the boundary between Iraq and Kuwait. He stressed that the resolution was not attempting to settle the boundary between the two countries; that had been done by the 1963 Agreement between them, which had been registered with the United Nations. Rapid demarcation of the boundary, the setting up of a United Nations unit to monitor a demilitarized zone along the frontier, and a guarantee by the Security Council to step in if it were ever violated, constituted a carefully integrated package designed to ensure that there was no repetition of the events of August 1990. A second

²⁹² Ibid., pp. 105-110.

important issue was that of arms control and, in particular, the elimination of Iraqi weapons of mass destruction and of the missiles that could be used for their delivery. The tough provisions in that area were fully warranted, in his view, for Iraq alone in the region had not only developed many such weapons but actually used them, both against a neighbouring State and against its own population, and it had threatened their use as part of its diplomacy. He noted, however, that the resolution clearly situated the action against Iraq's weapons of mass destruction within the wider framework of work towards a region free of weapons of mass destruction. Thirdly, there was the question of compensation for the damage inflicted on Kuwait and many others by the Iraqi armed forces and their leadership. In this sphere, the speaker stated, the resolution sought to tread a path between the two extremes of either overlooking the need for compensation or imposing a crippling economic burden. It accordingly made financial provision for meeting claims out of a limited proportion of Iraq's future oil revenues.²⁹³

The representative of Austria observed that, by adopting such a comprehensive resolution, the Council had assumed grave and unprecedented responsibilities. His delegation was satisfied to see some of its ideas reflected in the text, particularly with regard to humanitarian aspects. The resolution contained important provisions that should help to alleviate the grave situation faced by the Iraqi civilian population. However, they could only form the beginning of a larger process: a comprehensive, internationally concerted system of relief operations would be necessary to bring the fundamental basics of civilian life back to normal. Austria was also gravely concerned about reports of heavy fighting and bloodshed in Iraq with disastrous consequences for the civilian population, in particular in the area inhabited by Kurds and others. With a view to safeguarding the human rights of the Kurds and other persons threatened by the armed repression of the Iraqi Government forces, the Government of Austria had endorsed both the request of Turkey that the Security Council should deal with that alarming situation and take effective measures, and the position of France that the Security Council should pronounce itself on these pressing issues. The speaker added that some elements of the Council's new resolution were particularly relevant to the task faced

now of maintaining the peace. One was the deployment of observers. Austria had already declared its readiness to participate in such an operation. It looked forward to the Secretary-General's plan, in particular to the proposed duration of the operation. Austria saw it as a provisional measure that should contribute to creating conditions conducive to negotiations. On the financing of the operation, the speaker wondered whether consideration might be given to an idea put forward previously by other members of the Council, namely, the provision of special contributions by those who benefited most by such an operation and were financially in a position to make them, be they States or private entities. In conclusion, he suggested that the Council should discuss possible lessons from the Gulf crisis — such as the need to strengthen the preventive capacity of the United Nations and to look more closely at the arrangements for United Nations enforcement action.²⁹⁴

The representative of Romania underlined the importance of paragraph 33 of the resolution just adopted, by which the Security Council declared that, upon official notification by Iraq to the Secretary-General and to the Security Council of its acceptance of the provisions of the resolution, a formal ceasefire would be effective between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990). Romania expected that Iraq would soon make the required notification concerning its acceptance of the resolution. The speaker also noted with interest the provisions of the resolution concerning the creation of a fund to pay compensation for claims addressed to Iraq by foreign Governments, nationals and corporations. His delegation understood that the implementation of those provisions would not affect the implementation of recommendations of the Security Council Committee established by resolution 661 (1990). Requests for assistance by Member States under Article 50 of the Charter should be given the most serious attention by the Council. Romania also emphasized the practical importance of paragraph 17 of resolution 687 (1991), by which the Council decided that all Iraqi statements made since 2 August 1990 repudiating its foreign debt were null and void, and demanded that Iraq adhere scrupulously to all of its

²⁹³ Ibid., pp. 111-116.

²⁹⁴ Ibid., pp. 116-122.

obligations concerning servicing and repayment of its foreign debt.²⁹⁵

The President, speaking in his capacity as the representative of Belgium, welcomed the fact that the official cessation of hostilities, as embodied in the resolution just adopted, was the culmination of a long process designed to restore the rule of law, in accordance with the means laid down in the Charter. While the resolution brought down the curtain on a painful episode, it opened a new chapter by defining for the Gulf region some of the principles that should henceforth govern relations between States. The Belgian delegation was pleased to note that a number of matters to which it attached great importance figured prominently in the resolution. Thus, for instance, it was important to make the United Nations responsible for implementing the resolution. The Organization had authorized the re-establishment of the rule of law by the legitimate use of force, and it should maintain the rule of law in peacetime. The resolution was also seriously concerned with mitigating the impact of the war on the Iraqi population: it had eased and foresaw the lifting of the food embargo; and, while insisting that Iraq pay fair compensation, the resolution in paragraph 19 made it clear that nothing was to prevent the creation of conditions for the reconstruction of the Iraqi economy. Finally, the text set out the essential measures that would allow Iraq to resume its place in the international community, including repudiating resort to and encouragement of terrorism and eliminating weapons of mass destruction, in the context of regional arms control. Turning to the human dimension, the speaker stressed the importance of respect for human rights, particularly those of ethnic and religious minorities. His delegation fully associated itself with the Secretary-General's appeal on 2 April on behalf of Kurdish and Shiite refugees. Belgium considered it essential that the Government of Iraq respect its commitment to ensure the equitable distribution of food and humanitarian aid to the Iraqi population as a whole; and that the Iraqi authorities grant humanitarian organizations unrestricted access to populations in distress.²⁹⁶

The representative of Kuwait, in a further statement, commented on some of the points raised by the representative of Iraq. He noted, *inter alia*, that the

²⁹⁵ *Ibid.*, pp. 122-127.

²⁹⁶ *Ibid.*, pp. 127-131.

representative of Iraq had said that Iraq would "reserve its legitimate rights" regarding the boundary between the two countries. That put in question whether Iraq unconditionally accepted resolution 687 (1991). The speaker disputed, moreover, that there was any contradiction between the Security Council's request to demarcate the boundary, and paragraph 3 of resolution 660 (1990). The thrust of resolution 687 (1991) was demarcation of a previously agreed-upon boundary, which was not the subject of any controversy or quarrel.²⁹⁷

**Decision of 9 April 1991 (2983rd meeting):
resolution 689 (1991)**

On 5 April 1991, the Secretary-General submitted to the Council a report on the implementation of paragraph 5 of resolution 687 (1991).²⁹⁸ The report contained a plan for the creation and deployment of a United Nations observer unit, to be called the United Nations Iraq-Kuwait Observation Mission (UNIKOM). The Secretary-General proposed a threefold mandate for UNIKOM: (a) to monitor the Khor Abdullah and a demilitarized zone extending 10 kilometres into Iraq and 5 kilometres into Kuwait from the boundary referred to in the Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters of 4 October 1963;²⁹⁹ (b) to deter violations of the boundary through its presence in and surveillance of the demilitarized zone; and (c) to observe any hostile or potentially hostile action mounted from the territory of one State to the other. He indicated that, in accordance with the established principles, UNIKOM would be under the command of the United Nations, vested in the Secretary-General, under the authority of the Security Council. Stressing that UNIKOM would be able to function effectively only with the full cooperation of the parties, the Secretary-General stated that he had informed the representatives of Iraq and Kuwait of the proposed plan and requested confirmation that their respective Governments would cooperate with the United Nations on that basis.³⁰⁰

²⁹⁷ *Ibid.*, pp. 131-133.

²⁹⁸ S/22454; see also S/22454/Add.1-3.

²⁹⁹ United Nations, *Treaty Series*, vol. 485, No. 7063.

³⁰⁰ In an addendum to his report (S/22454/Add.3), the Secretary-General reported that the representatives of Iraq and Kuwait had confirmed that their respective Governments accepted the plan contained in his report

At its 2983rd meeting, held on 9 April 1991 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda, and invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (Belgium) drew the attention of Council members to a draft resolution that had been prepared in the course of the Council's prior consultations,³⁰¹ and to the addition of a second preambular paragraph to the text, reading: "Acting under Chapter VII of the Charter". He also drew their attention to the following documents: letters dated 5 and 4 April 1991 from the representative of Kuwait addressed to the Secretary-General;³⁰² and a letter dated 6 April 1991 from the representative of Iraq addressed to the Secretary-General and the President of the Security Council.³⁰³ The latter communication enclosed a letter from the Minister for Foreign Affairs of Iraq, the penultimate paragraph of which contained official notification of the acceptance by Iraq of resolution 687 (1991).

The draft resolution was then put to the vote and adopted unanimously as resolution 689 (1991), which reads:

The Security Council,

Recalling its resolution 687 (1991) of 3 April 1991,

Acting under Chapter VII of the Charter of the United Nations,

1. *Approves* the report of the Secretary-General of 5 and 9 April 1991 on the implementation of paragraph 5 of Security Council resolution 687 (1991);

2. *Notes* that the decision to set up an observer unit was taken in paragraph 5 of resolution 687 (1991) and that the unit can be terminated only by a further decision of the Council; the Council shall therefore review the question of its termination or continuation every six months;

3. *Decides* that the modalities for the initial six-month period of the United Nations Iraq-Kuwait Observation Mission shall be in accordance with the above-mentioned report and shall also be reviewed every six months.

and would cooperate with the United Nations in its implementation.

³⁰¹ S/22470.

³⁰² S/22453 and S/22457.

³⁰³ S/22456.

Decision of 19 April 1991: letter from the President of the Security Council to the Secretary-General

On 18 April 1991, the Secretary-General submitted to the Council a report on the implementation of paragraph 9 (b) (i) of Security Council resolution 687 (1991).³⁰⁴ By that resolution, the Council had, *inter alia*, requested the Secretary-General to submit to it, for approval, a plan calling for the formation of a special commission to carry out the tasks enumerated in paragraphs 9 (b) (i-iii), 10 and 13, which concerned supervising the elimination of Iraq's weapons of mass destruction and the missiles with which to deliver them. The Secretary-General's report contained his proposal for setting up the United Nations Special Commission³⁰⁵ and for making the necessary arrangements for it to begin implementing its tasks.

By a letter dated 19 April 1991,³⁰⁶ the President of the Council informed the Secretary-General as follows:

I have the honour to inform you that your report of 18 April 1991 on the implementation of paragraph 9 (b) (i) of Security Council resolution 687 (1991) has been brought to the attention of the members of the Council. They agree to the proposals contained in the report.

Decision of 29 April 1991 (2985th meeting): statement by the President

At its 2985th meeting, held on 29 April 1991 in accordance with the agreement reached in the course of its prior consultations, the Council included in its agenda the item entitled: "The situation between Iraq and Kuwait: statement by the President of the Security Council concerning the States which have invoked Article 50 of the Charter of the United Nations".

The President (Belgium) stated that, following consultations among the members of the Security Council, he had been authorized to make the following statement on behalf of the Council:³⁰⁷

The members of the Security Council have considered the memorandum dated 22 March 1991 which was addressed to the President of the Security Council by the representatives of

³⁰⁴ S/22508.

³⁰⁵ On the establishment of the Special Commission, see chapter V.

³⁰⁶ S/22509.

³⁰⁷ S/22548.

twenty-one States which have invoked Article 50 of the Charter of the United Nations owing to the special economic problems arising from the implementation of the sanctions imposed against Iraq and Kuwait under Council resolution 661 (1990).

The members of the Council have taken note of the Secretary-General's oral report to them on 11 April 1991, in which he supported the appeal launched by the twenty-one States that have invoked Article 50. The Secretary-General further informed the Council on 26 April 1991 of the conclusions reached by the Administrative Committee on Coordination at the session it has just held in Paris, where its members agreed to pursue vigorously their efforts to respond effectively to the needs of countries most affected by the implementation of resolution 661 (1990). The Secretary-General will coordinate through the Committee, within the framework of this assistance, the activities of organizations of the United Nations system.

The members of the Council have taken note of the replies from a number of States (Austria, Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Luxembourg on behalf of the European Community and its twelve member States, Netherlands, New Zealand, Norway, Portugal, Spain, Switzerland, United Kingdom of Great Britain and Northern Ireland, United States of America and the Union of Soviet Socialist Republics) which have furnished specific information on the assistance they have provided to various affected countries; they have also taken note of the replies from officials of international financial institutions, such as those received from the President of the World Bank and the Managing Director of the International Monetary Fund. They invite other Member States and international financial institutions and organizations to inform the Secretary-General as soon as possible of the measures that they have taken on behalf of the States which have invoked Article 50.

The members of the Council make a solemn appeal to States, international financial institutions and United Nations bodies to respond positively and speedily to the recommendations of the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait for assistance to countries which find themselves confronted with special economic problems arising from the carrying out of those measures imposed by resolution 661 (1990) and which have invoked Article 50.

The members of the Council note that the procedure established under Article 50 of the Charter of the United Nations remains in effect.

**Decision of 20 May 1991 (2987th meeting):
resolution 692 (1991)**

On 2 May 1991, the Secretary-General submitted to the Council a report pursuant to paragraph 19 of

resolution 687 (1991),³⁰⁸ setting out his recommendations for establishing a United Nations Compensation Fund to pay compensation for claims against Iraq and a United Nations Compensation Commission to administer the Fund. As he conceived it, the Commission would function under the authority of the Security Council and be a subsidiary organ thereof. Its principal organ would be a 15-member Governing Council composed of the representatives of the members of the Security Council at any given time. The commissioners would be experts in fields such as finance, law, accountancy, insurance and environmental assessment, who would act in their personal capacity.³⁰⁹ The Secretary-General said he would undertake the appropriate consultations, as required by paragraph 19 of resolution 687 (1991), so as to be in a position to suggest the figure which Iraq's contribution to the Fund would not exceed.³¹⁰ He also made recommendations regarding the claims procedure.³¹¹

At its 2987th meeting, held on 20 May 1991 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General's report in its agenda, and invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote.

The President (China) drew the attention of the Council members to a draft resolution submitted by the United Kingdom and the United States,³¹² and informed them that Belgium, France, Romania, the Union of Soviet Socialist Republics and Zaire had joined in sponsoring it.

The draft resolution was then put to the vote and adopted by 14 votes in favour to none against, with 1 abstention (Cuba), as resolution 692 (1991), which reads:

The Security Council,

Recalling its resolutions 674 (1990) of 29 October 1990, 686 (1991) of 2 March 1991 and 687 (1991) of 3 April 1991 concerning the liability of Iraq, without prejudice to its debts and obligations arising prior to 2 August 1990, for any direct loss, damage, including environmental damage and the depletion of natural resources, or injury to foreign Governments, nationals

³⁰⁸ S/22559.

³⁰⁹ *Ibid.*, sect. I.

³¹⁰ *Ibid.*, para. 13.

³¹¹ *Ibid.*, sect. II.

³¹² S/22613.

and corporations as a result of Iraq's unlawful invasion and occupation of Kuwait,

Taking note of the report submitted by the Secretary-General on 2 May 1991 pursuant to paragraph 19 of resolution 687 (1991),

Acting under Chapter VII of the Charter of the United Nations,

1. *Expresses its appreciation* to the Secretary-General for his report of 2 May 1991;

2. *Welcomes* the fact that the Secretary-General will now undertake the appropriate consultations requested by paragraph 19 of resolution 687 (1991) so that he will be in a position to recommend to the Council for decision as soon as possible the figure which the level of Iraq's contribution to the United Nations Compensation Fund will not exceed;

3. *Decides* to establish the Fund and the United Nations Compensation Commission referred to in paragraph 18 of resolution 687 (1991) in accordance with section I of the Secretary-General's report, and decides also that the Governing Council of the Commission will be located at the United Nations Office at Geneva and that the Governing Council may decide whether some of the activities of the Commission should be carried out elsewhere;

4. *Requests* the Secretary-General to take the actions necessary to implement paragraphs 2 and 3 in consultation with the members of the Governing Council;

5. *Directs* the Governing Council to proceed in an expeditious manner to implement the provisions of section E of resolution 687 (1991), taking into account the recommendations in section II of the Secretary-General's report;

6. *Decides* that the requirement for Iraqi contributions will apply in the manner to be prescribed by the Governing Council with respect to all Iraqi petroleum and petroleum products exported from Iraq after 3 April 1991 as well as such petroleum and petroleum products exported earlier but not delivered or not paid for as a specific result of the prohibitions contained in resolution 661 (1990) of 6 August 1990;

7. *Requests* the Governing Council to report as soon as possible on the actions it has taken with regard to the mechanisms for determining the appropriate level of Iraq's contribution to the Fund and the arrangements for ensuring that payments are made to the Fund, so that the Security Council can give its approval in accordance with paragraph 22 of resolution 687 (1991);

8. *Requests also* that all States and international organizations cooperate with the decisions of the Governing Council taken pursuant to paragraph 5, and further requests that the Governing Council keep the Security Council informed on this matter;

9. *Decides* that, if the Governing Council notifies the Security Council that Iraq has failed to carry out decisions of the

Governing Council taken pursuant to paragraph 5, the Security Council intends to retain or to take action to reimpose the prohibition against the import of petroleum and petroleum products originating in Iraq and financial transactions related thereto;

10. *Decides also* to remain seized of this matter, and requests the Governing Council to submit periodic reports to the Secretary-General and the Security Council.

**Decisions of 17 June 1991 (2994th meeting):
resolutions 699 (1991) and 700 (1991)**

On 17 May 1991, the Secretary-General submitted to the Security Council a report entitled "Plan for the implementation of relevant parts of section C of Security Council resolution 687 (1991)",³¹³ concerning Iraq's demilitarization. In paragraph 9 (b) of that resolution, the Council requested the Secretary-General to develop and submit for approval a plan calling for the completion of the tasks enumerated in paragraphs 9 (b) (i to iii) and 10. The tasks concerned the immediate on-site inspection of Iraq's biological, chemical and missile capabilities, and its nuclear capabilities; the destruction, removal or rendering harmless of all items specified under paragraph 8 of the resolution; and the monitoring and verification of Iraq's compliance in the future. The Secretary-General reported that the plan had been developed in consultation with appropriate Governments, with the Directors General of the International Atomic Energy Agency (IAEA) and the World Health Organization, and with the newly established Special Commission. It envisaged a three-stage implementation procedure: (1) the gathering and assessment of information on the locations, amounts and types of all items specified in paragraphs 8 and 12 of resolution 687 (1991), which were to be destroyed, removed or rendered harmless; (2) the actual disposal of weapons, facilities and all other items specified in paragraphs 8 and 12; and (3) the monitoring and verification of Iraq's compliance in the future. The Secretary-General observed that the third stage of the plan represented a long-term operation. A detailed plan, as called for in paragraph 10 of resolution 687 (1991), would be submitted to the Security Council for its approval, subsequent to the establishment of a complete database.

³¹³ S/22614.

On the same day, the Secretary-General submitted to the members of the Security Council a note,³¹⁴ transmitting a letter addressed to him under paragraph 13 of resolution 687 (1991) by the Director General of IAEA, and its enclosure containing a plan for the destruction, removal and rendering harmless of items specified in paragraph 12 of that resolution, namely, “nuclear weapons or nuclear-weapon-usable material or any subsystems or components or any research, development, support or manufacturing facilities” related thereto.

On 2 June 1991, the Secretary-General submitted to the Council a report³¹⁵ pursuant to paragraph 26 of resolution 687 (1991), by which he was requested to develop guidelines to facilitate full international implementation of the arms and related sanctions against Iraq, and to establish a procedure for updating those guidelines periodically. In an annex to the report, he put forward draft guidelines that had been prepared, as requested, in consultation with appropriate Governments. The draft guidelines listed the categories of prohibited items and activities; defined the role of the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, as the organ of the Security Council responsible for monitoring the prohibitions against the sale or supply of arms to Iraq and related sanctions, as well as the Committee’s relationship with any new bodies responsible for the monitoring and verification of Iraq’s compliance with the obligations set out in paragraphs 10 and 12 of resolution 687 (1991); and set out the principles governing implementation of the arms and related sanctions against Iraq, which were to be effected at three levels: by all States, by international organizations and through intergovernmental cooperation. Those principles made it clear, *inter alia*, that States and international organizations were “called upon to act strictly in accordance with the arms and related sanctions, notwithstanding the existence of any contracts, agreements, licences or any other arrangements”. With regard to review of the guidelines, the Secretary-General suggested that the Council might wish to carry out such a review at the same time as its regular reviews of the economic, arms and related sanctions against Iraq, provided for in paragraph 28 of resolution 687 (1991).

³¹⁴ S/22615.

³¹⁵ S/22660.

At its 2994th meeting, held on 17 June 1991 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the two reports of the Secretary-General and his note of 17 May. The Council invited the representative of Iraq, at his request, to participate in the discussion without the right to vote.

The President (Côte d’Ivoire) drew the attention of the Council members to a draft resolution submitted by France, the Union of Soviet Socialist Republics, the United Kingdom and the United States,³¹⁶ and to a draft resolution submitted by Belgium, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States.³¹⁷ He also drew their attention to two letters from the representative of Iraq: a letter dated 9 June 1991 addressed to the Secretary-General,³¹⁸ affirming his Government’s readiness to cooperate with respect to the implementation of section C of resolution 687 (1991); and identical letters dated 11 June 1991 addressed to the Secretary-General and the President of the Security Council,³¹⁹ asserting that the Government of Iraq had complied with resolution 687 (1991) and reviewing the measures taken by it in that connection.

At the same meeting, the representative of Iraq stated that his Government had both accepted resolution 687 (1991) and dealt with it positively. He reviewed in some detail the measures it had taken to implement its obligations thereunder. The speaker added that his Government wished to affirm its absolute readiness to cooperate with respect to the implementation of section C of resolution 687 (1991), and its desire not to raise any obstacle to implementation of the resolution. Unfortunately, however, his Government noted that paragraph 4 of the first draft resolution under consideration,³²⁰ concerning adoption of the Secretary-General’s plan for the implementation of section C, made the Government of Iraq liable for all the costs of carrying out the tasks entrusted to the Secretary-General. His Government rejected liability for the cost of destroying the chemical weapons. On the other hand, it affirmed its willingness

³¹⁶ S/22686; subsequently adopted without change as resolution 699 (1991).

³¹⁷ S/22698; subsequently adopted without change as resolution 700 (1991).

³¹⁸ S/22682.

³¹⁹ S/22689.

³²⁰ S/22286.

to cooperate and by its own efforts voluntarily to destroy or render harmless such weapons, under the supervision and to the satisfaction of United Nations experts. The Government's participation in that way would reduce the cost of destruction and the time required for the implementation of the destruction plan, as well as the dangers arising from the destruction process.³²¹

The President then put the two draft resolutions to the vote, in the order of their submission. The first draft resolution was adopted unanimously as resolution 699 (1991), which reads:

The Security Council,

Recalling its resolution 687 (1991) of 3 April 1991,

Taking note of the report submitted by the Secretary-General on 17 May 1991 pursuant to paragraph 9 (b) of resolution 687 (1991),

Also taking note of the Secretary-General's note of 17 May 1991 transmitting to the Council the text of the letter addressed to him by the Director General of the International Atomic Energy Agency under paragraph 13 of the above-mentioned resolution,

Acting under Chapter VII of the Charter of the United Nations,

1. *Approves* the plan contained in the report of the Secretary-General of 17 May 1991;

2. *Confirms* that the Special Commission and the International Atomic Energy Agency have the authority to conduct activities under section C of resolution 687 (1991) for the purpose of the destruction, removal or rendering harmless of the items specified in paragraphs 8 and 12 of that resolution, after the forty-five-day period following the approval of this plan until such activities have been completed;

3. *Requests* the Secretary-General to submit to the Council progress reports on the implementation of the plan referred to in paragraph 1 every six months after the adoption of the present resolution;

4. *Decides* to encourage the maximum assistance, in cash and in kind, from all Member States to ensure that activities under section C of resolution 687 (1991) are undertaken effectively and expeditiously; decides also, however, that the Government of Iraq shall be liable for the full costs of carrying out the tasks authorized by section C; and requests the Secretary-General to submit to the Council within thirty days for approval recommendations as to the most effective means by which Iraq's obligations in this respect may be fulfilled.

³²¹ S/PV.2994, pp. 3-12.

The second draft resolution was also adopted unanimously, as resolution 700 (1991), which reads:

The Security Council,

Recalling its resolutions 661 (1990) of 6 August 1990, 665 (1990) of 25 August 1990, 670 (1990) of 25 September 1990 and 687 (1991) of 3 April 1991,

Taking note of the report submitted by the Secretary-General on 2 June 1991 pursuant to paragraph 26 of resolution 687 (1991),

Acting under Chapter VII of the Charter of the United Nations,

1. *Expresses its appreciation* to the Secretary-General for his report of 2 June 1991;

2. *Approves* the guidelines to facilitate full international implementation of paragraphs 24, 25 and 27 of Security Council resolution 687 (1991);

3. *Reiterates* its call upon all States and international organizations to act in a manner consistent with the guidelines;

4. *Requests* all States, in accordance with paragraph 8 of the guidelines, to report to the Secretary-General within forty-five days on the measures they have instituted for meeting the obligations set out in paragraph 24 of resolution 687 (1991);

5. *Entrusts* the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait with the responsibility, under the guidelines, for monitoring the prohibitions against the sale or supply of arms to Iraq and related sanctions established in paragraph 24 of resolution 687 (1991);

6. *Decides* to remain seized of the matter and to review the guidelines at the same time as it reviews paragraphs 22 to 25 of resolution 687 (1991) as set out in paragraph 28 thereof.

Speaking after the vote, the representative of Yemen stated that, although his delegation had voted in favour of resolution 699 (1991), it wished to note two points. As Yemen had previously made clear, it had wanted the question of disarmament to be considered in a broader perspective. To deal with this problem by addressing one country exclusively would lead to a military imbalance in the region, thus jeopardizing peace and security there. It hoped, therefore, that the resolution was just the beginning and that similar measures would be taken regarding weapons of mass destruction in the Middle East. Secondly, with regard to paragraph 4 of the resolution, Yemen believed that it was unjust to call upon Iraq to defray the costs of destroying those weapons, because the process of destruction itself had been imposed on Iraq and that country was experiencing a critical economic situation

as a result of the embargo and the sanctions imposed on it.³²²

The representative of Cuba also expressed concern with some elements of resolution 699 (1991). First, the Secretary-General's plan did not include a timetable for the destruction or removal of the weapons and materials in Iraq referred to in resolution 687 (1991). Moreover, while as a matter of general principle Cuba believed that each country should bear all the costs of destroying its own weapons, it urged that Iraq's capacity to pay be borne in mind, given the sanctions regime still in place and the fact that once it was lifted Iraq would have to contribute to the compensation fund. Commenting on resolution 700 (1991), the representative of Cuba said that the task of supervising compliance with the arms embargo against Iraq should have been entrusted to an organ set up for that purpose, not to the Committee established to supervise economic sanctions. His country was convinced that the economic sanctions should speedily be lifted whereas the military sanctions embodied in the arms embargo could last for quite a long time. It believed that during the period in which the two types of sanctions were dealt with by the same body, there would be various technical difficulties, which would bring excessive pressure to bear on the so-called Committee on sanctions.³²³

**Decision of 26 June 1991 (2995th meeting):
adjournment of the meeting**

By a letter dated 26 June 1991 addressed to the President of the Security Council,³²⁴ the Secretary-General transmitted a letter of the same date from Mr. Rolf Ekeus, Executive Chairman of the United Nations Special Commission. The latter reported that, on 23 and 25 June 1991, Iraqi authorities had denied an IAEA/Special Commission nuclear inspection team access to facilities within the Abu Gharaib army barracks, designated for urgent inspection by the Special Commission. When finally allowed access on 26 June, the team had found no trace of either the activities involving cranes, forklifts and trucks, or the objects it had observed from a distance while awaiting entry.

At its 2995th meeting, held on 26 June 1991 in accordance with the understanding reached in its prior consultations, the Council included the letter of the Secretary-General in its agenda. The representative of Iraq was invited, at his request, to participate in the discussion, without the right to vote.

The representative of the United States stated that the Government of Iraq had obstructed the work of the inspection team in carrying out the mandate to implement the destruction, removal or rendering useless of Iraq's weapons of mass destruction. It was clear that Iraq was engaged in nuclear deception. The United States was deeply dismayed by Iraq's unmistakable flouting of its obligations under Security Council resolution 687 (1991). There was ample evidence from multiple sources that Iraq had been conducting a covert nuclear programme that had indicated activities related to the production of nuclear-weapon-usable material. The United States knew that Iraq had been carrying out its nuclear programme at a series of sites. Prior to the IAEA/Special Commission inspections, Iraq had begun to dismantle its nuclear infrastructure. Some of the equipment had been moved to the Abu Gharaib site. The Special Commission and IAEA had been fully briefed on that information and on the fact that the Abu Gharaib facility was being used as a temporary storage site for equipment from Iraq's undeclared uranium-enrichment programme. Iraq was required under resolution 687 (1991) to declare and make such equipment available for inspection. Instead, that equipment had been removed.

The speaker added that his country had indisputable evidence, drawn from many sources, that Iraq had been seeking to produce unsafeguarded nuclear material and to acquire nuclear weapons, contrary to its obligations under the Non-Proliferation Treaty and its full-scope safeguards agreement with IAEA. If resolution 687 (1991) was to have any meaning, the Council had to ensure that Iraq granted the joint IAEA/Special Commission inspection team full and immediate access to designated sites. The Council had also to ensure that Iraq provided a complete declaration of all of its nuclear-weapon-related items. There was strong evidence that the Iraqis had attempted to hide substantial portions of their missile and chemical munition infrastructure from access by the Special Commission. He further noted that the Council had recently completed a review of Iraq's policies and practices and in particular its

³²² *Ibid.*, pp. 13-16.

³²³ *Ibid.*, pp. 17-23.

³²⁴ S/22739.

performance record regarding implementation of resolution 687 (1991). Wisely, the Security Council had made no decision to lift the economic sanctions that remained in place against Iraq. So long as Iraq failed to comply fully and unequivocally with the requirements of resolution 687 (1991), the Council should not consider altering those sanctions.³²⁵

Several other Council members expressed grave concern at Iraq's obstruction of the inspection team and its evident attempts to conceal equipment and other objects that it was required to open to inspection.³²⁶ They demanded Iraq's full compliance with the provisions of resolution 687 (1991).

The representative of Iraq maintained that his country had accepted resolution 687 (1991) and had done its best to implement all its requirements and obligations. Iraq had extended full cooperation to the IAEA mission. The mission had visited a number of sites and only the last one could not be made available for practical reasons — the inspection requested fell on an official holiday, and the team was asked to postpone its visit. It was a well-known practice of all countries that military sites could not be visited without approval through normal procedures. Obtaining the necessary permission was unavoidably delayed because of the destruction of Iraq's entire communications system.³²⁷

The meeting was then adjourned, with the President of the Council inviting the members of the Security Council to attend informal consultations immediately afterwards.

**Decision of 28 June 1991 (2996th meeting):
statement by the President**

By a letter dated 28 June 1991 addressed to the President of the Security Council,³²⁸ the Secretary-General transmitted a letter of the same date from Mr. Ekeus, Executive Chairman of the Special Commission, who informed the Council that on 28 June 1991 the Iraqi military authorities had denied an IAEA/Special Commission team immediate access to a transportation facility east of Fallujah. While awaiting permission to enter, the team had observed

vehicles within the compound, loaded with objects that it had specifically wanted to inspect, leaving through an exit to the south. When the team had attempted to photograph the vehicle movement, the Iraqi military had fired small arms into the air.

At its 2996th meeting, on 28 June 1991, the Security Council resumed its discussion of the situation between Iraq and Kuwait, and included in its agenda the letters from the Secretary-General dated 26 and 28 June 1991.

The President stated that, following consultations among the members of the Security Council, he had been authorized to make the following statement on behalf of the Council:³²⁹

The members of the Security Council have learned with grave concern of an incident which occurred today when Iraqi military authorities denied a joint International Atomic Energy Agency/Special Commission nuclear inspection team immediate and unimpeded access to a site designated for inspection by the Special Commission under paragraphs 9 and 13 of Security Council resolution 687 (1991) of 3 April 1991. In the course of this incident, the Iraqi military did not comply with a request by the Acting Chief Inspector that there should be no movement or transport of equipment pending inspection. The Iraqi military fired small arms into the air when members of the team were endeavouring to photograph loaded vehicles leaving the site. This incident followed earlier incidents on 23 and 25 June 1991 when the Iraqi military authorities denied the nuclear inspection team access to certain facilities at another designated site.

On 26 June 1991, the Council held a meeting to consider the incidents of 23 and 25 June, at which time the Permanent Representative of Iraq confirmed that Iraq had accepted resolution 687 (1991) and was doing its best to implement all the requirements and obligations imposed on it by the resolution. He further asserted that Iraq was cooperating with all United Nations missions, including the Special Commission. The President subsequently conveyed the Council's serious concern regarding the incidents to the Government of Iraq.

The members of the Council strongly deplore the incidents of 23, 25 and 28 June, and in this connection condemn the conduct of the Iraqi authorities. All these incidents constitute flagrant violations of resolution 687 (1991) and of the undertakings contained in the exchange of letters between the Secretary-General and the Minister for Foreign Affairs of Iraq governing the status, privileges and immunities of the Special Commission and of the inspection teams mandated under the Security Council resolution. Furthermore, these incidents demonstrate Iraq's failure to abide by its solemn undertakings to comply with all the provisions of resolution 678 (1991).

³²⁵ S/PV.2995, pp. 6-11.

³²⁶ *Ibid.*, pp. 11-12 (France); pp. 13-15 (Belgium); pp. 14-15 (Austria); p. 16 (United Kingdom); pp. 17-18 (Ecuador); and pp. 18-21 (Romania).

³²⁷ *Ibid.*, pp. 21-27.

³²⁸ S/22743.

³²⁹ S/22746.

The members of the Council have decided to ask the Secretary-General to send a high-level mission to Baghdad immediately to meet with the highest levels of the Iraqi Government to convey the Council's urgent demand for unequivocal assurances that the Government will take all necessary measures to ensure that no hindrances are placed in the way of the discharge of the Special Commission's mandate and that it will accord full cooperation, including immediate and unimpeded access, to the inspection teams in compliance with Iraq's obligations and commitments vis-à-vis the United Nations and the International Atomic Energy Agency. The members of the Council have also stressed that the Government must furnish the high-level mission with unconditional guarantees for the safety and security of all personnel engaged in the performance of functions in connection with resolution 687 (1991). The mission, composed of the Director General of the International Atomic Energy Agency, the Executive Chairman of the Special Commission and the Under-Secretary-General for Disarmament Affairs, will depart New York this evening, 28 June 1991.

At this time, the members of the Council call upon Iraq to grant the International Atomic Energy Agency/Special Commission nuclear inspection team currently in Iraq immediate and unimpeded access to the objects which the team had endeavoured to inspect on 28 June 1991 and any other site deemed necessary.

The members of the Council request the high-level mission to report to it at the earliest opportunity, through the Secretary-General, on the results of its meetings with the highest levels of the Iraqi Government and, in particular, on such further undertakings by the Government to ensure compliance at all levels, including local military and civilian authorities, with Iraq's obligations under resolution 687 (1991).

The members of the Council wish to make it clear that the Security Council remains seized of this matter and that any recurrence of non-compliance would have serious consequences.

The members of the Council reiterate their views expressed in resolution 687 (1991) of the threat that all weapons of mass destruction pose to peace and security in the Middle East and of the need to work towards the establishment in the Middle East of a zone free of such weapons.

**Decision of 5 August 1991: statement by
the President**

Following informal consultations held on 5 August 1991, the President of the Security Council made the following statement to the press, which was subsequently circulated in a letter dated 6 August 1991 from the President of the Council addressed to the Secretary-General:³³⁰

³³⁰ S/22904; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1991*, p. 20.

The members of the Security Council held informal consultations on 5 August pursuant to paragraph 28 of resolution 687 (1991) of 3 April 1991, paragraph 6 of resolution 700 (1991) of 17 June 1991 and paragraph 21 of resolution 687 (1991).

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraphs 22 to 25, as referred to in paragraph 28 of resolution 687 (1991); in paragraph 6 of resolution 700 (1991); and in paragraph 20, as referred to in paragraph 21 of resolution 687 (1991).

**Decisions of 15 August 1991 (3004th meeting):
resolutions 705 (1991), 706 (1991) and
707 (1991)**

At its 3004th meeting, held on 15 August 1991 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation between Iraq and Kuwait. Following the adoption of the agenda, the representatives of Iraq and Kuwait were invited, at their request, to participate in the discussion without the right to vote.

The President of the Council (Ecuador) drew the attention of the Council members to three draft resolutions, the first prepared in the course of prior consultations;³³¹ the second submitted by Belgium, France, the Union of Soviet Socialist Republics, the United Kingdom and the United States;³³² and the third submitted by France, the Union of Soviet Socialist Republics, the United Kingdom and the United States.³³³

The representative of Kuwait stated that Iraq's aggression against Kuwait had not been undertaken in order to settle any political, economic or border dispute, as Iraq had claimed at the beginning, but the aggression was an expansionist act. The Security Council had responded effectively to the crisis and fulfilled its responsibility, adopting resolutions to halt the aggression and mitigate the consequences of the crisis, to restore usurped rights and to ensure respect for existing conventions and boundaries. The international community had called upon Iraq to assume its responsibilities in order to put a complete and total end to its aggression and to safeguard the rights of the countries subjected to its aggression. The

³³¹ S/22940; subsequently adopted as resolution 705 (1991).

³³² S/22941; subsequently adopted as resolution 706 (1991).

³³³ S/22942; subsequently adopted as resolution 707 (1991).

Council had called for a restoration of law based on justice and the tenets of the Charter. The claims of Kuwait, of the Security Council and of the international community were the basis for lifting the sanctions against Iraq. Those claims were: (1) the immediate and total return of all prisoners, Kuwaitis and Kuwait residents; (2) elimination of all weapons of mass destruction; (3) determination of the boundary between Iraq and Kuwait in accordance with the 1932 Convention; (4) return of all assets stolen by Iraq from Kuwait; (5) compensation for damages incurred by Kuwait and its residents. He added that Iraq had agreed to those claims by accepting the relevant Security Council resolutions. However, Iraq seemed not to have learned from the lesson it had been given. It had refused to assume its obligations using unacceptable pretexts and illegal grounds for its actions. That might create a dangerous precedent in international relations by allowing an aggressor, after his defeat, to enjoy the fruits of his aggression, or allowing that aggressor to get away without assuming responsibility for the aggression. Iraq should be aware that there was a link between the fulfilment of its obligations and the lifting of sanctions. But despite the humanitarian and material disasters that had befallen Iraq, the policies of the Government of Iraq that had led to the crisis were continuing. They were still at the basis of the tragedy of the Iraqi people, which was now, as the speaker put it, the object of aggression “by the Iraqi regime, a regime that killed Iraqis both in the north and in the south”.

The speaker went on to say that Iraq’s crimes came within the terms of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, adopted by the General Assembly on 26 November 1968. That Convention specifically stipulated that the effective punishment of such crimes was an important element in preventing their repetition, in the protection of human rights and fundamental freedoms, the furtherance of cooperation among peoples and the promotion of international peace and security. He expressed the hope that the Security Council or an organ of its creation would undertake an inquiry regarding those crimes by Iraq during its occupation of Kuwait, when it oppressed the Kuwaiti people and wreaked destruction on the environment of the region. Those war crimes against mankind were detrimental to peace and were among the worst crimes in international law. The sanctions imposed by the Security Council under its resolutions

did not constitute war against Iraq nor did they arise out of a vacuum. They represented a legitimate collective action in keeping with the Charter. It had been implemented against a member of the international community whose regime was violating Security Council resolutions. Iraq had exposed international peace and security in the Gulf and throughout the world to danger; that danger would continue, and the region would not recover its stability until the Iraqi regime was placed under effective international control. The sanctions did not have to be lifted until Iraq ceased to deceive the international community and violate its resolutions. He hoped that the resolutions to be adopted by the Security Council would lead to positive action by consolidating the activities of the Secretary-General and the International Committee of the Red Cross, especially since under modern standards the detention of innocent victims in unsafe conditions constituted a crime against humanity.³³⁴

The representative of Iraq presented the position of his Government on the three draft resolutions before the Council. Regarding draft resolution S/22940, he explained that Iraq’s foreign-currency revenue was almost totally dependent on its oil exports. On the basis of the production capacity of Iraqi oil fields, those exports over the next five years would not reach the level defined in July 1990 by the Organization of the Petroleum Exporting Countries, because of the destruction inflicted by aerial bombardment on Iraqi oil production and exporting facilities. With its current and expected financial resources during 1991 and thereafter, Iraq could not on its own restore the social and economic life that had prevailed before the events of January 1991. It would take intensive world efforts to compensate Iraq for the unjust damages inflicted by the aerial bombing of its civilian facilities and economic structure. Iraq therefore requested a grace period to face the major problems stifling its economy which were threatening to weaken the Iraqi people and its future generations. Iraq had also requested a decrease in the ceiling of the deduction so as not to exceed 10 per cent of its total oil revenues.

He added that the second draft resolution, contained in document S/22941, was supposed to meet the humanitarian requirements of the Iraqi people but actually aimed at exploiting them and imposing on

³³⁴ S/PV.3004, pp. 6-21.

Iraq's economy new financial sanctions and restrictions which had not been mentioned before. The provisions of the draft impinged on Iraqi national sovereignty and imposed a foreign guardianship on its people, thus depriving the legitimate Government of its powers and responsibilities with respect to its citizens. It gave foreign Powers the right to control Iraq's natural resources and subordinated the humanitarian objective of the inter-agency mission to suspect political motives. It undermined the provisions of resolution 687 (1991) and converted the partial lifting of the sanctions into colonialist restrictions that would rob Iraq of its rights to full sovereignty, interfere in its internal affairs, plunder its oil wealth and usurp its right to dispose of its own funds. He pointed out that the text should have sought to accommodate the proposal for the sale of oil to finance urgent humanitarian relief; instead, it allowed other States, through a slow and complicated mechanism, to purchase limited amounts of Iraqi oil. It laid stress not on humanitarian relief, but on the payment of sums for the expenses of the Special Commission dealing with the destruction of weapons, the Iraq-Kuwait Border Demarcation Commission and the United Nations Compensation Fund and for expenses incurred by the restitution of Kuwaiti property. The concept of the draft ran counter to the concept of sovereignty assigned by the Charter. Moreover, it constituted a grave precedent with regard to the humanitarian role of the United Nations.

Touching briefly on draft resolution S/22942, the speaker stated that he had expected the expression of satisfaction on the part of the Security Council for the cooperation enjoyed by the international teams in Iraq, but not a new resolution condemning Iraq for an isolated incident connected with the visit of the second inspection team.³³⁵

The President indicated that the Council was ready to proceed to vote on the draft resolutions before it, and said he would put them to the vote in the following order: S/22940, S/22941 and S/22942.

Speaking before the vote, the representative of Yemen commented on draft resolution S/22941. He emphasized that a full year after the imposition of comprehensive sanctions against Iraq, the Security Council was facing a humanitarian problem of tragic dimensions. On 15 July 1991, Prince Sadruddin Aga

Khan, who headed the inter-agency mission, submitted a comprehensive report on the sad human situation in Iraq. It was regrettable that the sanctions Committee, which had heard an oral report from Prince Sadruddin and other members of his mission, had been unable to take a decision on that matter. A full month after the submission of the report, the Council was seized of a draft resolution, which authorized the exemption of the sale of some Iraqi oil for a limited period of six months. Although the draft resolution would have ultimately allowed needed medicine and food to reach Iraq, it raised many questions of principle. First, there was no justification for submitting a special draft resolution on the humanitarian aspects of the situation in Iraq when the sanctions Committee possessed a mandate under paragraph 23 of resolution 687 (1991) to take decisions on that subject and to permit Iraq to export oil exclusively to meet humanitarian needs. Second, the complicated conditions in the draft resolution would lead to the creation of bureaucratic mechanisms which would delay the timely arrival of foodstuffs and medicines to Iraq. There was no reason why the Secretariat should be involved in technical and commercial operations adding to the burdens of the Organization. Third, there was no reason why that humanitarian draft resolution should be based on Chapter VII of the Charter. That question acquired a special significance in view of what might happen in the future and the position that the Council might take should Iraq reject the export of oil in accordance with the stipulated conditions. Fourth, there was no reason why the draft resolution should confuse the special humanitarian situation of millions of innocent Iraqis with financial matters related to the recovery of the cost of the Special Commission and IAEA and the Iraq-Kuwait Boundary Demarcation Commission. The Council should allow the sale of some shipments of Iraqi oil to meet the costs of international organizations. With its mandate to serve peace and security, the Council should not allow the spread of famine, which might lead to mass migrations across international borders, in addition to the possibility of instability in Iraq. That would ultimately result in jeopardizing peace and security in the area. The Council should not be used to achieve ends other than those based on, and conforming to, the Charter.³³⁶

The representative of Cuba noted that draft resolution S/22941, which claimed to be humanitarian

³³⁵ Ibid., pp. 22-50.

³³⁶ Ibid., pp. 51-60.

in connection with the economic sanctions regime, in fact consolidated the sanctions. The Council was invited to add medicine, medical supplies and foodstuffs to the sanctions regime, supposedly through an authorization subject to certain controls for the export of Iraqi oil and the acquisition of some of those supplies, but actually under what Cuba regarded as an unjustifiable and strict control system. The Council was faced with a situation which clearly suggested the need for the international community to show sensitivity with respect to the various and repeated reports emphasizing the gravity of the humanitarian situation in Iraq. It was quite unacceptable to try to use health-related supplies as instruments to attain certain political objectives. Cuba did not believe that Chapter VII of the Charter, or indeed any other Chapter of the Charter, authorized the Council to take upon itself, or to entrust to the Secretary-General, certain functions and responsibilities, which were clearly a breach of the principle of non-intervention in the internal affairs of States and the principle of the sovereign equality of States. The establishment of the proposed mechanism would really mean appropriating elements of Iraqi sovereignty and would seek to apply to Iraq a type of trusteeship system, which was entirely contrary to the letter and spirit of the Charter.³³⁷

At the same meeting the draft resolution contained in document S/22940 was put to the vote and adopted unanimously as resolution 705 (1991), which reads:

The Security Council,

Having considered the note of 30 May 1991 which the Secretary-General submitted pursuant to paragraph 13 of his report of 2 May 1991 and which was also annexed to his letter of 30 May 1991 addressed to the President of the Security Council,

Acting under Chapter VII of the Charter of the United Nations,

1. *Expresses its appreciation* to the Secretary-General for his note of 30 May 1991;

2. *Decides* that, in accordance with the suggestion made by the Secretary-General in paragraph 7 of his note, compensation to be paid by Iraq, as arising from section E of resolution 687 (1991) of 3 April 1991, shall not exceed 30 per cent of the annual value of its exports of petroleum and petroleum products;

³³⁷ *Ibid.*, pp. 63-71.

3. *Decides also*, in accordance with paragraph 8 of the Secretary-General's note, to review the figure established in paragraph 2 above from time to time in light of data and assumptions contained in the Secretary-General's letter of 30 May 1991 and other relevant developments.

The draft resolution contained in document S/22941 was then put to the vote. It received 13 votes in favour, 1 against (Cuba) and 1 abstention (Yemen) and was adopted as resolution 706 (1991), which reads:

The Security Council,

Recalling its previous relevant resolutions and in particular resolutions 661 (1990) of 6 August 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 April 1991, 688 (1991) of 5 April 1991, 692 (1991) of 20 May 1991, 699 (1991) of 17 June 1991 and 705 (1991) of 15 August 1991,

Taking note of the report dated 15 July 1991 of the inter-agency mission headed by the Executive Delegate of the Secretary-General for the United Nations Inter-Agency Humanitarian Programme for Iraq, Kuwait and the Iraq/Turkey and Iraq/Iran border areas,

Concerned by the serious nutritional and health situation of the Iraqi civilian population as described in the report and by the risk of a further deterioration of this situation,

Concerned also that the repatriation or return of all Kuwaitis and third-State nationals or their remains present in Iraq on or after 2 August 1990, pursuant to paragraph 2 (c) of resolution 686 (1991) and paragraphs 30 and 31 of resolution 687 (1991), has not yet been fully carried out,

Taking note of the conclusions of the above-mentioned report, and in particular of the proposal for oil sales by Iraq to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs for the purpose of providing humanitarian relief,

Taking note also of the letters dated 14 April, 31 May, 6 June, 9 July and 22 July 1991 from the Minister for Foreign Affairs of Iraq and the Permanent Representative of Iraq to the United Nations to the Chairman of the Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, in regard to the export by Iraq of petroleum and petroleum products,

Convinced of the need to ensure equitable distribution of humanitarian relief assistance to all segments of the Iraqi civilian population through effective monitoring and transparency of the process,

Recalling and reaffirming in this regard its resolution 688 (1991), and in particular the importance which the Council attaches to Iraq's allowing unhindered access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and making available all necessary facilities for their operation, and in this connection stressing the important and continuing importance of the Memorandum of

Understanding between the United Nations and the Government of Iraq signed on 18 April 1991,

Recalling that, pursuant to resolutions 687 (1991), 692 (1991) and 699 (1991), Iraq is required to pay the full costs of the Special Commission and International Atomic Energy Agency in carrying out the tasks authorized by section C of resolution 687 (1991), and that the Secretary-General, in the report of 15 July 1991 that he submitted to the Council pursuant to paragraph 4 of resolution 699 (1991), expressed the view that the most obvious way of obtaining financial resources from Iraq to meet those costs would be to authorize the sale of some Iraqi petroleum and petroleum products; recalling also that Iraq is required to pay its contributions to the United Nations Compensation Fund and half the costs of the Iraq-Kuwait Boundary Demarcation Commission; and recalling further that, in its resolution 686 (1991) and 687 (1991), the Council demanded that Iraq return in the shortest possible time all Kuwaiti property seized by it and requested the Secretary-General to take steps to facilitate this demand,

Acting under Chapter VII of the Charter of the United Nations,

1. *Authorizes* all States, subject to the decision to be taken by the Security Council pursuant to paragraph 5 and notwithstanding the provisions of paragraphs 3 (a), 3 (b) and 4 of resolution 661 (1990), to permit, for the purposes specified in the present resolution, the import, during a period of six months from the date of adoption of the resolution pursuant to paragraph 5, of a quantity of petroleum and petroleum products originating in Iraq sufficient to produce a sum to be determined by the Council following receipt of the report of the Secretary-General requested in paragraph 5, a sum, however, not to exceed 1.6 billion United States dollars, subject to the following conditions:

(a) Approval of each purchase of Iraqi petroleum and petroleum products by the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait, following notification to the Committee by the State concerned;

(b) Direct payment of the full amount of each purchase of Iraqi petroleum and petroleum products by the purchaser in the State concerned into an escrow account to be established by the United Nations and administered by the Secretary-General exclusively to meet the purposes of this resolution;

(c) Approval by the Council, following the report of the Secretary-General requested in paragraph 5, of a scheme for the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), in particular health-related materials, all of which to be labelled to the extent possible as being supplied under this scheme, and for all feasible and appropriate United Nations monitoring and supervision for the purpose of assuring their equitable distribution to meet humanitarian needs in all regions of Iraq and to all categories of the Iraqi civilian population, as well as all feasible and appropriate management

relevant to this purpose, such a United Nations role to be available if desired for humanitarian assistance from other sources;

(d) The total sum of purchases authorized in the present paragraph is to be released by successive decisions of the Committee in three equal portions after the Council has taken the decision provided for in paragraph 5 on the implementation of the present resolution; notwithstanding any other provision of the present paragraph, the Council may review the maximum total sum of purchases on the basis of an ongoing assessment of the needs and requirements;

2. *Decides* that a part of the sum in the account administered by the Secretary-General shall be made available by him to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs, as referred to in paragraph 20 of resolution 687 (1991), and to cover the cost to the United Nations of its activities under the present resolution and of other necessary humanitarian activities in Iraq;

3. *Decides also* that a part of the sum deposited in the account administered by the Secretary-General shall be used by him for appropriate payments to the United Nations Compensation Fund and to cover the full costs of carrying out the tasks authorized by section C of resolution 687 (1991), the full costs incurred by the United Nations in facilitating the return of all Kuwaiti property seized by Iraq, and half the costs of the Iraq-Kuwait Boundary Demarcation Commission;

4. *Decides further* that the percentage of the value of exports of petroleum and petroleum products from Iraq authorized under the present resolution to be paid to the Compensation Fund, as called for in paragraph 19 of resolution 687 (1991) and as defined in paragraph 6 of resolution 692 (1991), shall be the same as the percentage decided by the Council in paragraph 2 of resolution 705 (1991) for payments to the Fund, until such time as the Governing Council of the Fund decides otherwise;

5. *Requests* the Secretary-General to submit to the Council, within twenty days of the date of adoption of the present resolution, a report suggesting decisions to be taken on measures to implement paragraphs 1 (a), (b) and (c), on estimates of the humanitarian requirements of Iraq set out in paragraph 2 and on the amount of Iraq's financial obligations set out in paragraph 3 up to the end of the period of the authorization in paragraph 1, as well as on the method for taking the necessary legal measures to ensure that the purposes of the present resolution are carried out and the method for taking account of the costs of transportation of Iraqi petroleum and petroleum products;

6. *Also requests* the Secretary-General, in consultation with the International Committee of the Red Cross, to submit to the Council within twenty days of the date of adoption of the present resolution a report on activities undertaken in accordance with paragraph 31 of resolution 687 (1991) in connection with facilitating the repatriation or return of all

Kuwaiti and third-State nationals or their remains present in Iraq on or after 2 August 1990;

7. *Calls upon* the Government of Iraq to provide to the Secretary-General and appropriate international organizations on the first day of the month immediately following the adoption of the present resolution and the first day of each month thereafter until further notice, a detailed statement of the gold and foreign currency reserves it holds, whether in Iraq or elsewhere;

8. *Calls upon* all States to cooperate fully in the implementation of the present resolution;

9. *Decides* to remain seized of the matter.

The draft resolution contained in document S/22942 was put to the vote and adopted unanimously as resolution 707 (1991), which reads:

The Security Council,

Recalling its resolution 687 (1991) of 3 April 1991 and its other resolutions on the matter,

Recalling also the letter of 11 April 1991 from the President of the Security Council to the Permanent Representative of Iraq to the United Nations, in which he noted that on the basis of Iraq's written agreement to implement fully resolution 687 (1991), the preconditions for a ceasefire established in paragraph 33 of that resolution had been met,

Taking note with grave concern of the letters dated 26 and 28 June and 4 July 1991 from the Secretary-General to the President of the Security Council, conveying information received from the Executive Chairman of the Special Commission and from the high-level mission to Iraq which establishes Iraq's failure to comply with its obligations under resolution 687 (1991),

Recalling further the statement issued by the President of the Security Council on 28 June 1991 requesting that a high-level mission consisting of the Executive Chairman of the Special Commission, the Director General of the International Atomic Energy Agency and the Under-Secretary-General for Disarmament Affairs be dispatched to meet with officials at the highest levels of the Government of Iraq at the earliest opportunity to obtain written assurance that Iraq will fully and immediately cooperate in the inspection of the locations identified by the Special Commission and present for immediate inspection any of those items that may have been transported from those locations,

Having taken note with dismay of the report of the high-level mission to the Secretary-General on the results of its meetings with the highest levels of the Iraqi Government,

Gravely concerned by the information provided to the Council by the International Atomic Energy Agency on 15 and 25 July 1991 regarding the actions of the Government of Iraq in flagrant violation of resolution 687 (1991),

Gravely concerned also by the letter of 7 July 1991 from the Minister for Foreign Affairs of Iraq to the Secretary-General and subsequent statements and findings that Iraq's notifications of 18 and 28 April were incomplete and that certain related activities had been concealed, facts both of which constitute material breaches of its obligations under resolution 687 (1991),

Noting, having been informed by the letters dated 26 and 28 June and 4 July 1991 from the Secretary-General, that Iraq has not fully complied with all of its undertakings relating to the privileges, immunities and facilities to be accorded to the Special Commission and the Agency inspection teams mandated under resolution 687 (1991),

Affirming that in order for the Special Commission to carry out its mandate under paragraph 9 (b) (i-iii) of resolution 687 (1991) to inspect Iraq's chemical and biological weapons and ballistic missile capabilities and to take possession of the elements referred to in that resolution for destruction, removal or rendering harmless, full disclosure on the part of Iraq as required in paragraph 9 (a) of resolution 687 (1991) is essential,

Affirming also that in order for the International Atomic Energy Agency, with the assistance and cooperation of the Special Commission, to determine what nuclear-weapon-usable material or any subsystems or components or any research, development, support or manufacturing facilities related to them need, in accordance with paragraph 13 of resolution 687 (1991), to be destroyed, removed or rendered harmless, Iraq is required to make a declaration of all its nuclear programmes, including any which it claims are for purposes not related to nuclear-weapon-usable material,

Affirming further that the aforementioned failures of Iraq to act in strict conformity with its obligations under resolution 687 (1991) constitute a material breach of its acceptance of the relevant provisions of that resolution which established a ceasefire and provided the conditions essential to the restoration of peace and security in the region,

Affirming, moreover, that Iraq's failure to comply with the safeguards agreement it concluded with the International Atomic Energy Agency pursuant to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968, as established by the Board of Governors of the Agency in its resolution of 18 July 1991, constitutes a breach of its international obligations,

Determined to ensure full compliance with resolution 687 (1991), and in particular its section C,

Acting under Chapter VII of the Charter of the United Nations,

1. *Condemns* Iraq's serious violation of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to cooperate with the Special Commission and the International Atomic Energy Agency, which constitutes a material breach of the relevant provisions of that resolution which established a ceasefire and provided the conditions essential to the restoration of peace and security in the region;

2. *Also condemns* non-compliance by the Government of Iraq with its obligations under its safeguards agreement with the International Atomic Energy Agency, as established by the Board of Governors of the Agency in its resolution of 18 July 1991, which constitutes a violation of its commitments as a party to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968;

3. *Demands* that Iraq:

(a) Provide without further delay full, final and complete disclosure, as required by resolution 687 (1991), of all aspects of its programme to develop weapons of mass destruction and ballistic missiles with a range greater than one hundred and fifty kilometres and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes, including any which it claims are for purposes not related to nuclear-weapon-usable material;

(b) Allow the Special Commission, the International Atomic Energy Agency and their inspection teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect;

(c) Cease immediately any attempt to conceal, move or destroy any material or equipment relating to its nuclear, chemical or biological weapons or ballistic missile programmes, or material or equipment relating to its other nuclear activities, without notification to and prior consent of the Special Commission;

(d) Make available immediately to the Special Commission, the Agency and their inspection teams any items to which they were previously denied access;

(e) Allow the Special Commission, the Agency and their inspection teams to conduct both fixed-wing and helicopter flights throughout Iraq for all relevant purposes, including inspection, surveillance, aerial surveys, transportation and logistics, without interference of any kind and upon such terms and conditions as may be determined by the Special Commission, and to make full use of their own aircraft and such airfields in Iraq as they may determine are most appropriate for the work of the Commission;

(f) Halt all nuclear activities of any kind, except for the use of isotopes for medical, agricultural or industrial purposes, until the Council determines that Iraq is in full compliance with the present resolution and with paragraphs 12 and 13 of resolution 687 (1991) and the Agency determines that Iraq is in full compliance with its safeguards agreement with the Agency;

(g) Ensure the complete enjoyment, in accordance with its previous undertakings, of the privileges, immunities and facilities accorded to the representatives of the Special Commission and the Agency and guarantee their complete safety and freedom of movement;

(h) Immediately provide or facilitate the provision of any transportation and medical or logistical support requested by the Special Commission, the Agency and their inspection teams;

(i) Respond fully, completely and promptly to any questions or requests from the Special Commission, the Agency and their inspection teams;

4. *Determines* that Iraq retains no ownership interest in items to be destroyed, removed or rendered harmless pursuant to paragraph 12 of resolution 687 (1991);

5. *Requires* that the Government of Iraq forthwith comply fully and without delay with all its international obligations, including those set out in the present resolution, in resolution 687 (1991), in the Treaty on the Non-Proliferation of Nuclear Weapons and in its safeguards agreement with the International Atomic Energy Agency;

6. *Decides* to remain seized of this matter.

Speaking after the vote, the representative of France stressed that the Government of Iraq could not be trusted because it attempted to get around Security Council resolutions, practised deception, prohibited access to certain parts of its territory to United Nations representatives, detained by force Kuwaiti nationals and nationals of other countries and persisted in refusing to allow Prince Sadruddin Aga Khan and the United Nations High Commissioner for Refugees to open humanitarian centres in those places where they were needed. On several occasions, the Council expressed its concern over Iraq's repeated violations of its obligations, either those imposed upon it by resolution 687 (1991) or those deriving from its commitments to IAEA. Non-compliance with those commitments had been established by the Board of Governors of that Agency. It had also indicated its deep concern over Iraq's attempts at deception. The information made available by the Chairman of the Special Commission for the elimination of weapons of mass destruction and by the Director General of IAEA following on-site inspections went overwhelmingly against the Government of Iraq. It appeared that Iraq had been involved in a clandestine research programme intended to get nuclear weapons for Iraq, in flagrant violation of its international obligations.³³⁸

The representative of the United States observed that the resolution which the Council had adopted on compliance with section C of resolution 687 (1991), on inspection and destruction of weapons of mass destruction in Iraq, drew the attention of the world to

³³⁸ *Ibid.*, pp. 72-78.

Iraq's failure to comply with resolution 687 (1991) and its repeated material breaches of its obligations under the Non-Proliferation Treaty. The primary purpose behind the resolution was to strengthen the role of IAEA and the Special Commission in performing their important task of eliminating Iraq's weapons of mass destruction capability and of ensuring that such weapons were not reacquired. The humanitarian resolution intended primarily to get humanitarian assistance to those in Iraq who needed it most. It was not a resolution lifting sanctions; in fact, it would strengthen the sanctions by preventing the Government of Iraq from seeking political and military gains through the misery of the Iraqi people, which it had itself caused. In adopting that resolution, the Council had put the Secretary-General and the Secretariat at the centre of the process of providing humanitarian assistance to Iraq.³³⁹

The representatives of Zimbabwe,³⁴⁰ China³⁴¹ and India³⁴² expressed concern over the humanitarian situation in Iraq, welcomed the steps taken by the Security Council to address the needs of the victims of the Gulf war and emphasized their views that the sovereignty of Iraq had to be respected in the implementation of the decisions of the Council. Concern was expressed by the representatives of the United Kingdom³⁴³ and the Union of Soviet Socialist Republics³⁴⁴ about Iraq's persistent attempts to deceive the international community about its military programmes, in particular with regard to its activities in the nuclear sphere.

**Decision of 19 September 1991
(3008th meeting): resolution 712 (1991)**

On 4 September 1991, the Secretary-General submitted to the Security Council a report pursuant to paragraph 5 of Council resolution 706 (1991).³⁴⁵ The report contained his recommendations for implementing that resolution, which provided for a mechanism whereby Iraqi petroleum and petroleum products could be sold over a six-month period,

primarily to finance Iraqi imports of food, medical supplies and other essential needs.

He recommended, *inter alia*, the following specific measures:³⁴⁶ (a) Iraq would market and sell the petroleum through its oil authority, the State Organization for the Marketing of Oil; (b) contracts would enter into force only on approval by the Committee established by resolution 661 (1990) (sanctions Committee), and the proceeds from the sale of petroleum would be deposited by the purchaser into an escrow account established by the United Nations and administered by the Secretary-General; (c) the sanctions Committee would have ultimate responsibility for monitoring the sale of Iraqi oil, with the assistance of independent inspection agents appointed by the United Nations; and (d) purchases of the supplies to meet humanitarian needs in Iraq would be undertaken by Iraq. Monitoring of the purchases and deliveries would be undertaken by the United Nations with the assistance of inspection agents.

At its 3008th meeting, held on 19 September 1991 in accordance with the understanding reached in its prior consultations, the Security Council included the report of the Secretary-General in its agenda. The representative of Iraq was invited, at his request, to participate in the discussion without the right to vote.

The President (France) drew the attention of the Council members to a draft resolution submitted by Belgium, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom and the United States.³⁴⁷

The representative of Iraq observed that since the Council was considering a draft resolution calling for the implementation of resolution 706 (1991), the shortcomings and contradictions of that resolution automatically applied to the draft resolution. As he saw it, resolution 706 (1991) and the draft resolution under consideration effectively gave Iraq two choices. The first choice involved the maintenance of the state of siege with all the concomitant suffering and starvation of the Iraqi people; the second involved a limited exception to the siege, for which Iraq would in return concede its sovereignty over its oil resources, acceptance of the hegemony of some Security Council members, through United Nations bodies, over Iraq's

³³⁹ *Ibid.*, pp. 78-81.

³⁴⁰ *Ibid.*, pp. 61-62.

³⁴¹ *Ibid.*, pp. 81-82.

³⁴² *Ibid.*, pp. 93-98.

³⁴³ *Ibid.*, pp. 82-86.

³⁴⁴ *Ibid.*, pp. 88-91.

³⁴⁵ S/23006 and Corr.2.

³⁴⁶ *Ibid.*, para. 58.

³⁴⁷ S/23045.

oil reserves, and prevention of Iraq from developing and manufacturing those resources. The second choice, in practice, implied maintaining the economic boycott merely allowing the Iraqi people to obtain the minimum essential commodities necessary to avoid starvation. He believed that some members of the Council fully realized the difficulty of any practical implementation of the draft resolution. He went on to point out what he saw as technical problems in the draft resolution.³⁴⁸

Speaking before the vote, the representative of Yemen stated that, as the draft resolution was an extension of resolution 706 (1991), adopted the month before, the position of his country was similar to that put forward on that occasion. He stated that the draft resolution should not be politicized, as it related to humanitarian questions which transcended the differences that existed in the region. He would accordingly abstain in the vote.³⁴⁹

The representative of Cuba said that his delegation would not be able to vote in favour of the draft resolution for the same reasons as put forward at the time of the adoption of resolution 706 (1991). In his opinion, the Council's approach involved a manipulation of humanitarian issues. It would mean a prolongation and strengthening of the sanctions imposed on Iraq in circumstances which had long been unjustified. The Council was also, in his view, disregarding the principle of sovereign equality of States, and acting in a way that went beyond the attributes conferred upon it by the Charter.³⁵⁰

The draft resolution was then put to the vote. It was adopted by 13 votes in favour, 1 against (Cuba), with 1 abstention (Yemen), as resolution 712 (1991), which reads:

The Security Council,

Recalling its previous relevant resolutions, and in particular resolutions 661 (1990) of 6 August 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 March 1991, 688 (1991) of 5 April 1991, 692 (1991) of 20 May 1991, 699 (1991) of 17 June 1991, and 705 (1991) and 706 (1991) of 15 August 1991,

Expressing its appreciation for the report submitted by the Secretary-General on 4 September 1991 pursuant to paragraph 5 of resolution 706 (1991),

Reaffirming its concern about the nutritional and health situation of the Iraqi civilian population and the risk of a further deterioration of this situation, and underlining the need in this context for fully up-to-date assessments of the situation in all parts of Iraq as a basis for the equitable distribution of humanitarian relief to all segments of the Iraqi civilian population,

Recalling that the activities to be carried out by or on behalf of the Secretary-General to meet the purposes referred to in resolution 706 (1991) and the present resolution enjoy the privileges and immunities of the United Nations,

Acting under Chapter VII of the Charter of the United Nations,

1. *Confirms* the figure mentioned in paragraph 1 of resolution 706 (1991) as the sum authorized for the purpose of that paragraph, and reaffirms its intention to review this sum on the basis of its ongoing assessment of the needs and requirements, in accordance with paragraph 1 (d) of that resolution;

2. *Invites* the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait to authorize immediately, pursuant to paragraph 1 (d) of resolution 706 (1991), the release by the Secretary-General from the escrow account of the first one-third portion of the sum referred to in paragraph 1 above, such release to take place as required subject to the availability of funds in the account and, in the case of payments to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs that have been notified or approved in accordance with existing procedures, subject to compliance with the procedures laid down in the report of the Secretary-General as approved in paragraph 3 below;

3. *Approves* the recommendations contained in paragraphs 57 (d) and 58 of the Secretary-General's report;

4. *Encourages* the Secretary-General and the Committee to cooperate, in close consultation with the Government of Iraq, on a continuing basis to ensure the most effective implementation of the scheme approved in the present resolution;

5. *Decides* that petroleum and petroleum products subject to resolution 706 (1991) shall, while under Iraqi title, be immune from legal proceedings and not be subject to any form of attachment, garnishment or execution, and that all States shall take any steps that may be necessary under their respective domestic legal systems to assure this protection and to ensure that the proceeds of sale are not diverted from the purposes laid down in resolution 706 (1991);

6. *Reaffirms* that the escrow account to be established by the United Nations and administered by the Secretary-General to meet the purposes of resolution 706 (1991) and the present resolution, like the United Nations Compensation Fund established by resolution 692 (1991), enjoys the privileges and immunities of the United Nations;

³⁴⁸ S/PV.3008, pp. 3-11.

³⁴⁹ *Ibid.*, pp. 11-12.

³⁵⁰ *Ibid.*, pp. 12-13.

7. *Reaffirms also* that the inspectors and other experts on mission for the United Nations, appointed for the purpose of the present resolution, enjoy privileges and immunities in accordance with the Convention on the Privileges and Immunities of the United Nations, and demands that Iraq allow them full freedom of movement and all necessary facilities;

8. *Confirms* that funds contributed from other sources may, if desired, in accordance with paragraph 1 (c) of resolution 706 (1991), be deposited into the escrow account as a sub-account and be immediately available to meet Iraq's humanitarian needs as referred to in paragraph 20 of resolution 687 (1991) without any of the obligatory deductions and administrative costs specified in paragraphs 2 and 3 of resolution 706 (1991);

9. *Urges* that any provision to Iraq of foodstuffs, medicines or other items of a humanitarian character, in addition to those purchased with the funds referred to in paragraph 1 above, be undertaken through arrangements that assure their equitable distribution to meet humanitarian needs;

10. *Requests* the Secretary-General to take the actions necessary to implement the above decisions, and authorizes him to enter into any arrangements or agreements necessary to accomplish this;

11. *Calls upon* States to cooperate fully in the implementation of resolution 706 (1991) and the present resolution, in particular with respect to any measures regarding the import of petroleum and petroleum products and the export of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), and also with respect to the privileges and immunities of the United Nations and its personnel implementing the present resolution, and to ensure that there are no diversions from the purposes laid down in these resolutions;

12. *Decides* to remain seized of the matter.

Following the adoption of the resolution, the representative of the United States emphasized that the limited authorization of the sale of Iraqi oil was being made within the existing sanctions regime, which remained firmly in place. The implementing resolution was a key step towards bringing the Gulf crisis to a close and towards having Iraq meet its responsibilities. He stated that it responded closely to the Secretary-General's report. It set up mechanisms to implement resolution 706 (1991), supported the Secretary-General in his implementation role, and provided for ongoing review and assessment of the needs and requirements in Iraq.³⁵¹

The representative of the Union of Soviet Socialist Republics said he believed that the adoption

³⁵¹ Ibid., pp. 14-18.

of resolution 712 (1991) opened the way to the early implementation of the plan proposed by the Secretary-General for the implementation of resolution 701 (1991). He considered that, in the light of the existing humanitarian situation in Iraq, the resolution responded to the vital interests of the Iraqi people, and expected the Government of Iraq to comply with it scrupulously.³⁵²

The representative of the United Kingdom observed that the report of the Secretary-General, which formed the basis of the resolution just adopted, achieved the necessary balance between a rigorous scheme which would carry out the sense of the Council, as contained in resolution 706 (1991), to ensure that the oil exports went to finance humanitarian supplies and other objectives of the United Nations, and a scheme which would at the same time take account of a number of the concerns expressed by members of the Council and by the Government of Iraq. He was pleased to have been able to be a sponsor of the resolution, because he was convinced that it contained the potential to provide genuine relief to those in Iraq who needed it. Whether it did so or not lay as much in the hands of the Government of Iraq as in anyone else's.³⁵³

The President, speaking in his capacity as the representative of France, welcomed the adoption of resolution 712 (1991), which completed the establishment of the mechanisms that would make it possible to meet the essential needs of the Iraqi population. He hoped that those mechanisms would begin to operate as rapidly as possible in order to achieve the humanitarian objectives that his country had been pursuing.³⁵⁴

Decision of 2 October 1991: statement by the President

Following informal consultations on 2 October 1991, the President of the Security Council made the following statement to the media on behalf of the Council:³⁵⁵

³⁵² Ibid., pp. 18-19.

³⁵³ Ibid., pp. 20-23.

³⁵⁴ Ibid., pp. 22-23.

³⁵⁵ S/23107; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1991*, p. 25.

The members of the Security Council held informal consultations on 2 October 1991 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

**Decision of 11 October 1991 (3012th meeting):
resolution 715 (1991)**

On 2 October 1991, the Secretary-General submitted to the Security Council a report pursuant to resolution 687 (1991), entitled "Plan for future ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991)".³⁵⁶ He recalled that, as outlined in his report of 17 May 1991, the provisions of section C of resolution 687 lent themselves to a three-stage implementation procedure: gathering and assessment of information; disposal of weapons and facilities and all other items specified in paragraphs 8 and 12 of the resolution; and ongoing monitoring and verification of Iraq's compliance. He added that the first stages were being implemented and would continue until their objectives had been achieved.

The Secretary-General stated that the plan submitted in the current report addressed the third stage, ongoing monitoring and verification of Iraq's compliance with its unconditional obligation not to use, retain, possess, develop, construct or otherwise acquire any weapons or related items prohibited under paragraphs 8 and 9 of resolution 687 (1991). Thus, monitoring and verification would need to cover not only military but also civilian sites, facilities, material and other items that could be used or activities that could be involved in contravention of Iraq's obligation under resolution 687 (1991). The plan also incorporated the additional obligations of Iraq under resolution 707 (1991) and the corresponding monitoring and verification activities. He recommended that the plan should enter into force directly upon its approval by the Security Council, which meant that the early stages of its implementation and the later stages of the disposal of existing prohibited weapons, facilities and related items would be conducted simultaneously. With regard to

institutional arrangements, he assumed that, bearing in mind that resolutions 687 (1991) and 707 (1991) had been adopted by the Security Council acting under Chapter VII of the Charter of the United Nations, the monitoring and verification tasks provided for under the plan should be entrusted to an executive body under the authority of the Security Council. That was particularly important, in his view, should any situation arise of non-compliance by Iraq with its obligations under section C of resolution 687 (1991) or under resolution 707 (1991). He accordingly recommended that a compliance unit be organized under the Special Commission to carry out the monitoring and verification tasks provided for under the plan.

By a note dated 20 September 1991,³⁵⁷ the Secretary-General also transmitted to the Security Council a revised plan for future ongoing monitoring and verification of Iraq's compliance with paragraph 12 of section C of resolution 687 (1991) and with the requirements of paragraphs 3 and 5 of resolution 707 (1991) submitted by the Director General of the International Atomic Energy Agency.

At its 3012th meeting, on 11 October 1991, the Council included in its agenda the report of the Secretary-General and his note. The representative of Iraq was invited, at his request, to participate in the discussion without the right to vote.

The President (India) drew the attention of the Council members to a draft resolution submitted by Belgium, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom and the United States.³⁵⁸

The representative of Iraq stated that, although the draft resolution seemed at first sight to be a detailed procedural text regarding the implementation of paragraph 10 of resolution 687 (1991), that was not the case. The draft went far beyond the objectives of that resolution and, contrary to the provisions of the Charter, aimed to put Iraq under the permanent trusteeship of the Special Commission on armaments and to maintain the trade sanctions system indefinitely, contrary to the provisions of that resolution. He added that the draft resolution also sought to establish permanent international mechanisms to tighten control on Iraq's future and prevent it from carrying out

³⁵⁶ S/22871/Rev.1.

³⁵⁷ S/22872/Rev.1 and Corr.1.

³⁵⁸ S/23134; subsequently adopted without change as resolution 715 (1991).

economic and scientific development. The greatest danger, however, was in the plan prepared by the Special Commission contained in the Secretary-General's report, which omitted no detail affecting civilian or military life. All those aspects, together with all Iraqi scientific and educational institutions, would be placed under tight control and severe restrictions. The speaker maintained that Iraq had accepted resolution 687 (1991) and previous resolutions and implemented their provisions in good faith. It had done so in the erroneous belief that the Council, in return, would look at the economic sanctions adopted against it. It was regrettable that, while Iraq had played its part, the Council had not only failed to fulfil its mandate but had tightened its sanctions against Iraq.³⁵⁹

The representative of the United States welcomed the excellent monitoring plans drawn up by the Special Commission and the Director General of IAEA for dealing with a very serious and difficult situation. He recalled that, over the past months, Iraq had continued to hide parts of its nuclear-weapons programme, its chemical-warfare programme, its biological programme and its missile programme. It had continued to block the cooperation that it was committed to give to the Special Commission and IAEA. There was evidence, moreover, that Iraq had been seeking to build nuclear weapons and that it had misused its peaceful nuclear facilities. Several times the Council had found Iraq in violation of its obligations under Council resolutions. He stated that that was why the monitoring and verification plan was required and why it had been so carefully prepared. He trusted that Iraq would abide by the resolution which he hoped would soon be adopted by the Council.³⁶⁰

The representative of the United Kingdom emphasized that the object of the draft resolution was simply to prevent Iraq from breaking in the future the international obligations on weapons of mass destruction which it had so liberally broken in the past.³⁶¹

The draft resolution was then put to the vote and adopted unanimously as resolution 715 (1991), which reads:

The Security Council,

Recalling its resolutions 687 (1991) of 3 April 1991 and 707 (1991) of 15 August 1991 and its other resolutions on this matter,

Recalling in particular that under resolution 687 (1991) the Secretary-General and the Director General of the International Atomic Energy Agency were requested to develop plans for future ongoing monitoring and verification and to submit them to the Security Council for approval,

Taking note of the report and note of the Secretary-General, transmitting the plans submitted by the Secretary-General and the Director General of the Agency,

Acting under Chapter VII of the Charter of the United Nations,

1. *Approves*, in accordance with the provisions of resolutions 687 (1991), 707 (1991) and the present resolution, the plans submitted by the Secretary-General and the Director General of the International Atomic Energy Agency;

2. *Decides* that the Special Commission shall carry out the plan submitted by the Secretary-General, as well as continuing to discharge its other responsibilities under resolutions 687 (1991), 699 (1991) of 17 June 1991 and 707 (1991) and performing such other functions as are conferred upon it under the present resolution;

3. *Requests* the Director General of the Agency to carry out, with the assistance and cooperation of the Special Commission, the plan submitted by him and to continue to discharge his other responsibilities under resolutions 687 (1991), 699 (1991) and 707 (1991);

4. *Decides* that the Special Commission, in the exercise of its responsibilities as a subsidiary organ of the Security Council, shall:

(a) Continue to have the responsibility for designating additional locations for inspections and overflights;

(b) Continue to render assistance and cooperation to the Director General of the Agency, by providing him, by mutual agreement, with the necessary special expertise and logistical, informational and other operational support for the carrying out of the plan submitted by him;

(c) Perform such other functions, in cooperation in the nuclear field with the Director General of the Agency, as may be necessary to coordinate activities under the plans approved by the present resolution, including making use of commonly available services and information to the fullest extent possible, in order to achieve maximum efficiency and optimum use of resources;

5. *Demands* that Iraq meet unconditionally all its obligations under the plans approved by the present resolution and cooperate fully with the Special Commission and the Director General of the Agency in carrying out the plans;

³⁵⁹ S/PV.3012, pp. 2-13.

³⁶⁰ *Ibid.*, pp. 13-14.

³⁶¹ *Ibid.*, pp. 15-17.

6. *Decides* to encourage the maximum assistance, in cash and in kind, from all Member States to support the Special Commission and the Director General of the Agency in carrying out their activities under the plans approved by the present resolution, without prejudice to Iraq's liability for the full costs of such activities;

7. *Requests* the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait, the Special Commission and the Director General of the Agency to develop in cooperation a mechanism for monitoring any future sales or supplies by other countries to Iraq of items relevant to the implementation of section C of resolution 687 (1991) and other relevant resolutions, including the present resolution and the plans approved hereunder;

8. *Requests* the Secretary-General and the Director General of the Agency to submit to the Security Council reports on the implementation of the plans approved by the present resolution, when requested by the Security Council and in any event at least every six months after the adoption of this resolution;

9. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of France stressed the importance of the resolution just adopted. The Council had thereby approved the plan for future ongoing monitoring and verification, which was the only way to ensure that Iraq would no longer be able to pursue its plans, especially those to acquire nuclear weapons. The missions of the Special Commission and IAEA had furnished ample proof of those plans and the international community was duty bound to put an end to them. He observed that the matter lay at the heart of the Security Council's responsibilities. He welcomed the unanimity that had prevailed among the Council members in that regard. He hoped, moreover, that, faced with that determination on the part of the international community, Iraq would understand that it was in its interests to comply without reservation with the obligations incumbent upon it under the plan and the resolution and cooperate with the Council and the various bodies under its authority and responsibility.³⁶²

Decision of 20 December 1991: statement by the President

Following informal consultations on 20 December 1991, the President of the Security

Council made the following statement to the media on behalf of the Council:³⁶³

The members of the Security Council held informal consultations on 6 December 1991 pursuant to paragraph 28 of resolution 687 (1991) of 3 April 1991, paragraph 6 of resolution 700 (1991) of 17 June 1991 and paragraph 21 of resolution 687 (1991). After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraphs 22 to 25, as referred to in paragraph 28 of resolution 687 (1991), in paragraph 6 of resolution 700 (1991), and in paragraph 20, as referred to in paragraph 21 of resolution 687 (1991).

However, with a view to alleviating the humanitarian conditions for the civilian population in Iraq and in order to facilitate the utilization of paragraph 20 of resolution 687 (1991), the Security Council Committee established under resolution 661 (1990) concerning the situation between Iraq and Kuwait is requested to study immediately those materials and supplies for essential civilian and humanitarian needs as identified in the Ahtisaari report with the purpose of drawing up a list of items which may, with the Council's approval, be transferred from the "no objection" procedure to a simple notification procedure. Members of the Council may submit proposals of items for this purpose.

With regard to imports of items subject to prior approval under the "no objection" procedure by the Committee (i.e. items other than food and medicine), any member of the Committee putting forward an objection to such an import will offer a specific explanation at a meeting of the Committee.

The members of the Council are aware of reports received concerning the approximately 2,000 Kuwaitis believed to be still detained in Iraq, access by the International Committee of the Red Cross to all detainees and places of detention, the return of Kuwaiti property, and particularly the return of Kuwaiti military equipment and their bearing upon the present state of Iraqi compliance with resolution 687 (1991).

In light of the above, the Council will request the Secretary-General to prepare a factual report on Iraq's compliance with all the obligations placed upon it by resolution 687 (1991) and subsequent relevant resolutions. This report will be made available to the Council in good time before it undertakes its next review under paragraph 21 of resolution 687 (1991).

In the course of consultations it was noted that resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991 gave to Iraq the possibility for oil sales to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs for the purpose of providing

³⁶² Ibid., pp. 17-18.

³⁶³ S/23305; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1991*, p. 27.

humanitarian relief. However, this possibility has not yet been used.

Decision of 5 February 1992: statement by the President

Following informal consultations on 5 February 1992, the President of the Security Council made the following statement to the media on behalf of the Council:³⁶⁴

The members of the Council held informal consultations on 28 January and 5 February 1992 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991. The members of the Council express their thanks to the Secretary-General for his report of 25 January 1992 on Iraq's compliance with all the obligations placed upon it by resolution 687 (1991) and subsequent relevant resolutions.

After taking note of the Secretary-General's report and hearing all the opinions expressed in the course of the consultations, the President concluded that there was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

In the context of compliance, the Council members note with concern the recent incident at Baghdad, which demonstrates a lack of Iraqi cooperation in complying with the resolutions of the Council.

In connection with the Secretary-General's report on Iraq's compliance with all the obligations placed upon it by resolution 687 (1991) and subsequent relevant resolutions concerning the situation between Iraq and Kuwait, the members of the Council note that while much progress has been made, much remains to be done. There is serious evidence of Iraqi non-compliance over its programmes for weapons of mass destruction and the repatriation of Kuwaitis and other third-State nationals detained in Iraq. There is still much Kuwaiti property to be returned. The members of the Council are disturbed by the lack of Iraqi cooperation. Iraq must implement fully resolution 687 (1991) and subsequent relevant resolutions as was stated in the statement read out by the President on behalf of its members at the 3046th meeting, held on 31 January 1992, with the participation of the heads of State and Government.

The members of the Council note that with a view to alleviating the humanitarian conditions of the civilian population of Iraq and facilitating the utilization of paragraph 20 of resolution 687 (1991) the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait has been requested to prepare a study of those materials and supplies for essential civilian and

³⁶⁴ S/23517; recorded as a Security Council decision in *Resolutions and Decisions of the Security Council, 1992*, pp. 67-68.

humanitarian needs, other than medicines which have not been subject to sanctions and food shipments which have been permitted to move freely, that might be transferred from the "no objection" procedure to a simple notification procedure. The members of the Council also note the report of the Chairman of the Committee in this regard. They express their appreciation for the efforts the Chairman has made to reach a conclusion and encourage him to continue his consultations with the members of the Committee on the study and to report to the Council at an early date.

The members of the Council strongly deplore that the Iraqi authorities have decided and communicated that decision to the Secretariat to discontinue contacts with the Secretariat regarding implementation of resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991, in which the Council gives to Iraq the possibility of oil sales to finance the purchase of foodstuffs, medicines and materials and supplies for essential civilian needs for the purpose of providing humanitarian relief. They underscore that the Government of Iraq, by acting in this way, is forgoing the possibility of meeting the essential needs of its civilian population and therefore bears the full responsibility for their humanitarian problems. They hope that a resumption of these contacts may lead to the early implementation of the scheme set out in those resolutions to enable humanitarian supplies to reach the Iraqi people.

Decision of 19 February 1992: statement by the President

Following informal consultations on 19 February 1992, the President of the Security Council made the following statement on behalf of the Council:³⁶⁵

The members of the Security Council express their gratitude to the Secretary-General for the special report of the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991), submitted to the Council on 18 February 1992.

The members of the Council note that while progress has been made, much still remains to be done to implement the relevant resolutions of the Council. The members of the Council are gravely concerned by Iraq's continued failure to acknowledge all its obligations under Council resolutions 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991, and its continued rejection of the plans of the Secretary-General and of the Director General of the International Atomic Energy Agency as approved by the latter resolution for ongoing monitoring and verification of Iraq's compliance with its obligations under paragraphs 10, 12 and 13 of resolution 687 (1991) of 3 April 1991.

Ongoing monitoring and verification of Iraq's obligations is an integral part of resolution 687 (1991), which established a ceasefire and provided the conditions essential to the restoration

³⁶⁵ S/23609.

of peace and security in the region. Such ongoing monitoring and verification is a step of the utmost importance towards the goal set out in paragraph 14 of that resolution.

Iraq's failure to acknowledge its obligations under resolutions 707 (1991) and 715 (1991), its rejection up until now of the two plans for ongoing monitoring and verification and its failure to provide the full, final and complete disclosure of its weapons capabilities constitute a continuing material breach of the relevant provisions of resolution 687 (1991). Unconditional agreement by Iraq to implement these obligations is one of the essential preconditions to any reconsideration by the Council under paragraphs 21 and 22 of resolution 687 (1991) of the prohibitions referred to in those paragraphs.

The members of the Council support the decision of the Secretary-General to dispatch a special mission headed by the Executive Chairman of the Special Commission to visit Iraq immediately to meet and discuss with the highest levels of the Iraqi Government for the purpose of securing the unconditional agreement by Iraq to implement all its relevant obligations under resolutions 687 (1991), 707 (1991) and 715 (1991). The mission should stress the serious consequences if such agreement to implement is not forthcoming. The Secretary-General is requested to report on the results of the special mission to the Security Council upon its return.

**Decision of 28 February 1992 (3058th meeting):
statement by the President**

On 26 February 1992 the Secretary-General submitted to the Security Council a note,³⁶⁶ in which he referred to the statement made by the President of the Council on 19 February 1992, concerning the dispatch to Iraq of a special mission headed by the Executive Chairman of the Special Commission established under Security Council resolution 687 (1991), "to meet and discuss with the highest levels of the Iraqi Government for the purpose of securing the unconditional agreement by Iraq to implement all its relevant obligations under resolutions 687 (1991), 707 (1991) and 715 (1991)".³⁶⁷ By his note, the Secretary-General transmitted a letter dated 25 February 1992 addressed to him by Mr. Rolf Ekeus, Executive Chairman of the Special Commission, enclosing the report of the Executive Chairman on the proceedings and outcome of the special mission's visit to Baghdad.

The Executive Chairman reported, *inter alia*, that, at a meeting with the Deputy Prime Minister of Iraq on 22 February 1992, it had been agreed that, in order to clarify their respective positions, both sides would

prepare and exchange written statements. The texts of the two statements appeared in appendices I and II of the report. He reported in his conclusions that, after a careful review of the written statement by the Government of Iraq, and taking account of the discussions which had been held, the Executive Chairman had regretfully concluded that at that stage he was not able to report to the Council that he had secured from the highest levels of the Government of Iraq unconditional agreement by Iraq to implement all its relevant obligations under Council resolutions 687 (1991), 707 (1991) and 715 (1991).

At its 3058th meeting, held on 28 February 1992 in accordance with the understanding reached in its prior consultations, the Council included the note by the Secretary-General in its agenda.

The President (United States) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:³⁶⁸

The members of the Security Council express their gratitude to the Secretary-General for the report submitted pursuant to paragraph 9 (b) (i) of resolution 687 (1991) to the Council on 25 February 1992, transmitting the results of the special mission dispatched to Iraq by the Secretary-General pursuant to the statement of the President of the Council of 19 February 1992. The members of the Council approve in full the conclusions of the special mission as contained in the report and in particular its finding that Iraq is not prepared to give its unconditional agreement to implement all of its obligations under resolutions 687 (1991) of 3 April 1991, 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991.

The members of the Council deplore and condemn the failure of the Government of Iraq to provide the special mission with full, final and complete disclosure, as required by resolution 707 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres, including launchers, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes; and the failure of Iraq to comply with the plans for ongoing monitoring and verification presented by the Secretary-General and by the Director General of the International Atomic Energy Agency and approved by resolution 715 (1991). In the statement made by the President on 19 February 1992 prior to the dispatch of the special mission to Iraq, the Council noted that Iraq's behaviour constituted a material breach of resolution 687 (1991). Regrettably this continues to be the case.

Furthermore, the members of the Council equally deplore and condemn Iraq's failure, within the time prescribed by the

³⁶⁶ S/23643.

³⁶⁷ S/23609.

³⁶⁸ S/23663.

Special Commission at the request of Iraq, to commence destruction of ballistic missile-related equipment designated for destruction by the Special Commission. The members of the Council reaffirm that it is for the Special Commission alone to determine which items must be destroyed under paragraph 9 of resolution 687 (1991). Therefore, the Government of Iraq's letter of 28 February 1992 to the Executive Chairman of the Special Commission is unacceptable. Iraq's refusal to implement the determinations of the Special Commission constitutes a further material breach of the relevant provisions of resolution 687 (1991).

The members of the Council demand that Iraq immediately implement all its obligations under Council resolution 687 (1991) and subsequent resolutions on Iraq. The members of the Council require the Government of Iraq to communicate directly to the Council without further delay an authoritative and unconditional acknowledgement of its agreement to accept and implement the above-noted obligations, including specifically to comply with the determination of the Special Commission requiring the destruction of ballistic missile-related equipment. The members of the Council emphasize that Iraq must be aware of the serious consequences of continued material breaches of resolution 687 (1991).

The members of the Council note that an Iraqi delegation is prepared to come to New York as soon as it is invited to do so. The members of the Council have asked its President to extend such an invitation to the delegation to come to New York without further delay. The members of the Council intend in any event to continue their consideration of this question no later than the week beginning 9 March 1992.

**Decision of 19 March 1992 (3061st meeting):
statement by the President**

At its 3061st meeting, held on 19 March 1992 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation between Iraq and Kuwait.

The President (Venezuela) stated that, following consultations among the members of the Security Council, he had been authorized to make the following statement of behalf of the Council:³⁶⁹

The Council welcomes the announcement of the Iraqi authorities that they will resume discussions with the Secretariat concerning implementation of the scheme of sales of Iraqi petroleum and petroleum products, as provided for in resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991, and for the use of the proceeds of such sales in accordance with the Secretary-General's report of 4 September 1991 submitted pursuant to paragraph 5 of Security Council resolution 706 (1991) and the above-mentioned resolutions.

³⁶⁹ S/23732.

The Council also welcomes the Secretary-General's intention that these discussions be organized without delay.

The Council is prepared to authorize the regime for the sale of Iraqi petroleum and petroleum products on the above basis for a like period of time as that specified in these resolutions as soon as the Secretary-General indicates that the Iraqi authorities are prepared to proceed on a date certain with the export of petroleum and petroleum products in accordance with the scheme.

The members of the Council are prepared at an appropriate time to consider possible further extensions of the time based upon Iraq's cooperation with the above and the Council's ongoing assessment of the needs and requirements in accordance with paragraph 1 (d) of resolution 706 (1991).

**Decision of 27 March 1992: statement by the
President**

Following informal consultations on 27 March 1992, the President of the Security Council made the following statement on behalf of the Council:³⁷⁰

The members of the Council held informal consultations on 27 March 1992 pursuant to paragraphs 21 and 28 of resolution 687 (1991) of 3 April 1991 and paragraph 6 of resolution 700 (1991) of 17 June 1991.

After hearing all the opinions expressed in the course of the consultations, the President concluded that there still was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of that resolution, as referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991). The members of the Council expressed the hope that the offers of cooperation recently conveyed by Iraq will be fully matched by actual deeds.

**Decision of 10 April 1992: statement by the
President**

Following informal consultations on 10 April 1992, the President of the Security Council made the following statement on behalf of the Council:³⁷¹

The members of the Council have learned with great concern from the Executive Chairman of the Special Commission of recent developments which appear to call for a halt in and constitute a threat to the safety and security of the Special Commission's aerial surveillance flights over Iraq. The members of the Council wish to point out that the surveillance flights are carried out under the authority of Security Council resolutions 687 (1991) of 3 April 1991, 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991. Reaffirming the right

³⁷⁰ S/23761.

³⁷¹ S/23803.

of the Special Commission to conduct such aerial surveillance flights, the members of the Council call upon the Government of Iraq to take all the necessary steps to ensure that the Iraqi military forces will not interfere with or threaten the security of the flights concerned and to comply with its responsibilities to secure the safety of the Special Commission's aircraft and personnel while flying over Iraq. The members of the Council warn the Government of Iraq of serious consequences which would ensue from any failure to comply with these obligations.

**Decision of 27 May 1992: statement by the
President**

Following informal consultations on 27 May 1992, the President of the Security Council made the following statement on behalf of the Council:³⁷²

The members of the Council held informal consultations on 27 May 1992 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there still was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

**Decision of 17 June 1992: statement by the
President**

Following informal consultations on 17 June 1992, the President of the Security Council made the following statement on behalf of the Council:³⁷³

The members of the Council have noted the letter of 17 April 1992 from the Chairman of the Iraq-Kuwait Boundary Demarcation Commission to the Secretary-General and express their complete support for the work of the Secretary-General and the Boundary Demarcation Commission in implementing paragraph 3 of resolution 687 (1991) of 3 April 1991. They recall in this connection that through the demarcation process the Commission is not reallocating territory between Kuwait and Iraq, but is simply carrying out the technical task necessary to demarcate the precise coordinates of the boundary between Iraq and Kuwait for the first time. The task is being carried out in the special circumstances following Iraq's invasion of Kuwait and pursuant to resolution 687 (1991) and the Secretary-General's report of 2 May 1991 for implementing paragraph 3 of that resolution. They look forward to the completion of the work of the Commission.

The members of the Council have noted with particular concern the letter of 21 May 1992 from the Minister for Foreign Affairs of the Republic of Iraq to the Secretary-General

concerning work of the Commission, which appears to call into question Iraq's adherence to resolution 687 (1991). The members of the Council are concerned in particular that the letter from Iraq of 21 May 1992 may be interpreted as rejecting the finality of the Commission's decisions notwithstanding the terms of resolution 687 (1991) and the Secretary-General's above-mentioned report, both of which were formally accepted by Iraq.

The members of the Council note with dismay that the letter recalls past Iraqi claims to Kuwait without also recalling Iraq's subsequent repudiations of these claims, inter alia, through its acceptance of resolution 687 (1991). They firmly reject any suggestion that tends to dispute the very existence of Kuwait, a State Member of the United Nations.

The members of the Council remind Iraq of its obligations under resolution 687 (1991), in particular paragraph 2 thereof, and under other relevant resolutions of the Council.

The members of the Council also remind Iraq of its acceptance of the resolutions of the Council adopted pursuant to Chapter VII of the Charter of the United Nations, which forms the basis for the ceasefire. They wish to stress to Iraq the inviolability of the international boundary between Iraq and Kuwait being demarcated by the Commission and guaranteed by the Council pursuant to resolution 687 (1991), and the grave consequences that would ensue from any breach thereof.

**Decision of 6 July 1992: statement by the
President**

Following informal consultations on 6 July 1992, the President of the Security Council issued the following statement on behalf of the Council:³⁷⁴

The members of the Council have learned with concern of the refusal of the Government of Iraq to permit a team of inspectors sent to Iraq by the Special Commission to enter certain premises designated by the Commission for inspection.

The members of the Council recall that, under section C, paragraph 9 (b) (i), of resolution 687 (1991), Iraq is required to permit the Special Commission to undertake immediate on-site inspection of any locations designated by the Commission. This obligation is imposed as a result of a decision of the Council, taken under Chapter VII of the Charter of the United Nations. Furthermore, Iraq has agreed to such inspections as a condition precedent to the establishment of a formal ceasefire between Iraq and Kuwait and the Member States cooperating with Kuwait in accordance with resolution 678 (1990) of 29 November 1990. They further recall that by paragraph 3 (b) of resolution 707 (1991) of 15 August 1991, the Council has reaffirmed the relevant provision of resolution 687 (1991) and expressly demanded that Iraq "allow the Special Commission ... and their inspection teams immediate, unconditional, and

³⁷² S/24010.

³⁷³ S/24113.

³⁷⁴ S/24240.

unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect”.

Iraq’s present refusal to permit access to the inspection team currently in Iraq to the premises designated by the Special Commission constitutes a material and unacceptable breach by Iraq of a provision of resolution 687 (1991) which established the ceasefire and provided the conditions essential to the restoration of peace and security in the region. The members of the Council demand that the Government of Iraq immediately agree to the admission of the premises concerned of the inspectors of the Special Commission as required by the Executive Chairman of the Commission, so that the Special Commission may establish whether or not any documents, records, materials, or equipment relevant to the responsibilities of the Commission are located therein.

**Decision of 17 July 1992 (3098th meeting):
statement by the President**

At its 3098th meeting, held on 17 July 1992 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation between Iraq and Kuwait.

The President (Cape Verde) stated that, following consultations among the members of the Security Council, he had been authorized to make the following statement on behalf of the Council:³⁷⁵

The Council deeply deplores the murder of a member of the United Nations Guards Contingent in Iraq on 16 July 1992 in the Governorate of Dohuk. It supports the Secretary-General’s decision to order an immediate and thorough investigation of this appalling crime. Members of the Council wish to express their sincere condolences to the family of the victim, Mr. Ravuama Dakia, and to the Government of Fiji.

The Council wishes to register its profound concern at the deteriorating security conditions affecting the safety and well-being of United Nations personnel in Iraq. It demands that attacks perpetrated against the United Nations Guards Contingent and other humanitarian personnel deployed in Iraq cease immediately and that maximum cooperation be extended by the authorities in the investigation of this crime, as well as in the protection of United Nations personnel.

**Decision of 27 July 1992: statement by the
President**

Following informal consultations on 27 July 1992, the President of the Security Council made the following statement on behalf of the Council:³⁷⁶

³⁷⁵ S/24309.

³⁷⁶ S/24352.

The members of the Security Council held informal consultations on 27 July 1992 pursuant to paragraphs 21 and 28 of resolution 687 (1991) of 3 April 1991 and paragraph 6 of resolution 700 (1991) of 17 June 1991.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of that resolution, as referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991).

**Decision of 26 August 1992 (3108th meeting):
resolution 773 (1992)**

At its 3108th meeting, held on 26 August 1992 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation between Iraq and Kuwait.

The President (China) drew the attention of the Council members to a draft resolution submitted by France, the Russian Federation, the United Kingdom and the United States,³⁷⁷ and read out revisions to the draft resolution in its provisional form.³⁷⁸

Speaking before the vote, the representative of Venezuela emphasized that his country considered that the process of demarcation of the Iraq-Kuwait boundary was being carried out, as pointed out in the draft resolution, in the special circumstances following Iraq’s invasion of Kuwait, which had posed a threat to international peace and security. It was Venezuela’s understanding, therefore, that the draft resolution did not establish a precedent altering the general principle expressed in Article 33 of the Charter that it was the parties directly involved in territorial dispute that should negotiate and reach an appropriate agreement to overcome their differences.³⁷⁹

The representative of Ecuador recalled that, when abstaining in the vote on resolution 687 (1991), his delegation had stated its conviction that Article 36 of the Charter did not grant the Security Council competence under Chapter VII to pronounce itself on the territorial boundary between Iraq and Kuwait or to determine any settlement intended to demarcate that boundary. Ecuador considered that the means used to implement Security Council resolutions could not give

³⁷⁷ S/24488; subsequently adopted as resolution 773 (1992).

³⁷⁸ The revisions were contained in document S/24488.

³⁷⁹ S/PV.3108, p. 3.

the Council powers beyond those set out in the Charter itself, and that those means had to be in strict conformity with the norms of international law. While reiterating all the considerations his country had put forward when it abstained in the vote on resolution 687 (1991), the speaker noted that, in conformity with Article 25 of the Charter, Ecuador did not wish to place any obstacles in the way of actions which the Council might agree under that resolution.³⁸⁰

The representative of Japan said he believed that the demarcation of the boundary between Iraq and Kuwait was essential to maintain peace and security in the region. Acknowledging that any boundary dispute was a very sensitive issue, he stressed that, when a third party became involved in efforts to settle it, it should do so in a manner free of any political motives. His delegation's understanding was that the United Nations Iraq-Kuwait Boundary Demarcation Commission had taken a very technical and scientific approach and had demarcated the boundary on the basis of the historical background, and various documents and maps, and had not been influenced by political considerations.³⁸¹

The draft resolution, as orally revised in its provisional form, was then put to the vote. It received 14 votes in favour, none against and 1 abstention (Ecuador), and was adopted as resolution 773 (1992), which reads:

The Security Council,

Reaffirming its resolution 687 (1991) of 3 April 1991, and in particular paragraphs 2 to 4 thereof, and its resolution 689 (1991) of 9 April 1991,

Recalling the report of the Secretary-General of 2 May 1991 relative to paragraph 3 of Security Council resolution 687 (1991), concerning the establishment of the United Nations Iraq-Kuwait Boundary Demarcation Commission and the subsequent exchange of letters between the Secretary-General and the President of the Security Council of 6 and 13 May 1991,

Having considered the Secretary-General's letter of 12 August 1992 to the President of the Security Council transmitting the further report of the Commission,

Recalling in this connection that through the demarcation process the Commission is not reallocating territory between Iraq and Kuwait but is simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary set out in the "Agreed Minutes between the

State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters" signed by them on 4 October 1963, and that this task is being carried out in the special circumstances following Iraq's invasion of Kuwait and pursuant to resolution 687 (1991) and the Secretary-General's report on the implementation of paragraph 3 of that resolution,

1. *Welcomes* the Secretary-General's letter of 12 August 1992 to the President of the Security Council and the further report of the United Nations Iraq-Kuwait Boundary Demarcation Commission enclosed therewith;

2. *Expresses its appreciation* to the Commission for its work on the demarcation of the land boundary, and welcomes its demarcation decisions;

3. *Welcomes also* the decision of the Commission to consider the eastern section of the boundary, which includes the offshore boundary, at its next session and urges it to demarcate this part of the boundary as soon as possible and thus complete its work;

4. *Underlines* its guarantee of the inviolability of the above-mentioned international boundary and its decision to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991);

5. *Welcomes further* the Secretary-General's intention to carry out at the earliest practicable time the realignment of the demilitarized zone referred to in paragraph 5 of resolution 687 (1991) to correspond to the international boundary demarcated by the Commission, with the consequent removal of the Iraqi police posts;

6. *Urges* the two States concerned to cooperate fully with the work of the Commission;

7. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of India reiterated his delegation's position that it would never support any decision whereby the Security Council would impose arbitrarily a boundary line between two countries. In the particular case before the Council, however, he had noted that what the Council had done was to recognize that a boundary agreed to by Iraq and Kuwait, and embodied in an agreement duly registered with the United Nations, existed, and to call upon them to respect its inviolability. The Council itself was not establishing any new boundary between Iraq and Kuwait, but only making arrangements for the demarcation of an already agreed boundary. It was in that light that his delegation viewed the work of the Boundary Commission.³⁸²

³⁸⁰ Ibid., pp. 3-5.

³⁸¹ Ibid., p. 6.

³⁸² Ibid., pp. 7-8.

The representative of the United States strongly supported the resolution just adopted. He quoted the fourth preambular paragraph, recalling that the Boundary Commission was not reallocating territory between Iraq and Kuwait, but was simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary. He commended the Boundary Commission for having resolutely completed its work on the land boundary. He looked forward to the Secretary-General carrying out the necessary realignment of the demilitarized zone at the earliest practicable time, with the consequent removal of the Iraqi police posts within Kuwaiti territory. He stressed that the resolution was also intended to reassure the Boundary Commission that prior Council resolutions did not preclude demarcation of the offshore boundary, and to urge the Commission to conclude its demarcation of the boundary subject to the Commission's terms of reference set out in the Secretary-General's report of 2 May 1991.³⁸³

The representative of the Russian Federation similarly stressed that the Boundary Commission was demarcating the international boundary historically existing between Iraq and Kuwait. Concluding the process of demarcation was, in his view, an important element in strengthening regional stability. He recalled that, by resolution 687 (1991), the Security Council had guaranteed the inviolability of the boundary.³⁸⁴

Decision of 24 September 1992: statement by the President

Following informal consultations on 24 September 1992, the President of the Security Council made the following statement on behalf of the Council:³⁸⁵

The members of the Security Council held informal consultations on 24 September 1992 pursuant to paragraph 21 of resolution 687 (1991) of 3 April 1991.

After hearing all the opinions expressed in the course of the consultations, the President of the Council concluded that there still was no agreement that the necessary conditions existed for a modification of the regime established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution.

Decision of 2 October 1992 (3117th meeting): resolution 778 (1992)

At its 3117th meeting, held on 2 October 1992 in accordance with the understanding reached in its prior consultations, the Security Council resumed its consideration of the situation between Iraq and Kuwait.

The President (France) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, the Russian Federation, the United Kingdom and the United States,³⁸⁶ which Hungary and Japan had joined in sponsoring.

Speaking before the vote, the representative of China stated that his delegation believed that the following issues — payments to the United Nations Compensation Fund; the costs of carrying out the tasks authorized by section C of resolution 687 (1991); the costs of the Iraq-Kuwait Boundary Demarcation Commission; and the financing of the humanitarian needs of the Iraqi people — should be resolved by making full use of the established United Nations machinery, through the implementation of the Security Council resolutions 706 (1991) and 712 (1991). He noted, in that regard, that the United Nations and the Government of Iraq had, in accordance with those resolutions, held several rounds of negotiations on the export of Iraqi oil and that some progress had been made. He noted further that the Iraqi side had expressed its willingness to resume negotiations to resolve the remaining problems. He hoped that the sides would resume the negotiations soon and reach agreement on the export of Iraqi oil so that the relevant Council resolutions could be effectively implemented. In view of those circumstances, he believed that it was unnecessary to take such an extraordinary measure as the seizure of a country's frozen assets abroad. Such an action concerned the sovereignty of the country concerned and had complicated legal implications. The Chinese delegation thought the Council should be cautious on this matter. It would accordingly abstain in the vote on the draft resolution.³⁸⁷

The representative of Morocco said that his country had welcomed the machinery set up by the Council to ensure the provision of humanitarian aid and other vital needs to the people of Iraq. After long months of hesitation, Iraq and the United Nations

³⁸³ Ibid., pp. 8-9.
³⁸⁴ Ibid., pp. 9-10.
³⁸⁵ S/24584.

³⁸⁶ S/24605.
³⁸⁷ S/PV.3117, pp. 3-5.

seemed to be moving towards a certain degree of cooperation. Unfortunately, however, difficulties encountered at the talks on the implementation of resolutions 706 (1991) and 712 (1991) had led some members of the Council to contemplate a new draft resolution to replace temporarily the provisions of those two resolutions. Morocco would have preferred to remain within the framework of those resolutions and to see more cooperation by the Government of Iraq. It would, nevertheless, vote in favour of the draft resolution in an attempt to create a bridge and renew dialogue. It would do so in the confidence that the measures contemplated by the draft resolution were temporary short-term measures, valid only as long as resolutions 706 (1991) and 712 (1991) were not implemented.³⁸⁸

The draft resolution was then put to the vote. It received 14 votes in favour, none against and 1 abstention (China), and was adopted as resolution 778 (1992), which reads:

The Security Council,

Recalling its previous relevant resolutions and in particular resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991,

Taking note of the letter of 15 July 1992 from the Secretary-General to the President of the Security Council on Iraq's compliance with the obligations placed on it by resolution 687 (1991) of 3 April 1991 and subsequent resolutions,

Condemning Iraq's continued failure to comply with its obligations under relevant resolutions,

Reaffirming its concern about the nutritional and health situation of the Iraqi civilian population, and the risk of a further deterioration of this situation, and recalling in this regard that resolutions 706 (1991) and 712 (1991) provide a mechanism for providing humanitarian relief to the Iraqi population, and that resolution 688 (1991) of 5 April 1991 provides a basis for humanitarian relief efforts in Iraq,

Having regard to the fact that the period of six months referred to in resolutions 706 (1991) and 712 (1991) expired on 18 March 1992,

Deploring Iraq's refusal to cooperate in the implementation of resolutions 706 (1991) and 712 (1991), which puts its civilian population at risk and which results in the failure by Iraq to meet its obligations under relevant Council resolutions,

Recalling that the escrow account provided for in resolutions 706 (1991) and 712 (1991) will consist of Iraqi funds

administered by the Secretary-General which will be used to pay contributions to the United Nations Compensation Fund, the full costs of carrying out the tasks authorized in section C of resolution 687 (1991), the full costs incurred by the United Nations in facilitating the return of all Kuwaiti property seized by Iraq, half the costs of the United Nations Iraq-Kuwait Boundary Demarcation Commission and the cost to the United Nations of implementing resolution 706 (1991) and of other necessary humanitarian activities in Iraq,

Recalling that Iraq, as stated in paragraph 16 of resolution 687 (1991), is liable for all direct damages resulting from its invasion and occupation of Kuwait, without prejudice to its debts and obligations arising prior to 2 August 1990, which will be addressed through the normal mechanisms,

Recalling its decision in resolution 692 (1991) of 20 May 1991 that the requirement for Iraqi contributions to the Compensation Fund applies to certain Iraqi petroleum and petroleum products exported from Iraq before 3 April 1991, as well as to all Iraqi petroleum and petroleum products exported from Iraq after 2 April 1991,

Acting under Chapter VII of the Charter of the United Nations,

1. *Decides* that all States in which there are funds of the Government of Iraq, or its State bodies, corporations, or agencies, that represent the proceeds of sale of Iraqi petroleum or petroleum products, paid for, by or on behalf of the purchaser on or after 6 August 1990, shall cause the transfer of those funds (or equivalent amounts) as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991) provided that this paragraph shall not require any State to cause the transfer of such funds in excess of 200 million United States dollars or to cause the transfer of more than 50 per cent of the total funds transferred or contributed pursuant to paragraphs 1 to 3 of the present resolution and further provided that States may exclude from the operation of this paragraph any funds which have already been released to a claimant or supplier prior to the adoption of the present resolution, or any other funds subject to or required to satisfy the rights of third parties, at the time of the adoption of the present resolution;

2. *Also decides* that all States in which there are petroleum or petroleum products owned by the Government of Iraq, or its State bodies, corporations, or agencies, shall take all feasible steps to purchase or arrange for the sale of such petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds as soon as possible to the escrow account provided for in resolutions 706 (1991) and 712 (1991);

3. *Urges* all States to contribute funds from other sources to the escrow account as soon as possible;

4. *Decides further* that all States shall provide the Secretary-General with any information needed for the effective implementation of the present resolution and that they shall take the necessary measures to ensure that banks and other bodies and persons provide all relevant information necessary to

³⁸⁸ *Ibid.*, pp. 4-6.

identify the funds referred to in paragraphs 1 and 2 above and details of any transactions relating thereto, or the said petroleum or petroleum products, with a view to such information being utilized by all States and by the Secretary-General in the effective implementation of the present resolution;

5. *Requests* the Secretary-General:

(a) To ascertain the whereabouts and amounts of the said petroleum and petroleum products and the proceeds of sale referred to in paragraphs 1 and 2 above, drawing on the work already done under the auspices of the United Nations Compensation Commission, and report the results to the Council as soon as possible;

(b) To ascertain the costs of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991);

(c) To take the following actions:

(i) To transfer to the United Nations Compensation Fund, from the funds referred to in paragraphs 1 and 2 above, the percentage referred to in paragraph 10 below; and

(ii) To use the remainder of funds referred to in paragraphs 1 to 3 above for the costs of United Nations activities concerning the elimination of weapons of mass destruction, the provision of humanitarian relief in Iraq, and the other United Nations operations specified in paragraphs 2 and 3 of resolution 706 (1991), taking into account any preference expressed by States transferring or contributing funds as to the allocation of such funds among these purposes;

6. *Decides* that for so long as oil exports take place pursuant to the system provided in resolutions 706 (1991) and 712 (1991) or to the eventual lifting of sanctions pursuant to paragraph 22 of resolution 687 (1991), implementation of paragraphs 1 to 5 above shall be suspended and all proceeds of those oil exports shall immediately be transferred by the Secretary-General in the currency in which the transfer to the escrow account was made, to the accounts or States from which funds had been provided under paragraphs 1 to 3 above, to the extent required to replace in full the amounts so provided (together with applicable interest), and that, if necessary for this purpose, any other funds remaining in the escrow account shall similarly be transferred to those accounts or States, provided, however, that the Secretary-General may retain and use any funds urgently needed for the purposes specified in paragraph 5 (c) (ii) above;

7. *Decides* that the operation of the present resolution shall have no effect on rights, debts and claims existing with respect to funds prior to their transfer to the escrow account; and that the accounts from which such funds were transferred shall be kept open for retransfer of the funds in question;

8. *Reaffirms* that the escrow account referred to in the present resolution, like the Compensation Fund, enjoys the privileges and immunities of the United Nations, including immunity from legal proceedings, or any forms of attachment, garnishment or execution; and that no claim shall lie at the instance of any person or body in connection with any action taken in compliance with or implementation of the present resolution;

9. *Requests* the Secretary-General to repay, from any available funds in the escrow account, any sum transferred under the present resolution to the account or State from which it was transferred, if the transfer is found at any time by him not to have been of funds subject to the present resolution; a request for such a finding could be made by the State from which the funds were transferred;

10. *Confirms* that the percentage of the value of exports of petroleum and petroleum products from Iraq for payment to the Compensation Fund shall, for the purpose of the present resolution and exports of petroleum or petroleum products subject to paragraph 6 of resolution 692 (1991), be the same as the percentage decided by the Security Council in paragraph 2 of resolution 705 (1991) of 15 August 1991, until such time as the Governing Council of the Compensation Fund may decide otherwise;

11. *Decides* that no further Iraqi assets shall be released for purposes set forth in paragraph 20 of resolution 687 (1991) except to the sub-account of the escrow account established pursuant to paragraph 8 of resolution 712 (1991), or directly to the United Nations for humanitarian activities in Iraq;

12. *Decides* that, for the purposes of the present resolution and other relevant resolutions, the term "petroleum products" does not include petrochemical derivatives;

13. *Calls upon* all States to cooperate fully in the implementation of the present resolution;

14. *Decides* to remain seized of this matter.

Speaking after the vote, the representative of the United States stated that Iraq's refusal to accept resolutions 706 (1991) and 712 (1991) — which created a mechanism to fund United Nations operations mandated by resolution 687 (1991), as well as humanitarian relief operations in Iraq, from Iraqi oil sales — had prevented its own population from receiving humanitarian relief. Moreover, it had jeopardized the continued operations of the United Nations programmes mandated by resolution 687 (1991), which the Security Council had instituted as part of its effort to restore peace and security to the region. He stressed that the resolution just adopted was a reasonable and proportionate response to Iraq's intransigence. It borrowed Iraqi assets to fund the escrow account created by resolutions 706 (1991) and

712 (1991). As those two resolutions originally contemplated, the Secretary-General would then be able to use those funds to pay for United Nations operations, such as the Special Commission, the Compensation Fund and humanitarian programmes. The speaker added that the resolution just adopted did not prevent Iraq from accepting resolutions 706 (1991) and 712 (1991). On the contrary, it provided that if Iraq did so the Iraqi funds borrowed would be returned. While he hoped that Iraq would quickly accept resolutions 706 (1991) and 712 (1991), he firmly believed that the Security Council was right in waiting no longer for Iraq to do so.³⁸⁹

Decision of 24 November 1992: statement by the President

Following informal consultations on 24 November 1992, the President of the Security Council made the following statement on behalf of the Council:³⁹⁰

The members of the Security Council held informal consultations on 24 November 1992 pursuant to paragraphs 21 and 28 of resolution 687 (1991) of 3 April 1991 and paragraph 6 of resolution 700 (1991) of 17 June 1991.

After hearing all the opinions expressed in the course of the consultations, the President concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of that resolution, as referred to in paragraph 28 of that resolution; and in paragraph 6 of resolution 700 (1991).

B. Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council

Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council

Decision of 5 April 1991 (2982nd meeting): resolution 688 (1991)

By a letter dated 2 April 1991 addressed to the President of the Security Council,³⁹¹ the representative of Turkey stated that, owing to the action taken by the Iraqi army against the local population in northern Iraq, approximately 220,000 Iraqi citizens were being driven out of their country and were massed along the Turkish border. He asserted that these actions violated all norms of behaviour towards civilian populations and constituted an excessive use of force and a threat to the region's peace and security. He noted that, in the course of the Iraqi operations, many mortar shells had landed on Turkish territory. He requested that a meeting of the Council be convened immediately to consider the alarming situation and to adopt the necessary measures to put an end to the inhuman repression that was being carried out on a massive scale.

By a letter dated 4 April 1991 addressed to the President of the Security Council,³⁹² the representative of France requested an urgent meeting of the Council to discuss "the serious situation resulting from the abuses being committed against the Iraqi population in several parts of Iraq, and more particularly in the Kurdish-inhabited areas". He stated that, by virtue of its repercussions in the region, the situation constituted a threat to international peace and security.

At its 2982nd meeting, on 5 April 1991, the Council included the two above-mentioned letters in its agenda. After the adoption of the agenda, the Council invited the representatives of Canada, Denmark, Germany, Greece, Iraq, Ireland, the Islamic Republic of Iran, Italy, Luxembourg, the Netherlands, Norway, Pakistan, Portugal, Spain, Sweden and Turkey, at their request, to participate in the discussion without the right to vote.

The President (Belgium) drew the attention of the members of the Council to a draft resolution submitted by Belgium, France, the United Kingdom and the United States.³⁹³ He also drew their attention to several other letters, including two letters dated 3 and 4 April 1991, respectively, from the representative of the Islamic Republic of Iran addressed to the Secretary-

³⁸⁹ Ibid., pp. 8-10.

³⁹⁰ S/24843.

³⁹¹ S/22435.

³⁹² S/22442.

³⁹³ S/22448; subsequently adopted without change as resolution 688 (1991).

General.³⁹⁴ In his letter of 3 April, the representative of the Islamic Republic of Iran informed the Secretary-General that, on 2 April, an Iranian border town had become the target of continuous shelling by Iraqi artillery, and that three Iranian border guards had reportedly been killed. In an attached note verbale to the Iraqi Embassy in Tehran, the Iranian Government had called upon Iraq to cease its hostile behaviour. In his letter of 4 April, the representative of the Islamic Republic of Iran brought to the Secretary-General's urgent attention the desperate situation of Iraqi civilians who were crossing all along the border into his country. He stated that events in Iraq and the method by which the Iraqi military had dealt with the uprising of the Iraqi population had uprooted and driven hundreds of thousands of them towards neighbouring countries. It was estimated that about 500,000 Iraqi civilians would try to cross the border into the Islamic Republic of Iran within the next few days; more than 110,000, including 45,000 in the north, had already crossed the border. The influx of refugees, in addition to its obvious economic and social problems, had caused tension and chaos at the borders. The prolongation of the situation, with its implications for Iraq's neighbours, would have consequences that threatened regional peace and security. The magnitude of the suffering of the Iraqi refugees, its international character, and its consequences for regional peace and security made concerted international reaction by the Security Council a political and humanitarian imperative.

Speaking at the outset of the meeting, the representative of Turkey said that his Government had requested the Council meeting in view of the grave threat to the peace and security of the region posed by the tragic events taking place in Iraq. He stated that, in their attempt to quell the various insurgencies in that country, the Iraqi armed forces had attacked cities and other localities with helicopters, tanks and artillery, causing the inhabitants to flee for their safety. The situation in northern Iraq, adjacent to the borders of Turkey and the Islamic Republic of Iran was especially

alarming. Up to 300,000 people had been driven to the Iraqi-Turkish border; of these, over 100,000 had trekked across the border and were now reported to be in Turkey. Turkey had reports that perhaps 600,000 more people were heading for the Turkish border. The area was remote, mountainous and intensely cold at this time of year. The displaced people — Kurds, Arabs and Turkomans — many of whom were women and children, had come under intense mortar fire. Many of the mortar shells had landed on the Turkish side of the border. The speaker stressed that what was going on in northern Iraq could not be considered an internal affair of that country. Given the scale of the human tragedy and its international implications, the Council could not allow itself to be relegated to the role of a mere spectator. The threat posed by these events to the security of the region was clear. In the chaotic conditions prevailing in northern Iraq, it was conceivable that a million people might be forced to move from that country to Turkey. No country could cope with such a massive influx of destitute people fleeing for their lives. Turkey would not allow its border provinces to be overwhelmed. It expected the Council to take urgent and forceful action to secure an immediate cessation of the repression of the inhabitants of northern Iraq. The Council must send a clear signal to Iraq demanding respect for international borders and respect for human rights. At the same time, Turkey was duty bound to take whatever measures it deemed necessary to prevent the anarchy and chaos reigning on the Iraqi side of the border from spilling over into Turkey.

The speaker added that Turkey was making efforts to provide humanitarian assistance to the needy people at its border and to those who had crossed into Turkey. However, this was an operation that required the full backing and support of the international community. The Secretary-General should be requested to send a humanitarian mission, urgently, to the region to assess the situation, to report on the requirements in terms of humanitarian assistance and to propose arrangements for distributing that assistance to the displaced persons. The speaker concluded by stressing that, in calling for a meeting of the Council, Turkey had no intention of interfering in Iraq's internal affairs. It recognized Article 2 (7) of the Charter and believed that it should be scrupulously observed. Turkey had taken this action because of the threat posed to the stability, security and peace of the region by Iraq's

³⁹⁴ Letters dated 3 and 4 April 1991, respectively, from the representative of the Islamic Republic of Iran addressed to the Secretary-General (S/22436 and S/22447); letter dated 3 April 1991 from the representative of Iraq addressed to the Secretary-General (S/22440); and letter dated 4 April 1991 from the representative of Luxembourg addressed to the Secretary-General (S/22443).

methods of repression. It firmly supported the independence, sovereignty and integrity of Iraq.³⁹⁵

The representative of Pakistan echoed the call for action by the Council. He emphasized at the outset that, as a matter of principle, his country was opposed to any form of interference in the internal affairs of any country, and stated that the territorial integrity of Iraq must be fully respected. At the same time, however, his delegation was deeply concerned at the severe repression being suffered by a large number of people in Iraq who had been forced to flee towards the borders of the Islamic Republic of Iran and Turkey. It was compelled to appear before the Council and appeal for restraint. The speaker called for an end to the military action and urged a peaceful negotiation of the issues. He said that his delegation would support the Council in any action it might take to achieve those ends and prevent the further loss of life.³⁹⁶

The representative of the Islamic Republic of Iran informed the Council that the number of Iraqi refugees in his country had risen from 110,000 to over 180,000 within a day, including about 120,000 in the north. It was estimated that, in the next few days, half a million Iraqi civilians would take refuge in the Islamic Republic of Iran. Other neighbouring countries were faced with similar flows of civilians escaping the Iraqi army. The situation inside Iraq had the potential to further destabilize inter-State relations in the region. It had consequences that threatened regional and international peace and security. Furthermore, no country in the region had the capability to deal with a humanitarian problem of such magnitude. For those reasons, the Government of the Islamic Republic of Iran, which had long refrained from interfering in the internal affairs of Iraq, now saw the need for concerted international effort to deal with both the causes and the symptoms of the crisis. It believed that it was incumbent upon the Council to take immediate measures to put an early end to the suffering of the Iraqi people.³⁹⁷

The representative of Iraq stated that the economic embargo imposed on his country and the bombing campaign waged against it by the United States and its allies since January 1991, which had completely devastated his country's economy and basic

infrastructure, had led many Iraqis to seek food, shelter and medicine in the north. Moreover, his Government had firm evidence of intervention by some neighbouring States in the internal affairs of Iraq, and their attempt to destabilize Iraq and perhaps even to partition it into many mini-States. In all parts of Iraq, saboteurs had fomented dissent, wreaked destruction on many towns and villages and killed many innocent people. The saboteurs had escaped, before facing the Iraqi army, fleeing to safe havens beyond the borders; through terror and intimidation on their way, they had convinced many innocent citizens, particularly in northern Iraq, to leave and go towards the northern and eastern international borders of the country. The Government of Iraq would welcome an international mission to ascertain the facts. It had expected that the Council would wait and find out the true facts from such a mission before taking any action. However, the Council had hastily produced a draft resolution, which constituted a flagrant, illegitimate intervention in Iraq's internal affairs and a violation of Article 2 of the Charter of the United Nations.³⁹⁸

Several Council members, speaking before the vote, spoke in support of the draft resolution. The representative of Romania stated that questions pertaining to various segments or components of populations were matters of the national jurisdiction of States and that the imperative nature of Article 2 (7) of the Charter could not be disregarded. Indeed, his delegation was pleased to see this fundamental provision well reflected in the draft resolution. However, the armed repression of the Iraqi population, which had led to a massive flow of refugees across Iraq's international frontiers, was a legitimate concern of the international community. It was an important humanitarian issue and a real threat to international peace and security, which required the cooperation of all States. Romania stressed that the Council's action in this field should be guided by impartiality and objectivity. The draft resolution under consideration should not create a precedent that could be used or misused in the future for political purposes. The Council should emphasize the humanitarian nature of the issue, addressing it as a special case in the aftermath of the Gulf war. On such an issue, the solidarity of the members of the Council was essential to guarantee the success of its actions. No precedent

³⁹⁵ S/PV.2982, pp. 3-8.

³⁹⁶ *Ibid.*, pp. 8-10.

³⁹⁷ *Ibid.*, pp. 11-15.

³⁹⁸ *Ibid.*, pp. 16-21.

should be established which could erode such solidarity.³⁹⁹

The representative of Ecuador observed that two fundamental principles of the Charter had informed his country's approach to this matter: the respect for human rights, as set out in the preamble; and the principle of non-intervention in the internal affairs of other States. He stated that the situation might perhaps have been a question of internal jurisdiction in Iraq if it had not gone beyond the borders of the country; that is, if it had been solely a case of violation of human rights by a country within its own frontiers. In that case, under Chapter IX of the Charter, the General Assembly or the Economic and Social Council would have been the competent bodies to deal with it. However, the situation under consideration constituted a threat to international peace and security. Therefore, the Council was competent to take a stand and adopt measures to put an end to it, while mentioning clearly in the draft resolution Article 2 (7) of the Charter. The speaker added that Ecuador was encouraged by Iraq's expression of readiness to accept a fact-finding mission; the Secretary-General would certainly have taken note of this offer, and would act under the draft resolution before them.⁴⁰⁰

The representative of Zaire also welcomed the reference to Article 2 (7) in the preamble of the draft resolution. He stressed that the issue raised in the resolution was strictly humanitarian. While the situation had to do with the internal policy of Iraq, it could have consequences that might threaten international peace and security. The Council's intervention was necessary to prevent any deterioration in the political and economic situation in the countries of a region hard hit by two successive wars.⁴⁰¹

The representative of Côte d'Ivoire stated that the recent war in the Gulf, and the consequences thereof, should encourage the Security Council towards taking preventive action as part of its role in maintaining international peace and security. In the case before them, the neighbouring countries had drawn attention to the possibility of a breach of international peace and security and to the danger that the mass exodus posed. Could the Council turn a deaf ear to their cry for help

and take refuge behind the banner of non-interference in the internal affairs of another State?⁴⁰²

Other Council members, on the other hand, voiced objections to the draft resolution. The representative of Yemen said that the draft resolution, although dealing with the humanitarian issues that faced the Iraqi people, focused on only one area and one category of the Iraqi population. It attempted to politicize a humanitarian issue and set a dangerous precedent that could open the way to diverting the Council away from its basic responsibilities for safeguarding international peace and security and towards addressing the internal affairs of countries. The whole issue was not within the competence of the Security Council. The speaker particularly objected to those provisions of the draft resolution which claimed the existence of a threat to international peace and security; referred to political developments within Iraq, in violation of Article 2 of the Charter; and called for internal dialogue, in an obvious attempt to intervene in the internal affairs of Iraq.⁴⁰³

The representative of Zimbabwe recognized that the humanitarian situation was serious and affected neighbouring States. However, his country did not believe that that made the internal conflict in Iraq an issue of which the Council should be seized. The situation had arisen as a result of a domestic political conflict in Iraq and was therefore essentially an internal matter as defined in Article 2 (7) of the Charter. Addressing the situation in the manner suggested by the draft resolution would be inconsistent with the clear parameters of the Council's competence, as provided for in the Charter. The serious humanitarian situation and the question of refugees could be adequately addressed by the appropriate organs of the United Nations, including the specialized agencies.⁴⁰⁴

The representative of Cuba stated that, under Article 24 (2) of the Charter, the specific powers granted to the Security Council for the discharge of its duties were laid down in Chapters VI, VII, VIII and XII. Those Chapters did not include the questions of a humanitarian nature about which concern was being expressed in the Council. The Charter devoted Chapter IX to those questions and, under Article 60, vested

³⁹⁹ Ibid., pp. 22-25.

⁴⁰⁰ Ibid., pp. 32-37.

⁴⁰¹ Ibid., pp. 37-38.

⁴⁰² Ibid., pp. 38-42.

⁴⁰³ Ibid., pp. 26-31.

⁴⁰⁴ Ibid., pp. 31-32.

responsibility for them in the General Assembly. The Security Council had no right to violate the principle of non-intervention set forth in Article 2 (7). It had no right to intervene unduly in the internal affairs of any State or in matters within the competence of other organs of the Organization. If it considered that a subject was important and required urgent action, it could request a special session of the General Assembly in accordance with Article 20. In that way, the Council would not be taking a course of action that departed from the letter and the spirit of the Charter and that turned the Organization into a system dominated by an oligarchical group which claimed powers that no one had given it. The Council was disregarding the realities of the situation, including the fact that the political problems in Iraq were not unrelated to the intervention in the country by a major Power; it was, moreover, disregarding its obligations to act strictly in accordance with the functions granted to it under the Charter.⁴⁰⁵

The draft resolution was then put to the vote. It was adopted by 10 votes in favour to 3 against (Cuba, Yemen, Zimbabwe), with 2 abstentions (China, India), as resolution 688 (1991), which reads:

The Security Council,

Mindful of its duties and its responsibilities under the Charter of the United Nations for the maintenance of international peace and security,

Recalling the provisions of Article 2, paragraph 7, of the Charter,

Gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, which led to a massive flow of refugees towards and across international frontiers and to cross-border incursions which threaten international peace and security in the region,

Deeply disturbed by the magnitude of the human suffering involved,

Taking note of the letters dated 2 and 4 April 1991, respectively, from the representatives of Turkey and France to the United Nations addressed to the President of the Security Council,

Taking note also of the letters dated 3 and 4 April 1991 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General,

⁴⁰⁵ Ibid., pp. 42-52.

Reaffirming the commitment of all Member States to respect the sovereignty, territorial integrity and political independence of Iraq and of all States in the region,

Bearing in mind the report transmitted by the Secretary-General on 20 March 1991,⁴⁰⁶

1. *Condemns* the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, the consequences of which threaten international peace and security in the region;

2. *Demands* that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end this repression, and in the same context expresses the hope that an open dialogue will take place to ensure that the human and political rights of all Iraqi citizens are respected;

3. *Insists* that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and make available all necessary facilities for their operations;

4. *Requests* the Secretary-General to pursue his humanitarian efforts in Iraq and to report forthwith, if appropriate on the basis of a further mission to the region, on the plight of the Iraqi civilian population, and in particular the Kurdish population, suffering from the repression in all its forms inflicted by the Iraqi authorities;

5. *Also requests* the Secretary-General to use all the resources at his disposal, including those of the relevant United Nations agencies, to address urgently the critical needs of the refugees and displaced Iraqi population;

6. *Appeals* to all Member States and to all humanitarian organizations to contribute to these humanitarian relief efforts;

7. *Demands* that Iraq cooperate with the Secretary-General to these ends;

8. *Decides* to remain seized of the matter.

Speaking after the vote, the representative of China, explaining his delegation's abstention, emphasized the complexity of the question which had both internal and international aspects. According to Article 2 (7), the Council should not consider or take action on issues concerning the internal affairs of any State. As for the international aspects of the question, they should be settled through the appropriate

⁴⁰⁶ Report to the Secretary-General on humanitarian needs in Kuwait and Iraq in the immediate post-crisis environment by a mission to the area led by Mr. Martti Ahtisaari, Under-Secretary-General for Administration and Management, dated 20 March 1991 (S/22366, annex).

channels. China supported the Secretary-General in rendering humanitarian assistance to the refugees through the relevant organizations.⁴⁰⁷

The representative of India said that the international community should offer the Iraqi refugees succour and demand that conditions be created for their return in safety and dignity. It should not, however, prescribe what should be done, for that would impinge on the internal affairs of States. His delegation felt that the Council should give serious consideration to the statement of the representative of Iraq inviting the Secretary-General or the Council to send a fact-finding mission to his country. The speaker stressed that, in its resolution, the Council should have concentrated on the peace and security aspect of the situation, which was its proper mandate under the Charter, rather than on the factors that had created the present situation. It should have left the other aspects of the situation to other, more appropriate organs of the United Nations. It was in that spirit that India had suggested to the sponsors some amendments to make the resolution more balanced and appropriate for the Council. The speaker's delegation welcomed the inclusion of a reference to Article 2 (7) of the Charter — an element that had improved the resolution. However, the sponsors of the resolution had not accepted the basic thrust of his delegation's amendments, which was why it had abstained in the voting.⁴⁰⁸

The representative of France quoted the opening words of the preamble to the Charter and said that violations of human rights such as those now being observed became a matter of international interest when they took on such proportions that they assumed the dimension of a crime against humanity. That was the case in Iraq. The influx of refugees into neighbouring countries, the continued fighting in the border areas, and the increasing number of massacres were arousing indignation and threatening international peace and security in the region. The demands made in the resolution just adopted at the initiative of his Government were the minimum that the members of the international community must make in order to live up to their commitments under the Charter.⁴⁰⁹

The representative of the United States stated that his Government was gratified that the Security Council

had addressed, on an urgent basis, the plight of displaced civilians in Iraq which had tragic human consequences and presented serious implications for regional peace and security. This was, of course, a specific case that had arisen in the aftermath of the Gulf crisis. It was not the role or the intention of the Council to interfere in the internal affairs of any country. However, it was the Council's legitimate responsibility to respond to the concerns of Turkey and the Islamic Republic of Iran — concerns increasingly shared by other neighbours of Iraq — about the massive numbers of people fleeing, or disposed to flee, from Iraq across international frontiers because of the repression of the Iraqi regime. The transboundary impact of Iraq's treatment of its civilian population threatened regional stability. That is what the Council had addressed in the resolution just adopted.⁴¹⁰

The representative of the Union of Soviet Socialist Republics remarked that his Government had reacted with understanding and concern to the appeal made by Turkey and the Islamic Republic of Iran to the Council in connection with the alarming situation that had come about on their borders with Iraq and the threat it posed to international peace and security in the region. The Soviet Union firmly adhered to the principle of non-interference in the internal affairs of sovereign States and welcomed the reference in the resolution to Article 2 (7) of the Charter. However, it shared the view expressed by the representative of the Islamic Republic of Iran that the consequences that the massive transborder flow of Iraqi civilians had for regional peace and security called for joint action by the Security Council from both the political and humanitarian standpoint. It was the duty of the Council and of the world community as a whole to put an end to the conditions that were forcing hundreds of thousands of peaceful inhabitants to leave their homeland and seek refuge in neighbouring countries; this was creating a destabilizing situation in the area and posing a threat of a new international conflict.⁴¹¹

The representative of the United Kingdom welcomed the resolution, which accomplished two crucial tasks: it sent a strong and clear message to the Government of Iraq that it must stop the repression and killing of innocent civilians, which was at the root of the massive exodus into Turkey and the Islamic

⁴⁰⁷ S/PV.2982, pp. 54-56.

⁴⁰⁸ *Ibid.*, pp. 62-63.

⁴⁰⁹ *Ibid.*, pp. 53-55.

⁴¹⁰ *Ibid.*, pp. 57-60.

⁴¹¹ *Ibid.*, pp. 59-62.

Republic of Iran; and it gave firm backing to the Secretary-General, to the specialized agencies and to all the governmental and non-governmental organizations whose efforts were now so urgently needed if even more lives were not to be lost. His delegation could not accept the argument that this action was in some way outside the scope of the Security Council, that it was an entirely internal matter, and he was glad that the resolution made clear that it was not so. For one thing, Article 2 (7), an essential part of the Charter, did not apply to matters which, under the Charter, were not essentially domestic; questions of human rights, for example in South Africa, had often been defined in that category. Secondly, the Turkish and Iranian letters to the Council had made it clear that there was a real threat here to international peace and security. The huge surge of refugees was destabilizing the whole region. Thirdly, Iraq had international obligations, under article 3 of the Geneva Conventions of 1949, to protect, in the case of internal armed conflicts, all innocent civilians. All those factors fully justified the action by the Council.⁴¹²

The representative of Austria and the President, speaking in his capacity as the representative of Belgium, expressed profound concern at the policy of repression in some regions of Iraq, which had caused major displacements of populations towards the countries neighbouring Iraq. The scale of those exoduses, the destitution of the refugees and the enormity of their needs had given rise to extremely critical situations on the borders of those States and had caused serious border incidents. The speakers concurred with previous speakers that the Council's action was justified in this case by the specific considerations arising from an exceptionally serious situation which threatened peace and security in the region.⁴¹³

A number of non-members of the Council, who were invited to make their statements after the explanations of vote, stressed the appropriateness of the Council's taking measures to deal with this matter and supported the resolution just adopted, underlining the points made in several of its paragraphs.⁴¹⁴

⁴¹² Ibid., pp. 63-66.

⁴¹³ Ibid., pp. 56-57 and pp. 67-68, respectively.

⁴¹⁴ Ibid., pp. 68-71 (Italy); pp. 71-73 (Germany); pp. 73-77 (Luxembourg); pp. 77-78 (Denmark); pp. 78-80

C. Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council

Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council

Letter dated 5 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council

Decision of 11 March 1992 (3059th meeting): statement by the President

At its 3059th meeting, on 11 March 1992, the Security Council included in its agenda two letters addressed to the President of the Council which were considered by the Council at its 2982nd meeting on 5 April 1991: a letter dated 2 April 1991 from the representative of Turkey,⁴¹⁵ and a letter dated 4 April 1991 from the representative of France,⁴¹⁶ drawing attention to the serious situation resulting from abuses being committed against the Iraqi population in several parts of Iraq, in particular in the northern region.⁴¹⁷ The Council also included in its agenda a letter dated 5 March 1992 addressed to the President of the Council from the representative of Belgium,⁴¹⁸ in which attention was drawn to a report dated 18 February 1992 on the human rights situation in Iraq prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights.⁴¹⁹ The representative of Belgium noted that the report referred, in paragraph 159, to Security Council resolution 688 (1991). In that resolution, the Council had called upon Iraq to

(Ireland); p. 81 (Spain); pp. 82-85 (Sweden); pp. 85-87 (Netherlands); p. 87 (Portugal); pp. 88-90 (Norway); pp. 91-92 (Canada); and pp. 92-93 (Greece).

⁴¹⁵ S/22435.

⁴¹⁶ S/22442.

⁴¹⁷ At its 2982nd meeting, the Council adopted resolution 688 (1991); see section 22.B of the present chapter.

⁴¹⁸ S/23685.

⁴¹⁹ S/23685/Add.1.

“immediately end [its] repression” as “a contribution to removing the threat to international peace and security in the region”. The Special Rapporteur concluded his report by observing that, as the repression continued, the threat remained and thus extraordinary measures, such as a proposed broad-based human rights monitoring mechanism, were warranted.

The Council considered the item at its 3059th meeting, which was twice suspended and resumed, on 11 and 12 March 1992. In accordance with the understanding reached in its prior consultations, the Council invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote; and extended invitations, under rule 39 of its provisional rules of procedure, to Messrs. Hans Blix, Director General of the International Atomic Energy Agency (IAEA), and Rolf Ekeus, Executive Chairman of the Special Commission.

The President (Venezuela) stated that the Council was meeting in accordance with the decision taken at its 3058th meeting, held on 28 February 1992, as indicated in the statement by the President of the Council of the same date.⁴²⁰ He recalled that on 14 February 1992 the Council had been informed about the interest of the Government of Iraq in sending a high-level technical team to respond to any questions that the members of the Council might put to it on all aspects of Iraq’s compliance with resolution 687 (1991) and other relevant resolutions. On behalf of the Council members, he welcomed the presence of the Deputy Prime Minister of Iraq and said that they collectively aspired to productive and constructive meetings.

The President further stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁴²¹

I. GENERAL OBLIGATION

1. The resolutions concerning the situation between Iraq and Kuwait impose a number of general and specific obligations upon Iraq.
2. As regards the general obligation, Iraq is required, under paragraph 33 of resolution 687 (1991) of 3 April 1991, to give official notification to the Secretary-General and to the Security

Council of its acceptance of the provisions of that entire resolution.

3. Iraq signified its unconditional acceptance in identical letters dated 6 April 1991, addressed to the Secretary-General and the President of the Security Council and in a letter dated 10 April 1991 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council, and in a letter dated 23 January 1992 from the Chargé d’affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council.

4. When the Security Council met at the level of heads of State and Government on 31 January 1992, the concluding statement made by the President (3046th meeting) on behalf of its members contained the following passage:

Last year, under the authority of the United Nations, the international community succeeded in enabling Kuwait to regain its sovereignty and territorial integrity, which it had lost as a result of Iraqi aggression. The resolutions adopted by the Council remain essential to the restoration of peace and stability in the region and must be fully implemented. At the same time the members of the Council are concerned by the humanitarian situation of the innocent civilian population of Iraq.

5. On 5 February 1992, the President issued a statement on behalf of its members in which he stated, among other things:

In connection with the Secretary-General’s report on Iraq’s compliance with all the obligations placed upon it by certain Security Council resolutions concerning the situation between Iraq and Kuwait, of 25 January 1992, particularly resolution 687 (1991) and subsequent relevant resolutions, the members of the Council note that while much progress has been made, much remains to be done ... The members of the Council are disturbed by the lack of Iraqi cooperation. Iraq must implement fully resolution 687 (1991) and subsequent relevant resolutions as was stated in the statement read out by the President of the Council on behalf of its members at the 3046th meeting, held on 31 January 1992 with the participation of the heads of State and Government.

6. In a statement made on behalf of the Council on 28 February 1992, the President said:

The members of the Council demand that Iraq immediately implement all its obligations under Council resolution 687 (1991) and subsequent resolutions. They require the Government of Iraq to communicate directly to the Council without further delay an authoritative and unconditional acknowledgement of its agreement to accept and implement the above-noted obligations, including specifically to comply with the determination of the Special Commission requiring the destruction of ballistic missile-related equipment. The members of the Council emphasize that Iraq must be aware of the serious consequences of continued material breaches of resolution 687 (1991).

⁴²⁰ S/23663; see also section 22.A of the present chapter.

⁴²¹ S/23699.

7. I must also draw attention to the further report of the Secretary-General of 7 March 1992 on the status of compliance by Iraq with the obligations placed upon it by certain Security Council resolutions concerning the situation between Iraq and Kuwait.

8. From the aforementioned statements by the President and in view of the reports of the Secretary-General, it will be seen that, despite Iraq's statements of unconditional acceptance of resolution 687 (1991), the Council has determined that Iraq is not in full compliance with all of its obligations.

II. SPECIFIC OBLIGATIONS

9. In addition to the general obligation to accept the provisions of resolution 687 (1991) in their entirety, several Council resolutions impose specific obligations upon Iraq.

(a) Respect for the inviolability of the international boundary

10. By paragraph 2 of resolution 687 (1991) the Council demands that Iraq respect the inviolability of the international boundary and the allocation of islands previously agreed upon between Iraq and Kuwait. Pursuant to paragraph 3 of that resolution, the Secretary-General established a Boundary Demarcation Commission to demarcate the boundary between Iraq and Kuwait. Paragraph 5 of the same resolution requires Iraq and Kuwait to respect a demilitarized zone established by the Council. The Council has been informed that Iraq has respected the demilitarized zone and that it has fully participated in the work of the Commission. It has also been informed that Iraq refuses to withdraw a number of police posts that are not in line with the United Nations Iraq-Kuwait Observation Mission's principle that both sides should stay 1,000 metres from the boundary line shown on the Mission's map.

(b) Weapons-related obligations

11. Section C of resolution 687 (1991) imposes certain specific obligations upon Iraq with respect to its chemical and biological weapons programmes, its ballistic-missile programmes with a range greater than 150 kilometres and its nuclear programmes. These obligations are elaborated upon in resolutions 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991. The obligations are defined in paragraphs 8 to 13 of resolution 687 (1991) and they are elaborated upon in paragraphs 3 and 5 of resolution 707 (1991) and paragraph 5 of resolution 715 (1991).

12. The information relevant to Iraq's compliance with the obligations laid down in the paragraphs of the resolutions to which I have just referred is reproduced in annex I to the Secretary-General's report of 7 March 1992.

13. By resolution 699 (1991) of 17 June 1991, the Council decided that the Government of Iraq shall be liable for the full costs of carrying out the tasks authorized by section C of resolution 687 (1991). No funds have so far been received from Iraq to meet this liability.

14. The Council has noted that since the adoption of resolution 687 (1991) progress has been made in the implementation of section C of that resolution but that much remains to be done. There is serious non-compliance with the obligations concerning the programmes for weapons of mass destruction and ballistic missiles and the members of the Council have found this to be a continuing material breach of resolution 687 (1991).

15. The Special Commission has informed the Council about the outstanding matters that would at the present time appear to be the most important. The Council's attention is invited again to annex I of the Secretary-General's report of 7 March 1992.

16. The Council has also noted the statement by the International Atomic Energy Agency contained in section C of the annex to the Secretary-General's report of 25 January 1992. The attention of the Council is drawn to information annexed to the further report of the Secretary-General, of 7 March 1992, relative to the two last inspections by the Agency, on Iraq's compliance with its obligations under Council resolutions as they relate to nuclear activities.

17. In a statement issued on behalf of the members of the Council, the President stated on 19 February 1992 that:

Iraq's failure to acknowledge its obligations under resolutions 707 (1991) and 715 (1991), its rejection up until now of the two plans for ongoing monitoring and verification and its failure to provide the full, final and complete disclosure of its weapons capabilities constitute a continuing material breach of the relevant provisions of resolution 687 (1991).

18. In a further statement made on 28 February 1992 on behalf of the Council, the President said:

The members of the Council deplore and condemn the failure of the Government of Iraq to provide the Special Commission with full, final and complete disclosure, as required by resolution 707 (1991), of all aspects of its programmes to develop weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres, including launchers, and of all holdings of such weapons, their components and production facilities and locations, as well as all other nuclear programmes; and the failure of Iraq to comply with the plans for ongoing monitoring and verification approved by resolution 715 (1991). ... Furthermore, the members of the Council equally deplore and condemn Iraq's failure, within the time prescribed by the Special Commission at the request of Iraq, to commence destruction of ballistic missile-related equipment designated for destruction by the Special Commission. The members of the Council reaffirm that it is for the Special Commission alone to determine which items must be destroyed under paragraph 9 of resolution 687 (1991).

(c) Repatriation of and access to Kuwaiti and third-State nationals in Iraq

19. As regards Kuwaiti and third-State nationals in Iraq, resolutions 664 (1990) of 18 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 674 (1990) of 29 October 1990, 686 (1991) of 2 March 1991 and 687 (1991) of 3 April 1991 impose an obligation on Iraq to release, facilitate repatriation of, and arrange for immediate access to them, as well as the return of the remains of any deceased personnel of the forces of Kuwait and of the Member States cooperating with Kuwait pursuant to resolution 678 (1990) of 29 November 1990. Furthermore, paragraph 30 of resolution 687 (1991) requires Iraq to extend all necessary cooperation to the International Committee of the Red Cross in facilitating the search for Kuwaiti and third-State nationals still unaccounted for.

20. The Council was informed by the International Committee of the Red Cross in January 1992 that almost 7,000 persons have returned from Iraq to their countries since the beginning of March 1991. The Committee also stated that despite all its efforts, there are still thousands of persons reported missing by the parties to the conflict.

21. A special commission composed of the representatives of France, Iraq, Kuwait, Saudi Arabia, the United Kingdom of Great Britain and Northern Ireland and the United States of America has met under the auspices of the Committee, to try to reach an agreement on, among other things, the implementation of paragraph 30 of resolution 687 (1991). However, the Committee has informed the Council that it has not yet received any information as to the whereabouts of the persons reported missing in Iraq. Nor has it received detailed and documented information on the search conducted by the Iraqi authorities. Finally, it is also still awaiting information on persons who have died while in custody.

22. The attention of the Council is drawn to paragraphs 12 to 14 of the Secretary-General's further report of 7 March 1992.

(d) Iraq's liability under international law

23. Another obligation concerns Iraq's liability under international law. In resolution 674 (1990), the Council reminds Iraq "that under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq". Its liability under international law is reaffirmed in paragraph 2 (b) of resolution 686 (1991) and paragraph 16 of resolution 687 (1991). The latter resolution further specifies that Iraq "is liable under international law for any direct loss, damage — including environmental damage and the depletion of natural resources — or injury to foreign governments, nationals and corporations, as a result of its unlawful invasion and occupation of Kuwait".

24. By paragraph 18 of the same resolution, the Council created a Fund to pay compensation for claims that fall within paragraph 16, to be financed by a percentage of the value of the

exports of petroleum and petroleum products from Iraq. In view of the existing economic sanctions against Iraq under resolution 661 (1990) of 6 August 1990, Iraq was permitted by the Security Council under resolutions 706 (1991) of 15 April 1991 and 712 (1991) of 19 September 1991 to sell a limited quantity of oil, as an exception, a portion of the proceeds from which would be used to provide financial resources for the Fund. To date, it has not availed itself of this possibility. The Council notes that this authorization is due to lapse on 18 March 1992. The members of the Council are aware of a request by Iraq for a five-year moratorium on meeting its financial obligations, including payments into the Compensation Fund.

(e) Repayment and servicing of Iraq's foreign debt

25. With regard to another obligation, the Council demands, in paragraph 17 of resolution 687 (1991), that Iraq scrupulously adhere to all of its obligations concerning servicing and repayment of its foreign debt.

26. The attention of the Council is drawn to paragraphs 17 and 18 of the Secretary-General's further report of 7 March 1992.

(f) Return of property

27. I now turn to the question of return of property. The Security Council, in paragraph 2 (d) of resolution 686 (1991), demands that Iraq immediately begin to return all Kuwaiti property seized by it, to be completed in the shortest possible period. The members of the Council have noted with satisfaction that, as stated in the further report of the Secretary-General, Iraqi officials involved with the return of property have extended maximum cooperation to the United Nations to facilitate the return.

(g) Monthly statements of gold and foreign currency reserves

28. Another obligation is set out in paragraph 7 of resolution 706 (1991), under which the Government of Iraq is required to provide to the Secretary-General and appropriate international organizations monthly statements of its gold and foreign currency reserves. To date, no such statements have been provided to the Secretary-General or to the International Monetary Fund.

(h) Undertaking not to commit or support acts of international terrorism

29. By paragraph 32 of resolution 687 (1991), Iraq is required not to commit or support acts of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods, and practices of terrorism.

30. The Council notes Iraq's statements contained in identical letters dated 11 June 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the Secretary-General and to the President of the Security Council, and in a letter dated 23 January 1992 from the Chargé

d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council that it is a party to international conventions against terrorism and that it has never pursued a policy favourable to international terrorism as defined by international law.

*(i) Security Council action with respect to the Iraqi
civilian population*

31. Resolutions 706 (1991) and 712 (1991) provide a means for Iraq to meet its obligations to supply its civilian population with needed humanitarian assistance, particularly food and medicine. To date, Iraq has refused to implement these resolutions. In fact after initiating discussions with secretariat representatives on implementation, Iraq abruptly terminated the discussions.

III. SECURITY COUNCIL RESOLUTION 688 (1991)

32. I should now like to refer to the demands by the Council with respect to the Iraqi civilian population. In paragraph 2 of resolution 688 (1991) of 5 April 1991, the Security Council demands that Iraq, as a contribution to removing the threat to international peace and security in the region, end the repression of its civilian population. In paragraphs 3 and 7, the Council insists that it allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq, and demands its cooperation with the Secretary-General to these ends.

33. The Council remains deeply concerned at the grave human rights abuses that, despite the provisions of resolution 688 (1991), the Government of Iraq continues to perpetrate against its population, in particular in the northern region of Iraq, in southern Shi'a centres and in the southern marshes. The Council notes that this situation is confirmed by the report of the Special Rapporteur of the Commission on Human Rights on the human rights situation in Iraq of 5 March 1992 and by the comments of the Office of the Executive Delegate of the Secretary-General for the United Nations Humanitarian Assistance Programme for Iraq, Kuwait and the Iraq/Turkey and Iraq/Iran border areas contained in the further report of the Secretary-General of 7 March 1992.

34. The members of the Council are particularly concerned at the reported restrictions on the supplies of essential commodities, in particular food and fuel, which have been imposed by the government of Iraq on the three northern governorates of Dohuk, Erbil and Sulaymaniyya. In this regard, as the Special Rapporteur has noted in his report, inasmuch as the repression of the population continues, the threat to international peace and security in the region mentioned in resolution 688 (1991) remains.

IV. CONCLUDING OBSERVATION

35. In view of the observations on the record of Iraq's performance, the Council has considered itself justified in concluding that Iraq has not fully complied with the obligations

placed upon it by the Council. It is the Council's hope and expectation that this meeting will prove an invaluable opportunity to advance in the consideration of this issue as required in the interest of world peace and security, as well as that of the Iraqi people.

The representative of Austria said the Council meeting was a welcome opportunity to take stock and to enable members of the Council to evaluate to what extent its previous decisions had been implemented and to what extent it might need to take further action. Noting that the picture emerging regarding Iraq's compliance with relevant binding decisions of the Council was very disturbing, he commented on two main areas. With regard to the humanitarian and human rights situation in Iraq, he observed that at the same time that the Government of Iraq was protesting against the embargo imposed by the international community, it had blocked the import of food, fuel and medicines to some areas of the country, in particular those inhabited by the Kurds. Repressive measures also continued to affect the southern marshes. The detailed report by the Special Rapporteur contained additional information on massive human rights violations by the Government, further documenting the absence of full Iraqi compliance with resolution 688 (1991). It was deplorable, moreover, that the Government of Iraq had not used the possibility of oil sales to finance the purchase of food, medicine and other civilian supplies to meet the humanitarian needs of the civilian population, as envisaged by resolutions 706 (1991) and 712 (1991). The speaker urged Iraq to resume the talks with the Secretariat on the implementation of that scheme immediately. His second main area of concern was Iraq's failure to provide all the information required under resolutions 687 (1991) and 707 (1991), and to acknowledge its obligations and provide the declarations required under the plans for ongoing monitoring and verification approved by resolution 715 (1991). He pointed out that, under the relevant resolutions of the Council, a continuing material breach of its obligations placed Iraq in a situation which might have serious consequences, as had been emphasized repeatedly in recent statements by Presidents of the Council. The speaker recalled, further, that the Council's decisions in 1991 had been seen as part of a broader effort to establish peace and security in the area and the region as a whole. Almost one year later, that objective had not yet been achieved. Indeed, if one believed recent reports, a new arms race in that volatile region was already well under way. He

concluded, however, that with regard to collective security and the role of the United Nations as a whole in dealing with conflicts, in many ways a new beginning had been made in the context of the Gulf conflict; some important steps had been taken towards establishing a system of collective security.⁴²²

The representative of the United Kingdom welcomed the presence of a high-level delegation from Iraq headed by the Deputy Prime Minister; it was essential that the Iraqi leadership hear directly from the Council the extent and nature of its concern about Iraq's non-compliance with resolution 687 (1991) and subsequent resolutions and get a clear, first-hand impression of the Council's determination that its resolutions be fully implemented. He recalled that following the bimonthly review of sanctions completed on 5 February, the Council had asked its then President to convey its negative conclusions to the Government of Iraq and that it was in response that Iraq had asked for the opportunity for the present debate. The discussion was therefore about compliance or, rather, the lack of compliance. On this, the key text was the presidential statement endorsed by the Council at its meeting at the level of Heads of State and Government on 31 January 1992, in which it was affirmed that "The resolutions adopted by the Council remain essential to the restoration of peace and stability in the [Gulf] region and must be fully implemented".⁴²³ He observed that the Secretary-General's reports of 25 January and 7 March provided a detailed picture of the degree of Iraqi non-compliance with the Council's resolutions.⁴²⁴ His Government had noted a number of serious problem areas arising under resolution 687 (1991), including the following: demarcation of the boundary between Iraq and Kuwait; the issue of weapons of mass destruction, where the Iraqi performance had from the beginning been one of evasion, dissimulation and often dishonesty; the question of the return of Kuwaiti property; the issue of compensation for the victims of Iraqi aggression; the release of detainees; and the matter of performance bonds. In the sector of weapons of mass destruction, the Council was now confronted with three serious

issues: Iraq's failure to make full and complete disclosure of its programmes; its refusal to acknowledge its obligations for long-term monitoring; and its resistance in implementing the Special Commission's determinations on the material and installations that needed to be destroyed. The speaker hoped that as a result of the current debate the Iraqi authorities would understand the absolute need for them to comply promptly on these three points. He insisted that there was no scope for negotiations in relation to them. The determination of which items needed to be destroyed, for example, was for the Special Commission and IAEA and for them alone. Nor was it acceptable that the Council should be drawn into a discussion of what it would or would not do if Iraq complied with its obligations. The obligation to comply was an absolute, not a conditional, one. The speaker added that Iraq had also failed to comply with resolution 688 (1991), which had been adopted in response to a threat to international peace and security arising from its brutal military action against the civilian population in the Kurdish and Shia areas of the country, resulting in a massive flood of refugees across the frontiers of its neighbours. Far from engaging in the envisaged dialogue, Iraq had for several months operated an economic blockade against some of those areas, particularly the Kurdish areas, frustrated the opening of United Nations humanitarian centres in some of the Shia areas, and in many other ways acted inconsistently with the resolution. The contents of the report to the Commission on Human Rights by the Special Rapporteur on Iraq, Mr. Max van der Stoep, were, moreover, horrifying and revealed that Iraq was in serious breach of its human rights obligations under the Charter of the United Nations, international covenants on human rights and customary international law as embodied in the Universal Declaration of Human Rights. The speaker stressed that neither the United Kingdom Government nor the Security Council had ever or now had a quarrel with the people of Iraq, who had suffered so much from the transgressions and miscalculations of their rulers; they remained committed to doing what they could to alleviate the suffering. To that end, sanctions on food had been lifted as soon as Kuwait had been liberated and, in September 1991, a scheme providing for fair and equitable arrangements for the export of Iraqi oil to finance the import of humanitarian supplies had been adopted. Iraq had, regrettably, refused to cooperate in the implementation of the scheme, set out in

⁴²² S/PV.3059, pp. 19-25.

⁴²³ S/23500; see section 28 of the present chapter.

⁴²⁴ S/23514 and S/23687, respectively; the first was considered in connection with the adoption of the presidential statement of 5 February 1992; see section 22.A of the present chapter.

resolutions 706 (1991) and 712 (1991). It was therefore the intransigence of the Government of Iraq and not the action of the Security Council that was the cause of the suffering of the Iraqi people. The speaker concluded by reiterating that it was only through full compliance with all relevant Security Council resolutions that peace and stability could be brought again to the Gulf region. He hoped Iraq would heed the call to comply and would not miscalculate as it had done the year before.⁴²⁵

The representative of France stated that his country was dedicated to the complete and rigorous implementation of resolution 687 (1991) and subsequent resolutions, which imposed on the Government of Iraq clear and precise obligations. He reaffirmed that once Iraq abided by those resolutions, the sanctions regime could be lifted. Neither France nor the Security Council wished to starve the Iraqi civilian population in order to put pressure on its leaders. On the contrary, ways had been sought and found to feed the population, notably through the adoption of resolutions 706 (1991) and 712 (1991), which allowed Iraq to sell a certain quantity of its oil and to buy food and medicine. Deploring the fact that the Iraqi authorities had refused to make use of those resolutions, the speaker urgently called upon them to do so. The Government of Iraq would otherwise bear the sole responsibility for the suffering of its citizens, since it had the means to put an end to it. He said that France and the Council pursued two objectives, which had been laid down in resolutions 687 (1991), 707 (1991) and 715 (1991): to eliminate the weapons of mass destruction accumulated by Iraq and to ensure that Iraq's industrial capacity was not used to rebuild its military potential once that had been destroyed. Iraq was far from having fully implemented those resolutions, as evidenced by its failure to make full disclosure of its military programme and to commit itself unconditionally to comply with the two plans for ongoing monitoring and verification approved by the Council. Those plans were legally binding, and it was unacceptable that Iraq had still not committed itself to their application. The speaker also noted other matters in the policies and practices of the Government of Iraq causing great concern, notably the blockade against Kurdistan and reports that the Government was trying to impose similar measures on certain areas in the south, while continuing to reject the presence of United

⁴²⁵ S/PV.3059, pp. 24-30.

Nations officials or members of humanitarian organizations. The Government's policy of repression, which deprived large sections of the Iraqi population of their fundamental rights, was a direct violation of resolution 688 (1991), to whose implementation France was also dedicated. The highly critical nature of the general human rights situation in Iraq, as highlighted in the recent report of the Special Rapporteur, was also of great concern. In that context, France could not accept an easing or lifting of sanctions. Nor did it accept the theory that if Iraq complied with a certain percentage of Security Council resolutions the Council must lift the sanctions by a similar proportion. In the first place, as long as Iraq hid documents and materials, on what basis could the Council make a finding of compliance? Moreover, a resolution was not divisible; it must be implemented in full, not according to the proportion that was to the liking of the Iraqi authorities. The speaker concluded by hoping that Iraq would understand that only a policy of cooperation with the United Nations could meet its national interests and the interests of its people. The only way for the Iraqi authorities to achieve their objective — the lifting of sanctions — was therefore fully and unconditionally to abide by their obligations.⁴²⁶

The representative of the United States remarked that during the past year no subject had preoccupied the Council more than its efforts to restore international peace and security in the Gulf in the aftermath of Iraq's aggression against Kuwait. By resolution 687 (1991), the Council had established a detailed framework for that purpose, which required Iraq to take precise steps on many issues and which had been accepted by Iraq. Adoption of that resolution had been one of the most important actions ever taken by the Council, responding to the hope of mankind to make the United Nations an instrument of peace and stability. That resolution had led to a number of others to implement its specific parts and spell out Iraq's obligations. The Council was meeting that day because its requirements had not been met. Unfortunately, from the beginning Iraq had tried to obfuscate and evade its obligations. The Council had agreed in resolution 687 (1991) that if the Gulf region was to enjoy peace and security, Iraq's weapons of mass destruction and ballistic missiles had to be permanently eliminated. That required Iraq's cooperation. Iraq had failed, however, to make full and complete disclosure of its

⁴²⁶ Ibid., pp. 31-35.

weapons programmes, without which the inspectors would never know if all such weapons had been located and destroyed. In the absence of full disclosure, one would have to conclude that the destruction could not categorically be proved to be complete. In the same sphere, Iraq had failed to destroy, as required, materiel and weapons production facilities designated by the Special Commission. The Council continued to support the proposition that the Special Commission, and not Iraq itself, must determine which facilities were required under Security Council resolutions to be destroyed. That was not a matter for negotiation, but for a final determination by the Special Commission, which must be observed by Iraq. Iraq had further failed to agree unconditionally, as required by resolutions 707 (1991) and 715 (1991), to implement the ongoing monitoring and verification plans. As the Council insisted on the necessity of assuring the international community that Iraq would not reacquire those destabilizing weapons, there was no alternative to Iraqi acceptance and implementation of those resolutions. The speaker added that Iraq also had a poor record of compliance with its other obligations under resolution 687 (1991): on border issues, the return of property, and the repatriation of third-country nationals. Like previous speakers, he observed that, although Iraq had repeatedly criticized the Council for causing shortages of food, medicine and other essential humanitarian supplies, it had not taken advantage of the mechanism provided by resolutions 706 (1991) and 712 (1991) to improve the welfare of the Iraqi population. Moreover, Baghdad persisted in actions of repression against its civilian population, particularly in the predominantly Kurdish-inhabited areas of the north and in the predominantly Shia-inhabited areas of the south, which had led the Special Rapporteur to conclude that the threat to international peace and security referred to in resolution 688 (1991) continued. In conclusion, as the President of the Council had stated in his opening statement, the Council demanded and expected Iraqi actions to comply with Council resolutions. Without full and unconditional compliance, the chances of lifting sanctions were nil. Once again, the Council stood at a critical junction in its consideration of restoring and maintaining international peace and security in the Gulf region. The United States Government and the Council would be watching closely Iraqi actions in the future. By disdaining and failing to comply with the Council's resolutions, Iraq risked making yet another tragic and fateful

miscalculation, the full consequences of which the Government of Iraq would once again have to bear.⁴²⁷

The representative of the Russian Federation shared the view expressed by previous speakers that Iraq's refusal fully to abide by its obligations under the Council's resolutions had created a dangerous situation. Iraq had failed to satisfy the preliminary conditions for the implementation of the weapons-related provisions of the relevant resolutions. It had not provided the Special Commission and IAEA with a comprehensive, final and complete picture of all aspects of its proscribed weapons programmes; nor had it agreed unconditionally to implement all of its obligations under resolutions 687 (1991), 707 (1991) and 715 (1991) regarding the programme of ongoing monitoring and verification of its renunciation of such weapons. At the same time, Iraq had created obstacles to the Special Commission's work, particularly in recently refusing to destroy, within the timetable laid down by the Commission, equipment relating to ballistic missiles. Paragraph 9 of resolution 687 (1991) clearly indicated that such equipment must be destroyed and that Iraqi attempts to dispute that demand were unacceptable. An unsatisfactory situation also existed concerning the implementation of other provisions of resolution 687 (1991), notably those regarding access to and the return of third-country nationals, the return of seized Kuwaiti property, and the repayment and servicing of the country's foreign debt. Another subject of particular concern was the repressive policy of the Iraqi authorities with regard to the civilian population of the country, in particular in those regions in which the Kurds lived and in the south of the country, in violation of the provisions of resolution 688 (1991). At the same time, the Government of Iraq had refused to avail itself of the opportunity provided by resolutions 706 (1991) and 712 (1991) to sell a certain quantity of its oil to finance the purchase of essential humanitarian goods. The Russian Federation thus expressed regret that, while refusing to proceed to a full and genuine implementation of the Council's decisions, the Iraqi regime should intensify the sufferings of the Iraqi people and block any mitigation of them. The speaker added that the report of the Special Rapporteur of the Commission on Human Rights revealed a most disturbing situation in the field of human rights in Iraq, which had a direct bearing on the question of the

⁴²⁷ Ibid., pp. 36-47.

implementation of resolution 688 (1991). The Special Rapporteur had come to the conclusion that the Government of Iraq was responsible for widespread and systematic violations of human rights of the most serious nature, namely, mass executions, torture and genocide. The Russian Federation was under the impression that Baghdad was still not fully aware of the seriousness of what Iraq had done. For the first time since the Second World War one State had occupied and annexed another sovereign State Member of the United Nations, violating its obligations under the Charter and the fundamental principles of international law. Moreover, Iraq had drawn up and was beginning to implement a programme for the production of nuclear weapons; it was making preparations to manufacture biological weapons; and it had threatened to use chemical weapons, which it had used in the past, thus making the threats particularly ominous. In response, the Security Council had drawn up and reaffirmed a programme of measures aimed at halting those actions, which were most threatening to international peace and security, and at preventing their recurrence. The vital interests of all Member States demanded an immediate and unconditional implementation of that programme. In conclusion, the speaker stressed that instead of confrontation with the Council, Iraq must immediately and fully implement all of the Council's demands.⁴²⁸

The representative of China welcomed the opportunity for the Council to have a dialogue with the Iraqi delegation, hoping it would help to realize the objectives contained in the relevant Security Council resolutions. China, like other members of the Council, was of the view that the resolutions adopted by the Council remained essential to the restoration of peace and stability in the Gulf region and must be fully implemented. The speaker was pleased to note, as pointed out by the Secretary-General in his report, that significant progress had been made in the implementation of some of the important parts of the resolutions. However, since much remained to be done, he hoped that Iraq would continue to cooperate with the parties concerned and earnestly fulfil its obligations. At the same time, China was concerned that the difficult situation confronting the innocent Iraqi people continued to deteriorate; it was not fair to prolong their suffering and hardship. China's position in this respect remained unchanged from that

⁴²⁸ Ibid., pp. 47-53.

enunciated at the time of the adoption of resolution 687 (1991): it favoured the timely and gradual lifting of economic sanctions against Iraq in the light of the development of the situation. It was out of humanitarian considerations, moreover, that China had supported the reasonable proposal — put forward by the non-aligned States members of the Council in the Committee established by Security Council resolution 661 (1990) — that the “no objection” procedure should be changed to a “simple notification” procedure in allowing Iraq to import civilian products. That would help to alleviate the difficulties of the Iraqi people and be conducive to an early economic recovery in the countries of the region. The speaker concluded by expressing the hope that the meeting would have a positive impact on the implementation of the relevant Security Council resolutions, so that the independence, sovereignty and territorial integrity of the Gulf countries would be safeguarded and respected by the international community.⁴²⁹

The representative of Japan observed that the tragic consequences of Iraq's actions continued to be felt, with the people of Kuwait continuing to suffer from the effects of Iraq's aggression in terms of human lives lost, material destruction and environmental degradation. As they strove to rebuild their lives and their country, Iraq's responsibility for their suffering was not forgotten and the Iraqi leadership was held accountable for the consequences of its aggression. In refusing to cooperate with the Council and to respect its resolutions, the Government of Iraq was demonstrating its defiance not only of the Council but also of the international community as a whole. Iraq's leaders must realize that they were not in a position to decide which provisions they would implement and which ones they would not. There was no room for negotiation. Like previous speakers, the representative of Japan also expressed concern for the innocent people of Iraq as they continued to face severe hardship: they must also be counted among the victims of their Government's aggressive actions and its refusal to implement the Council's resolutions. However, he noted that by refusing to export oil as laid out by the Council and by creating obstacles to the activities of various humanitarian agencies, the Government of Iraq was denying its own people access to the humanitarian relief that had been made available. Japan once again urged Iraq to implement all relevant Security Council

⁴²⁹ Ibid., pp. 53-56.

resolutions, noting that the Council had already made known its position: namely, that if Iraq continued to be in material breach of its obligations, that would have serious consequences.⁴³⁰

The representative of Hungary similarly stressed that the Council's resolutions in this matter could not be viewed as a basis for negotiation. Moreover, as the President's statement at the end of the Council's meeting at the level of Heads of State and Government in January had reaffirmed, they must be implemented in full. While Hungary believed that dialogue was useful to clarify differences in points of view and eliminate possible misunderstandings, it stressed that the current dialogue between the Council and Iraq could not be a free-ranging discussion: its sole subject must be the implementation by Iraq of the relevant Council resolutions. The speaker deplored the fact that Iraq had not yet fully complied with those resolutions, citing as cause for concern the same deficiencies that had been mentioned by previous speakers. He concluded that his country believed that the only way that the sanctions imposed on Iraq could be loosened would be for Iraq to implement the Council's resolutions in full, adding that Iraq must be aware of the serious consequences of continuing its serious derelictions in this area.⁴³¹

The representative of India stated that one basic premise of the Council's meeting was the importance of respect for and full implementation of Council resolutions adopted under Chapter VII of the Charter on the issue under consideration. All countries, including Iraq which had expressly accepted resolution 687 (1991), the basic document, assumed the responsibility to comply with and implement those decisions. Noting that the Council had before it the Secretary-General's reports of 25 January and 7 March 1992 on the extent of Iraq's compliance with the obligations placed upon it by the relevant Council resolutions,⁴³² the speaker said that those detailed and informative reports were the only basis on which the Council could and should conduct its work. His delegation had taken note of the Secretary-General's assessment that significant progress had been achieved in respect of section C of resolution 687 (1991), but that much remained to be done. What remained must also be implemented. The necessity of compliance with

all mandatory provisions of the resolutions, which were inherently integral, had been underlined by the Council on numerous occasions. A second premise of the meeting, in India's view, should be the need for a humanitarian approach. The Council was aware of the hardships suffered by innocent civilians in Iraq, but there had been meagre progress in that area; it had yet to accept formally the proposal of the non-aligned members that items of undeniable humanitarian need be transferred from the "no objection" procedure to the "notification" category. Another important issue in addressing the humanitarian aspects of this crisis — or indeed any other crisis that invoked Security Council action under Chapter VII of the Charter — was the operation of Article 50 of the Charter. India had, on several occasions, reiterated the need to strengthen the overall impact and influence of Council action by the activation, in concrete terms, of Article 50, enabling countries that faithfully implemented Council resolutions to obtain redress wherever such implementation adversely affected them.⁴³³

During the course of the debate, a number of other speakers stated that for the Council to remain credible it must see that Iraq strictly respected its obligations.⁴³⁴ They called upon Iraq to fulfil unconditionally the decisions of the Council, which had been reiterated by the President and by previous speakers. Like others, they also expressed concern at the humanitarian and human rights situation in the country.

The representative of Iraq remarked that this was his country's first opportunity at that level to submit its point of view before the Council in respect of the latter's dealings with Iraq. He stated that resolution 687 (1991), in which the Council had formulated the measures necessary for an official ceasefire to be declared, set out measures and conditions that were unprecedented in United Nations history: they transcended by a large degree the initial limits and declared objectives of the Council's previous resolutions. Iraq had expressed its views on that resolution, but had accepted it to ward off the dangers threatening its people and had seriously endeavoured to implement its provisions. Indeed, as the letter dated 23 January 1992 from the Iraqi Minister for Foreign

⁴³⁰ Ibid., pp. 56-58.

⁴³¹ Ibid., pp. 58-65.

⁴³² S/23514 and S/23687, respectively.

⁴³³ S/PV.3059, pp. 74-79.

⁴³⁴ Ibid., pp. 66-71 (Belgium); pp. 71-75 (Ecuador); pp. 79-82 (Cape Verde); pp. 82-86 (Zimbabwe); pp. 86-88 (Morocco); and pp. 88-90 (Venezuela).

Affairs made clear, the fundamental contents of the resolution had already been implemented. Focusing on aspects that had been the source of problems and allegations against Iraq, the speaker stated that the weapons, munitions and delivery systems prohibited by resolution 687 (1991) had been or were being destroyed. Moreover, the equipment used, or allegedly used, in producing such items had been identified and its use had either been frozen or converted to civilian industries not prohibited by that resolution. All this was taking place under the supervision of the inspection teams. The allegations regarding the detention of Kuwaiti nationals were false, and Iraq had requested the International Committee of the Red Cross (ICRC) to determine the facts. So, too, were the allegations regarding Kuwaiti property: that had been listed and in many cases returned. The speaker reaffirmed that Iraq had fulfilled the most fundamental part of sections A, B, D and H of resolution 687 (1991). The implementation of the remaining measures, which by their nature required some time, was proceeding properly, with Iraq's serious and professional cooperation. Yet the Council had continued to declare, after each compliance review since June 1991, that Iraq had not yet fully complied with resolution 687 (1991), which meant that the economic embargo remained in force and the suffering of 18 million Iraqis continued unmitigated. The extent of Iraq's fulfilment of that resolution had been ignored under pressure from a small but influential number of members of the Security Council. Those countries had not stopped at Iraq's compliance with resolution 687 (1991) as a condition for lifting the economic sanctions, but had announced that they would not be prepared to lift the embargo until the political leadership of Iraq had been replaced. They continued to reiterate that precondition, despite its flagrant contradiction of the principles of the Charter and the Council's own resolutions. The problems created by certain members of the inspection teams who served the objectives of those countries had, moreover, been exploited to adopt new Council resolutions containing provisions even more extreme than those in resolution 687 (1991).

The representative of Iraq expressed his country's willingness to cooperate in connection with a number of issues that had been raised, particularly in the presidential statement of 28 February, while underlying the need for respect for Iraqi sovereignty, dignity and national security. It was ready to continue cooperating

with the Special Commission and IAEA to accomplish the tasks stipulated in resolution 687 (1991); to continue providing information to complete the picture in accordance with the goals of that resolution; to reach a practical solution to the question of verification of Iraq's capabilities to produce prohibited weapons in the future; and to establish a practical mechanism to address the issue of the equipment covered by the provisions of paragraph 8 of resolution 687 (1991), with a view to rendering that equipment harmless. On the question of completing the information and data, about which doubts and allegations continued to be expressed, Iraq proposed that a technical meeting be held between Iraqi representatives and representatives of the Special Commission, and attended by all members of the Security Council. At that meeting, the Commission could put its demands and questions relating to resolution 687 (1991), and the information and documentation presented by Iraq could be reviewed. A comprehensive report on the situation could then be submitted to the Council. By those means, the Council's demand for a full, complete and final declaration of the programmes in question would be met in a scientific, objective and reliable manner. The speaker also proposed a "common" discussion to resolve the issues of ongoing monitoring and the fate of machinery and equipment capable of dual use. Noting that the Council had entrusted certain tasks to the Special Commission, he insisted that those tasks should remain technical in nature. The Council should not relinquish its authority in taking the final decision on matters of a political and legal nature relating to the destiny of a free people and the fate of their property. Keeping matters vague and unresolved, and preserving for the Special Commission alone the absolute power of issuing decisions, meant that the fate of property belonging to the Iraqi people would remain indefinitely in the hands of a body that did not exist under the Charter, without allowing Iraq any say in the matter. The speaker added that the Council's understanding of the principles and the legitimate and logical demands presented by Iraq would lead to an "objective, equitable and just implementation" of the substantive obligations placed upon Iraq in resolutions 687 (1991), 707 (1991) and 715 (1991), in a manner which would satisfy the Council.

Finally, on the subject of the economic embargo, the representative of Iraq reiterated that, despite the extent of Iraq's implementation of the provisions of resolution 687 (1991), the Council had not budged an

inch in its position. Nor had the Council taken into consideration adherence to the Charter and international law in respect of the rights of the civilian population. Thirteen months after the establishment of the ceasefire and the adoption of resolution 660 (1991) imposing the economic embargo, the people of Iraq remained deprived of their right to lead a normal life and had to import all their humanitarian needs. Although, in theory, Iraq was allowed to import food and medicine, its assets in other countries continued to be frozen. Moreover, when the Council adopted a resolution allowing Iraq to export limited quantities of oil in order to be able to pay for food and medicine, it had included, both in the resolution itself and in the implementation plan, an endless list of preconditions which infringed upon Iraq's sovereignty and security: preconditions which constituted flagrant interference in its internal affairs, and which stemmed from ill-intended political objectives. The preconditions had practically prevented Iraq from meeting its people's need for food and medicine. The speaker called upon the Council to abandon that position in favour of an objective and fair one. In concluding, he requested the President of the Council to allow him some time, perhaps at a meeting the next day, to comment on the points raised in the statement made by the President and on the concerns expressed by several members.⁴³⁵

The President then stated that the meeting would, as agreed, be suspended until later that afternoon when other speakers would make statements. The Deputy Prime Minister of Iraq would have an opportunity to make a statement either at the end of that meeting or the next morning. Before suspending the meeting, the President invited the members to assemble for informal consultations shortly before the meeting resumed.

At the resumed 3059th meeting, also on 11 March 1992, Mr. Hans Blix, Director General of IAEA, focused on the Agency's work in the three areas of its mandate: the mapping of nuclear programmes and facilities in Iraq intended, or susceptible of being used, for the production of nuclear weapons or weapon-usable materials; the removal, destruction or rendering harmless of proscribed items; and the planning and performance of ongoing monitoring and verification of Iraq's compliance with the Council's resolutions in the nuclear sphere. Considerable work had been accomplished, which would not have been possible

without Iraq's cooperation. However, the results would have come sooner and with much less pain if Iraq had fully and spontaneously complied with its obligations under the Council's resolutions and the exchange of letters with the Secretary-General. Instead, Iraq had often followed a pattern of denial of clandestine activities until the evidence was overwhelming, followed by cooperation until the next case of concealment was revealed. In a number of cases serious confrontations had occurred when IAEA inspection teams had been denied unrestricted access to sites or the removal of pertinent documents. In the face of those attitudes, IAEA could not have carried out the inspection programme and the mapping of the Iraqi nuclear programme but for the firm and consistent support of the Security Council. The current meeting of the Council was testimony to the continuation of that support in view of concrete difficulties which the Special Commission and IAEA were encountering. After 10 months of work in the identification and mapping of Iraq's extensive efforts to acquire nuclear-weapon capability, a fairly consistent and coherent picture of its nuclear programme was emerging. However, some gaps or grey areas remained. In view of those and Iraq's track record of non-revelation, inspections needed to continue and might even be necessary as future monitoring and verification began. A general shortcoming in Iraq's attitude had been the lack of full and explicit acceptance of resolutions 707 (1991) and 715 (1991), which the speaker considered to be an expression not only of reluctance but of resistance, which was incompatible with the binding nature of those resolutions. The Security Council's insistence on this matter was important, both as a question of its authority and as a matter that underlay the many specific points of non-compliance that had been noted by IAEA.⁴³⁶ While IAEA had noted some improvements in the attitudes of the Iraqi authorities during recent inspections, lack of cooperation and non-compliance persisted in respect of the provision of information on sources of procurement of critical material and equipment. Further, the initial information needed to establish the future ongoing plan for monitoring and verification, required to be supplied by Iraq under resolution 715 (1991), had been provided only in a partial and incomplete way. A statement by Iraq of its readiness to provide procurement

⁴³⁵ *Ibid.*, pp. 91-115.

⁴³⁶ A detailed list of such points was set out by IAEA in documents S/23514 and S/23687.

information and to complete the information required under resolution 705 (1991) would eliminate important hurdles.

As to the removal, destruction or rendering harmless of proscribed nuclear items, the Director General of IAEA stated that large facilities and amounts of equipment required for the production of nuclear weapons and nuclear-weapon-usable material had been destroyed, removed or rendered harmless. New facilities could not easily be built without detection, and the import or production of new relevant equipment would meet great obstacles. Dual-use items were being placed under Agency seal and their destruction or release was being dealt with on a case-by-case basis. Release of such items, and any request for the use of proscribed facilities in non-proscribed activities would have to be evaluated in the light of the possibility of effective monitoring of agreed-upon use. Although the Agency had not so far met with resistance by Iraq to its request for destruction, removal or rendering harmless of proscribed nuclear items, it was aware that the Special Commission had encountered such resistance. The Security Council's support for the authority of the Special Commission and IAEA to determine what was to be destroyed, removed or rendered harmless and Iraq's corresponding duty to accept and to implement such requests was, therefore, much appreciated. The speaker added that what remained in Iraq was a large cadre of highly trained scientists and engineers who had been engaged in its nuclear programme. It was important that that cadre, reportedly currently engaged in the civilian reconstruction of the country, remain engaged in non-proscribed activities. In conclusion, the speaker stated that it was essential that the measures prescribed by the Council for Iraq succeed — not only to allay fears about Iraq reviving a programme of weapons of mass destruction, notably nuclear weapons, but also to demonstrate that international verification was a viable means to create confidence. That experience was necessary if actions taken in Iraq were to represent steps towards the goal of establishing in the Middle East a zone free of weapons of mass destruction, as envisaged in paragraph 14 of resolution 687 (1991). The International Atomic Energy Agency was committed to the successful implementation of the Council's resolutions on Iraq and looked to the

Security Council for guidance and support in its efforts to contribute to that result.⁴³⁷

Mr. Rolf Ekeus, Executive Chairman of the Special Commission, stated that the Commission had one fundamental aim — to be able to report to the Security Council as soon as possible that Iraq had fully met all its obligations under section C of resolution 687 (1991) as elaborated upon in resolutions 707 (1991) and 715 (1991). However, the speed with which the Commission could carry out its responsibilities and report the successful execution of its task was largely determined by the degree of Iraq's cooperation, openness and transparency. With regard to the disclosure of all aspects of its prohibited programmes, Iraq had provided some information, but it was neither complete nor systematic. Nor was it accompanied by credible documentary and material evidence. In brief, Iraq had not provided the full, final and complete disclosure as required by resolution 707 (1991). Indeed, it had not even acknowledged that resolution. Instead of making such disclosure, Iraq had proposed a dialogue in which the Commission would seek to elicit the information from Iraq through an inquisitorial approach, thus shifting the onus of seeking and compiling the information to the Commission whereas the Council's decisions properly placed that onus on Iraq. With respect to the Commission's responsibility for the destruction, removal or rendering harmless of Iraq's weapons and capabilities in the proscribed areas, the speaker stated that the destruction of weapons already declared by Iraq was under way with Iraqi cooperation, and that cooperation had been good. However, the disposal of the capabilities for the production of such weapons was another matter. Although Iraq was required to destroy, under the supervision of the Special Commission, all its proscribed missile capabilities, it had recently refused to proceed with the destruction of certain missile-producing capabilities identified for destruction by the Commission. Iraq was continuing to refuse to comply with the Commission's decision despite the presidential statement of 28 February 1992, which had clearly reaffirmed that it was for the Special Commission alone to determine which items had to be destroyed under paragraph 9 of resolution 687 (1991). Iraq had argued, moreover, that nearly every building and every piece of equipment that had been devoted to its proscribed-weapons programmes should be kept and

⁴³⁷ S/PV.3059 (Resumption 1), pp. 116-126.

converted to what it had said would be civilian use, contending that otherwise the Special Commission would be depriving the country of its civilian industrial base. The speaker rejected this argument: not a single structure or item which had or would be earmarked for destruction had formed part of Iraq's civilian industrial base. The Special Commission would be failing in its responsibility to the Council if it did not ensure that items used by Iraq for production of weapons of mass destruction were destroyed, removed or rendered harmless. The latter would involve modifying the items to such a degree as to render them incapable of use by Iraq in prohibited activities or amenable to reconversion.

As to the third stage of the Commission's responsibilities — the ongoing monitoring and verification of Iraq's compliance with its obligations under section C of resolution 687 (1991) — the existence of an impasse was now amply confirmed. By its resolution 707 (1991), the Council had approved the plans for monitoring and verification submitted by the Secretary-General and by the then Director General of IAEA. In January 1992, Iraq had reaffirmed its position that the plans were aimed at objectives that were incompatible with the letter and spirit of the Charter, the norms of international law, and international and humanitarian pacts and covenants. Although Iraq had recently claimed that this did not amount to a rejection of the plans, the Commission could not understand it otherwise. Iraq's rejection was confirmed, moreover, by its failure to submit two declarations required under the Commission's plans, which would provide the basic information needed to set up a satisfactory monitoring regime. Iraq had argued that the plans infringed upon its independence, sovereignty and national security. However, they had been formulated on the basis of existing international norms and those under negotiation for the forthcoming international convention on the elimination of chemical weapons, which was intended to have universal application. To the extent that general provisions in the plans appeared intrusive, that was largely a result of Iraq's conduct: the intrusive elements had been approved by the Council against a background of concealment, movement of proscribed items and violation of the privileges and immunities of inspection teams. If Iraq cooperated, they need not be invoked. The speaker added that prompt and successful implementation of all the stages of the work of the Special Commission and IAEA required that their facilities, privileges and

immunities be fully respected. That flowed from the Council's resolutions, relevant international conventions to which Iraq was a party, and from the express provisions of the status agreement between the United Nations and Iraq which had entered into force on 14 May 1991. He concluded that, in the absence of the undertaking by Iraq to comply fully with the Council's decisions, and until practical experience was gained to confirm that such an undertaking was being honoured, the Special Commission would be seriously hindered in those phases of its operations concerning the identification and destruction of proscribed items and would be precluded from instituting the ongoing monitoring and verification phase. In such a situation, the possibility of the Special Commission's certifying Iraq's compliance with its obligations under section C of resolution 687 (1991) did not even arise.⁴³⁸

At the same meeting, the representative of Kuwait observed that his country was the main beneficiary of rights enshrined in the operative paragraphs of resolution 687 (1991), implementation of which rested upon the Iraqi regime. With regard to the general nature of that resolution and Iraq's obligations, he made the following points. Resolution 687 (1991) was binding on Iraq for two reasons. First, it had been adopted under Chapter VII of the Charter and therefore was binding not only on Iraq, as a main party, but also on all other countries. Secondly, the Iraqi legislature, the National Assembly, had accepted the resolution unconditionally, thus negating all reservations and remarks made by Iraq in its preliminary letter of acceptance, which the Council had rejected. Iraq had, accordingly, become absolutely bound to implement resolution 687 (1991), without any negotiation concerning its provisions or any interpretation of them by Iraq. Implementation was to be in accordance with the interpretations, mechanisms and reports prepared by the Secretary-General and approved by the Council. Iraq's conduct in regard to the operative paragraphs of resolution 687 (1991) demonstrated, however, that it had reneged on its absolute acceptance of the resolution and was attempting to evade its obligations. By way of example, the speaker elaborated on Iraq's lack of compliance with the provisions of resolutions 686 (1991) and 687 (1991) relevant to Kuwait regarding the repatriation of prisoners of war and missing persons who were Kuwaiti or third-country nationals; the demarcation of the boundary between

⁴³⁸ *Ibid.*, pp. 126-137.

Iraq and Kuwait; and the return of stolen Kuwaiti property. The speaker added that other conduct by Iraq demonstrated its lack of seriousness regarding the letter and spirit of those resolutions. The continued presence of the seven Iraqi police posts inside Kuwaiti territory represented a violation by Iraq of Kuwait's sovereignty and territorial integrity. Iraq continued to reject, moreover, resolutions 706 (1991) and 712 (1991), authorizing the export of Iraqi oil to finance the purchase of humanitarian goods and to pay its contribution to the compensation fund. That intransigence on the part of Iraq was harmful both to the Iraqi people and to those large numbers of people affected by the Iraqi invasion of and aggression against Kuwait who would benefit from the compensation fund. Finally, the most blatant example of Iraq's violation of the Council's resolutions was the fact that it declined to reveal and destroy all stockpiles of weapons of mass destruction and accept the monitoring regime. The speaker concluded that Iraq's failure to meet its obligations created a grave situation which implied two risks: the continued aggressive intentions of that regime towards its neighbours and towards security and peace in the region; and the intent to make use of such capabilities if they escaped destruction. At the current meeting, the Council was called upon, in the presence of the high-level Iraqi delegation, to guarantee that peace and security in the area were not obstructed by the capricious, aggressive nature of the Iraqi regime.⁴³⁹

The President of the Council then announced a period set aside for directing questions at the Deputy Prime Minister of Iraq who, in accordance with his request, would deal with them at the meeting the next morning.⁴⁴⁰

The representative of the United Kingdom sought clarification of the nature and scope of the four points made by the Deputy Prime Minister concerning Iraq's willingness to cooperate with the Special Commission and IAEA: were those undertakings entirely unqualified and unconditional; and did its readiness to reach a practical mechanism regarding the issue of equipment covered by paragraph 8 of resolution 687 (1991) — which referred to chemical and biological weapons and ballistic weapons — relate also to nuclear matters, which were dealt with in paragraph 12. He

⁴³⁹ *Ibid.*, pp. 137-153.

⁴⁴⁰ *Ibid.*, p. 153.

also addressed the ideas put forward by the Deputy Prime Minister for involving the Security Council in discussions about the handling of weapons of mass destruction. On this, the President's introductory statement and the presidential statement of 28 February had made it clear that the view of the Council was that it was not its business to get involved in the detailed decisions that had to be taken by the Special Commission and IAEA. The speaker sought Iraq's assurance that if certain determinations and decisions were taken by those bodies, Iraq would accept them as fully binding and would implement them. That was very important for the Council to know. Outside the scope of the weapons of mass destruction section of resolution 687 (1991), the speaker asked whether, if the Council renewed resolutions 706 (1991) and 712 (1991), the Government of Iraq would be prepared to resume the contacts with the Secretariat with a view to implementing a scheme which would enable humanitarian supplies to reach the people of Iraq. Finally, he expressed regret that the Deputy Prime Minister of Iraq had not addressed his country's obligations under resolution 688 (1991), and asked when the Government of Iraq intended to lift the economic blockade on a part of its country so that any humanitarian supplies which were sent by the United Nations agencies or others would be able to reach all parts of the Iraqi population.⁴⁴¹

The representative of the United States prefaced his questions with some comments on the statement by the Deputy Prime Minister of Iraq. He observed that the statement appeared to be directed towards trying to destroy, at least in part, the confidence of the Security Council in the Special Commission and IAEA and their work. In several areas it suggested that the Council now had to put itself into the process of actually implementing its own resolutions. Even worse, perhaps, it suggested that the Council should enter into a negotiating process with Iraq for the implementation of what were mandatory resolutions of the Council. This perhaps reflected a continued fundamental misunderstanding on the part of Iraq about mandatory resolutions and a serious miscalculation of the intention and purpose of the Council in dealing with Iraq's programmes of weapons of mass destruction in particular. Iraq suggested that it would be ready to negotiate what it would declare under resolution 687 (1991), and which elements of its prohibited weapons

⁴⁴¹ *Ibid.*, pp. 153-157.

programmes it would be willing to destroy. The former was obligatory under the resolution; the latter ignored the firm position of the Council that the Special Commission and IAEA would be the technical mechanism for the designation of what should be destroyed, rendered harmless or removed in the Iraqi programme and in its production base. Roughly the same proposal had been made in the Iraqi statement with respect to the issue of long-term monitoring. Again, long-term monitoring plans presented by the Council to Iraq and approved in mandatory resolutions were clearly not subject to negotiation. The speaker stressed that a drawn-out discussion and negotiation of compliance with resolutions was not in the interest of regional peace and stability. Nor was it the intention of the members of the Council or provided for in the resolutions with which Iraq must comply. Other portions of the Iraqi statement seemed merely to repeat the old arguments of the past. There was little that was new and it did not serve to advance the process of Iraqi compliance, which was deeply disappointing. The United States was also disappointed, as were others, at the absence of any references in the statement to resolution 688 (1991), or to the important United Nations role in providing humanitarian assistance to the citizens of Iraq, or any discussion of what Iraq would do to alleviate the plight particularly of the Kurds and the Shia. On the other hand, the speaker responded positively to the Iraqi promise to publish the names of missing persons in several Iraqi newspapers once a week for a period of several weeks, which appeared to break new ground. He observed, finally, that Iraq had made frequent references to its sovereignty and to internal affairs. However, Iraq knew full well that the Council was operating with regard to its resolutions on Iraq under Chapter VII of the Charter. Such resolutions were mandatory and fell under the last portion of paragraph 7 of Article 2 of the Charter, which made it clear that the principle of non-intervention “shall not prejudice the application of enforcement measures under Chapter VII”. The measures that Iraq complained of were clearly enforcement measures under Chapter VII.

The representative of the United States then addressed a few questions to the Deputy Prime Minister of Iraq. They concerned the readiness of Iraq: (1) to make full, final and complete disclosure of its programmes of weapons of mass destruction; (2) to commence destruction of its ballistic missile production and repair facilities; (3) to return to IAEA

the nuclear documents seized from and never returned to a Special Commission inspection team; (4) to provide unconditional acceptance of the long-term monitoring and verification plans, and to observe the privileges and immunities to be accorded to the Special Commission and IAEA; (5) to accept the work of the Boundary Commission and to remove its border police posts from the Kuwaiti side of the border on the map used by the United Nations Iraq-Kuwait Observation Mission; (6) to resolve the matter of the missing Kuwaitis and third-country nationals; (7) to meet the humanitarian needs of the Iraqi people by implementing resolutions 706 (1991) and 712 (1991); (8) to return seized Kuwaiti property; and (9) to begin providing the Secretary-General and appropriate international organizations with monthly statements of its gold and foreign currency reserves.⁴⁴²

The representative of India, focusing on an issue of humanitarian concern raised by members of the Council, asked the Deputy Prime Minister of Iraq to confirm that Iraq would be able in the near future to expedite the full repatriation of Kuwaiti and other foreign nationals in cooperation with the International Committee of the Red Cross.⁴⁴³

The representative of France stated that his delegation found the comments made by the Deputy Prime Minister of Iraq unacceptable as they challenged the resolutions of the Council and the mechanisms laid down and endorsed in them. He posed three questions concerning when Iraq would be able to provide a full and complete picture of its military programme; when it would make known to the Council its unconditional acceptance of the monitoring plan approved under resolution 715 (1991); and when it would open the United Nations humanitarian centres in Kurdistan and in the south of the country, and lift the blockade it had imposed on part of its population.⁴⁴⁴

The President thereupon suspended the meeting until the following day.

**Decision of 12 March 1992 (3059th meeting):
statement by the President**

At the second resumption of the 3059th meeting, on 12 March 1992, the President stated that, in accordance with the request made by the Deputy Prime

⁴⁴² Ibid., pp. 158-165.

⁴⁴³ Ibid., p. 165.

⁴⁴⁴ Ibid., pp. 165-170.

Minister of Iraq, the latter was being afforded the opportunity to make a statement in response to the introductory statement made by the President on behalf of the Council and to the questions and concerns expressed by the members in the course of the Council's deliberations the previous day.⁴⁴⁵

The representative of Iraq, commenting first on the statement by the President, observed that regarding respect for the international boundary, there was no fundamental problem. There was a minor problem: the withdrawal of five Iraqi police posts, which Iraq had asked be deferred until the demarcation of the boundary had been completed. On the weapons-related obligations, he reaffirmed that all weapons prohibited under resolution 687 (1991) and their subsystems had been destroyed. As to disclosure, Iraq was ready to make full, comprehensive and final declarations of all weapons programmes specified in that resolution. It was ready immediately to begin detailed technical meetings with the Special Commission and IAEA with a view to providing a complete picture, provided that the Council defined a limited time frame for that task. With regard to the "destruction ... or rendering harmless" of the relevant equipment, Iraq was committed to the provisions of resolution 687 (1991) as they stood. The speaker reiterated, however, that the current interpretation of this subject was not in line with the text of the resolution. Destruction had to be limited to equipment that could be used only in the production of prohibited weapons. He called on the Council to meet Iraq's legitimate request with respect to equipment that could be used for civilian purposes or other non-prohibited purposes: namely, that such equipment be rendered harmless or converted to non-prohibited purposes, and that provision be made to verify such use. With respect to verification, Iraq, through its acceptance of resolution 687 (1991), had accepted the principle of future verification of compliance. However, the speaker reaffirmed that Iraq's national sovereignty and territorial integrity must be respected, and asked the Security Council to guarantee those principles. His delegation was ready to engage in a constructive dialogue with the Special Commission and IAEA with a view to providing the information that had been requested and agreeing on practical arrangements falling within the framework of the mandate and objectives defined by the Council — but not going beyond them to serve either political or

intelligence purposes. On the matter of detainees, the speaker stated that the competent Iraqi authorities were ready to take all necessary measures to publish in Iraqi newspapers the names of the missing third-country nationals and to arrange for visits by ICRC representatives to prisons and detention camps. As to the question of its liability under international law, Iraq had accepted the resolutions imposing such liability; it insisted, however, that compensation should be based on international legal provisions, which called for justice and fairness. With regard to its obligation regarding debts and interest, Iraq declared that it respected its obligations, but could not meet them if the embargo were not lifted and it could not export its oil and recover its normal economic situation. As to the return of property, the speaker referred to a point made in the President's introductory statement, in which the members of the Council had noted with satisfaction that, as stated in the further report of the Secretary-General, Iraqi officials had extended maximum cooperation to the United Nations to facilitate the return.

On the question of Iraq's exporting oil to meet the basic humanitarian needs of its people, the speaker recalled that he had proposed a practical way to dispel suspicions that Iraq might use the proceeds for other purposes: Iraq would sell oil to Council members and confine its own purchases to the permanent members of the Council so that they could determine how the revenues were spent. Unfortunately, the regime laid out in resolution 706 (1991), adopted under Chapter VII, had political implications that would lead to interference in Iraq's internal affairs. However, if the Council remained prepared to look into this question, Iraq remained willing to respond. It was ready to resume talks with the Secretariat to work out practical arrangements monitored by the United Nations. The speaker hoped in this regard that the Council would not renew resolution 706 (1991), and that it would be able to separate this operation from any new resolution. Including it in a Council resolution was impractical as problems might be encountered in implementing the machinery: such problems could be dealt with through a dialogue with the Secretariat rather than returning once again to the Council, where there was a risk of running into complications involving another resolution adopted under Chapter VII of the Charter.

As to resolution 688 (1991), Iraq still considered it to be a blatant interference in its internal affairs. The

⁴⁴⁵ S/PV.3059 (Resumption 2), p. 171.

Iraqi authorities had, nevertheless, cooperated with the Special Representative of the Secretary-General coordinating international relief efforts, with whom they had signed a memorandum of understanding, and with all the international agencies and organizations extending assistance to the Iraqi people throughout the country. With regard to the Kurds, a dialogue with the Kurdistan Front had resulted in a new formula for autonomy for the Kurds in Iraq, but it was ultimately not accepted by the Front. Subsequent acts of destruction and sabotage against Government authorities in the northern governorates had made it imperative for the Government to withdraw the administrative apparatus from that area, which was controlled by Kurdish parties. It was they — not the central Government — who bore responsibility for the distribution of supplies. There was no blockade of these governorates, only precautionary measures in the form of checkpoints to prevent smuggling into other countries. The speaker also denied that there was any persecution of the Shiites in Iraq. Concerning the reference to terrorism, he recalled that Iraq had affirmed its commitment in that respect. Finally, in relation to the President's statement, he requested that Iraq be allowed to appear before the Council every two months to take part in its review of the country's compliance with the Council's resolutions, in order to have the opportunity to explain its position. Touching briefly on the questions that had been asked by Council members, the speaker noted that most of them had been dealt with in his two statements.⁴⁴⁶

The representative of the United States stated that much of what they had just heard was a repetition of what had been said before, though he welcomed the reopening of contacts between Iraq and the Secretariat — previously terminated by Iraq — on the implementation of resolutions 706 (1991) and 712 (1991). Once again, the Council had heard that Iraq wished to meet and negotiate its commitments under resolution 687 (1991). And, once again, there was broad and general acceptance of a resolution, but with all kinds of new provisos, reservations, preconditions and so forth. The speaker reminded the Deputy Prime Minister of Iraq that these were mandatory resolutions, which must be complied with in full, and that there had been a long period of 11 months during which extensive discussions had been held with the Special Commission and IAEA — all of which had made it

⁴⁴⁶ Ibid., pp. 171-206.

clear what was required. It was for Iraq to cooperate in making full and complete disclosure about its weapons-of-mass-destruction programmes, and in the destruction of those programmes. The United States would have liked, moreover, to hear a full and clear commitment on Iraq's part to accept the long-term monitoring programme and to comply with it. The speaker was left with the unfortunate conclusion that, with respect not only to weapons of mass destruction, but to all the other elements of the resolution, including the very important humanitarian ones, the Council was once again in a cat-and-mouse game: there was every willingness to discuss at great length but no willingness to accept the need for compliance, much less to begin the actions to comply. That was unfortunate. It was a miscalculation which he hoped would not continue.⁴⁴⁷

The representative of the United Kingdom considered that the exchange had shown that the problems of compliance would never be resolved by words: they would have to be resolved by deeds. In so far as the Deputy Prime Minister had shown some willingness on one or two points to indicate a shift in the position of his Government, that would have to be put to the test — in the work that now had to continue to be done by IAEA and the Special Commission, in the work being done by ICRC, and in the work done by the Secretary-General in the humanitarian area and in the implementation of resolution 688 (1991) — to see whether it resulted in compliance.⁴⁴⁸

The President, with the concurrence of the members of the Council, then once again suspended the meeting and invited the members to join him immediately for consultations.

Following consultations among the members of the Council, the President made the following statement on behalf of the Council:⁴⁴⁹

In concluding the present stage of the consideration of the item on the agenda, I have been authorized, following consultations among members of the Council, to make the following statement on behalf of the Council:

The views of the Council having been expressed through its President and by the statements of its members on the extent of compliance by the Government of Iraq with its obligations under the relevant Security Council

⁴⁴⁷ Ibid., pp. 206-208.

⁴⁴⁸ Ibid., p. 208.

⁴⁴⁹ S/23709.

resolutions, the Council has listened with close attention to the statement by the Deputy Prime Minister of Iraq and his responses to the questions posed by Council members.

The members of the Council wish to reiterate their full support for the following statement, made by the President of the Security Council on their behalf at the opening of the 3059th meeting.

In the view of the Council, the Government of Iraq has not yet complied fully and unconditionally with those obligations, must do so and must immediately take the appropriate actions in this regard. It hopes that the goodwill expressed by the Deputy Prime Minister of Iraq will be matched by deeds.

**D. Letter dated 7 August 1992 from the
Chargé d'affaires a.i. of the Permanent
Mission of Belgium to the United
Nations addressed to the President of
the Security Council**

**Letter dated 7 August 1992 from the
Chargé d'affaires a.i. of the Permanent
Mission of France to the United
Nations addressed to the President of
the Security Council**

**Letter dated 7 August 1992 from the
Permanent Representative of the
United Kingdom of Great Britain and
Northern Ireland to the United Nations
addressed to the President of the
Security Council**

**Letter dated 7 August 1992 from the
Chargé d'affaires a.i. of the Permanent
Mission of the United States of America
to the United Nations addressed to the
President of the Security Council**

**Decision of 11 August 1992 (3105th meeting):
adjournment of the meeting**

By letters dated 7 August 1992 addressed to the President of the Security Council,⁴⁵⁰ the representatives of Belgium, France, the United Kingdom and the United States requested an urgent

⁴⁵⁰ S/24393, S/24394, S/24395 and S/24396, respectively.

meeting of the Security Council to consider further the continuing repression of the Iraqi civilian population in many parts of Iraq, which threatened international peace and security in the region, and the failure of the Government of Iraq to cooperate under resolution 688 (1991).

At its 3105th meeting, on 11 August 1992, the Security Council included the four above-mentioned letters in its agenda and invited the representative of Iraq, at his request, to participate in the discussion without the right to vote. The President (China) also drew attention to the requests contained in the four letters that the Council should extend an invitation to Mr. van der Stoel, in his personal capacity, under rule 39 of its provisional rules of procedure. The representatives of India, Ecuador and Zimbabwe, and the President, in his capacity as the representative of China, expressed reservations about such an invitation, on the grounds that the competence of the Council was to deal with matters bearing upon international peace and security and that matters relating to human rights ought to be dealt with by the General Assembly, the Economic and Social Council or the Commission on Human Rights. However, they noted that the invitation to Mr. van der Stoel was being extended strictly in his personal capacity and not in his capacity as Special Rapporteur of the Commission on Human Rights on Iraq. Moreover, it fell within the scope of resolution 688 (1991) and should be understood to reflect all the limitations inherent in that resolution itself.⁴⁵¹ The President stated that those observations would be reflected in the records of the Security Council. In the absence of any objections, the Council agreed to extend an invitation under rule 39 to Mr. van der Stoel.

The President then drew the attention of the Council members to several other documents.⁴⁵² These included a letter dated 3 August 1992 from the representative of Belgium addressed to the President of the Council,⁴⁵³ transmitting part I of an interim report on the situation of human rights in Iraq prepared by

⁴⁵¹ For the relevant statements, see S/PV.3105, pp. 3-12; see also chapter III, case 4.

⁴⁵² Letter dated 3 August 1992 from the representative of Belgium to the President of the Security Council (S/24386); letter dated 6 August 1992 from the representative of Iraq to the Secretary-General (S/24388); and letter dated 10 August 1992 from the representative of the Islamic Republic of Iran to the Secretary-General (S/24414).

⁴⁵³ S/24386.

Mr. van der Stoel. The report focused in particular on the situation in the southern marshes, whose civilian population was being subjected to military attacks, forced relocations and an internal economic blockade by the Government of Iraq. It also elaborated on a previous recommendation that human rights monitors should be sent to all parts of Iraq to assess the Government's compliance with resolution 688 (1991).⁴⁵⁴ The documents also included a letter dated 10 August 1992 from the representative of the Islamic Republic of Iran addressed to the Secretary-General, observing, *inter alia*, that "The campaign of total annihilation of large segments of the Iraqi population, which has recently been intensely escalated in the southern marshlands of Iraq against the mostly Shiite inhabitants ..., can lead to conditions similar to those in the spring of 1991, threatening regional and international peace and security".⁴⁵⁵

Mr. van der Stoel stated that the Ministry of Health of Iraq had provided him with information that suggested that the health of the Iraqi population was rapidly deteriorating. Large parts of the population, moreover, could not afford the high prices for adequate food. This underlined the need for a quick breakthrough in the negotiations on the implementation — on the basis of resolutions 706 (1991) and 712 (1991) — of the so-called "food for oil" formula, which could bring about a rapid improvement in the nutritional situation. There was also an increased need for uninterrupted international humanitarian assistance. Against that background, he expressed alarm that the humanitarian aid programme in Iraq was grinding to a halt. Refusals to grant and renew visas rapidly, travel and fuel restrictions, and continuous harassment rendered the work of international humanitarian organizations virtually impossible. The Government of Iraq, while condemning the United Nations embargo as inhuman and endangering the health situation of the country, had itself imposed a food blockade against the Kurds in the north and the Shiites in the southern marshes, which constituted a threat to the most basic human right: the right to life. The life of those populations was also threatened more directly. In the north, there was intermittent shelling by Government forces of parts of

the Kurdish area. In the area of the southern marshes, recent artillery bombardments and attacks by fixed-wing aircraft pointed to the start of a major military effort by the Government to restore its control over the region whatever the cost in human lives. Recalling in this connection the operations by the Government of Iraq against the Kurds in the late 1980s which had resulted in the extermination of part of the population, the speaker expressed the hope that members of the Council would agree that everything possible should be done to avoid a repetition of that tragedy. He concluded that the Government of Iraq was in violation of resolution 688 (1991) because it had not ended its policy of repression, as demanded in the resolution, and it had not respected the obligation to allow international humanitarian organizations access throughout Iraq. He expressed the conviction that if a full implementation of that resolution could not be ensured, many thousands of innocent people were in danger of losing their lives.⁴⁵⁶

The representative of Iraq echoed the view expressed by some Council members that it would have been inappropriate for the Council to invite Mr. van der Stoel in his capacity as Special Rapporteur since the Council had no mandate in matters of human rights, and noted that he had been invited in his personal capacity. He added that the report of the Special Rapporteur, which had been presented to the Council a few days before the current meeting, should have been taken up first by the Commission on Human Rights rather than by the Security Council. Given the gravity of his allegations, he wondered why the Special Rapporteur had not first sought clarification from the Government of Iraq about the alleged violations of human rights. He refuted some of the main points that had been emphasized in the report — concerning the indiscriminate military attacks against the civilian population in the marshes; the forced relocation of the marsh Arabs in the south; an internal economic blockade; and the so-called Third River project. While he acknowledged that Government forces often carried out raids on the marshes, he contended that this was to track down and arrest deserters, murderers, smugglers and foreign infiltrators taking refuge there. It was those criminal elements, not the Government forces, which attacked the marsh Arabs and their property. The speaker concluded that, regardless of its merits or demerits, the report was an illegal attempt to help

⁴⁵⁴ Part II of the Special Rapporteur's interim report, on the situation in the rest of the country, was issued later as document A/47/367/Add.1.

⁴⁵⁵ S/24414.

⁴⁵⁶ S/PV.3105, pp. 14-23.

accomplish an illegal aim: namely, to dismember Iraq by calling for permanent human rights observers and eventually to establish another so-called safe haven in the south.⁴⁵⁷

The representative of the United States said it was evident from Mr. van der Stoel's statement that Iraq was in clear and direct violation of resolution 688 (1991), requiring Iraq to end repression of its citizens and allow humanitarian organizations access to all those in need. Saddam Hussein was guilty of human rights abuses throughout the country involving every ethnic and religious group. The United States believed it was appropriate for the Council to address those wider issues as well as the violations cited by Mr. van der Stoel in his report to the Council. It urged him to issue his report on conditions in northern Iraq as soon as possible. Saddam Hussein was also obstructing the work of those who sought to help the people of Iraq. His Government had refused to issue visas to replacements for United Nations guards who had rotated out of the country, while those who remained were being constantly harassed. Those guards performed an essential job: they provided a measure of protection for United Nations personnel and equipment; and were an important symbol of the United Nations humanitarian commitment in Iraq. If the Council accepted that Iraq could control the entry of United Nations personnel by denying visas, Iraqi intransigence could reduce the number of United Nations guards to 127 of a needed contingent of 500 within a week. With a reduced number of United Nations guards, and with United Nations personnel unable to travel between Baghdad and the north, the Government of Iraq could increase its harassment of groups throughout the country that relied on the United Nations presence to care for their humanitarian needs. In recent months, the world had witnessed a resurgence of Iraq's cruel treatment of its citizens in the north. Events in southern Iraq, particularly the recent bombing of Shia villages, showed an equally heinous disregard for the human rights of the Iraqi people. The speaker recalled that, in 1991, the Council had condemned the repression of the Iraqi civilian population in many parts of Iraq, including in the Kurdish populated areas, finding it a threat to international peace and security. At that time, the United States Government and other Governments had concluded that the situation was so serious and Iraqi

⁴⁵⁷ Ibid., pp. 23-24.

intransigence so manifest that additional measures had to be taken to prevent further Iraqi repression of the civilian population. Now, the situation existed not only in the north but also in the south of Iraq. It was imperative that Iraq, without further delay and deception, abide by all relevant Security Council resolutions, including resolution 688 (1991), end its economic blockade of the north and south, renew the United Nations humanitarian programme in Iraq, and cease its repression in the southern marshes.⁴⁵⁸

The representative of Belgium observed that it had been useful and important for Mr. van der Stoel, who was monitoring events in Iraq, to be heard by the Council. The plight of the Shia civilians in the southern marshes and of other populations, particularly the Kurds, was pitiful and getting worse. The difficulties faced by the United Nations staff in charge of structuring humanitarian assistance operations added to his delegation's concerns. Furthermore, his country had information indicating that the harsh repressive measures used by the Iraqi regime now extended to the population of Baghdad itself, a development that showed continuing disdain for the goals and principles of the Charter and constituted a violation by Iraq of various international human rights instruments. The Security Council had, in this respect, imposed specific obligations on Iraq. The speaker recalled, notably, that resolution 687 (1991) provided for a review by the Council of the embargo imposed on Iraq in the light of the policy and practices followed by its Government, and that resolution 688 (1991) demanded that Iraq immediately end its repression of the civilian population. The President of the Council had, moreover, made a statement on 11 March 1992 which included the following passage: "The Council remains deeply concerned at the grave human rights abuses that, despite the provisions of resolution 688 (1991), the Government of Iraq continues to perpetrate against its population". To Belgium's profound regret, nothing in that text was any less true now. The repression that was being inflicted on the Iraqi people was not only a massive and flagrant violation of human rights; it could once again gravely jeopardize the peace and security of the entire region. It was therefore important, in this sphere as well, for the Council to observe with extreme watchfulness the behaviour of the Government of Iraq. The repression committed by the Iraqi authorities, like its attitude towards other matters covered by resolution

⁴⁵⁸ Ibid., pp. 35-39.

687 (1991), prevented Iraq from reassuming its place in the international community.⁴⁵⁹

The representative of the Russian Federation stated that his country attached great importance to the full and consistent implementation of the resolutions of the Security Council which were intended to eliminate the consequences of the Iraqi aggression against Kuwait and to establish a lasting peace and security in that region. Accordingly, like other Council members, the Russian Federation was seriously alarmed by reports of a continuing policy of repression against the civilian population in various parts of Iraq, which constituted a direct violation of the demand in resolution 688 (1991) that Iraq, as a contribution to the removal of the threat to international peace and security in the region, should end the repression against its own civilian population. Useful information on the tragic situation of many population groups in Iraq as the result of the policy of their own Government had just been given to the Council by Mr. van der Stoel. The Russian delegation had received with particular alarm the information provided by the Secretary-General at informal consultations on 7 August 1992 about the worsening situation regarding the safety of United Nations personnel in Iraq. The increasingly frequent attempts to intimidate United Nations personnel and the instances of attempts on their lives were totally unacceptable. Those and other facts revealed the obvious unwillingness of the Iraqi authorities to have witnesses to their repressive actions against the civilian population and their efforts to interfere with the activities of representatives of the international community in Iraq. That was also the conclusion the Russian Federation drew from the fact that Baghdad had so far avoided extending the memorandum of understanding with the United Nations. The deep concern of members of the Security Council at the failure to comply with resolution 688 (1991) had been indicated on a number of occasions, including at the Council meeting in March 1992 in which a high-level Iraqi delegation had participated. However, there had not yet been any adequate response by Baghdad to the Council's demands. The letter dated 6 August 1992 from the Minister for Foreign Affairs of Iraq to the President of the Security Council⁴⁶⁰ and the statement made at the current meeting by the representative of Iraq were further evidence of that

fact. The Russian delegation emphasized the groundlessness and uselessness of any attempt by Iraq to test the firmness of the Council's determination to obtain Iraq's full and unconditional compliance with all Council decisions, including resolution 688 (1991). Only by constructive cooperation with the international community could Iraq avoid the serious consequences it would face if it continued on its course of confrontation with the Security Council.⁴⁶¹

The representative of France noted that Mr. van der Stoel's testimony was extremely disquieting. It confirmed that throughout Iraq elementary human rights were being trampled upon and that repression against the civilian population was continuing, in the north as well as in the south. It also confirmed that resolution 688 (1991) was being disregarded by the Government of Iraq. While the United Nations, the specialized agencies and the non-governmental organizations were exerting remarkable efforts to bring relief to the civilian population, the Government was placing ever-greater obstacles in the way of humanitarian action. In fact, it was seeking to put an end to that action. The French delegation attached particular importance to the presence of the contingent of United Nations guards, which must be enabled to carry out the task given to it by the Secretary-General. It was essential, therefore, that the memorandum of understanding between Iraq and the United Nations of 18 April 1991 be renewed. France would follow very closely the negotiations, which it understood had just been revived. The speaker concluded by recalling that the year before the Security Council had found that the repression by the Baghdad authorities constituted a threat to international peace and security. The Government of France, along with others, had taken measures to protect the population in the north, which at that time was particularly affected. The situation that existed now in the south was equally serious. The international community could not remain indifferent to the fate of the population in the south; it had to do everything possible to prevent further massive violations of human rights and to prevent an exodus.⁴⁶²

The representative of the United Kingdom found the report to the Council by Mr. van der Stoel — which related principally to resolution 688 (1991) and was therefore very much a matter for the Council — to be

⁴⁵⁹ *Ibid.*, pp. 40-42.

⁴⁶⁰ S/24388.

⁴⁶¹ S/PV.3105, pp. 42-45.

⁴⁶² *Ibid.*, pp. 51-53.

deeply disturbing. However, he found the comments by the Iraqi representative to be even more disturbing in their failure to address the horrific facts. With regard to the state of health in Iraq, he observed that the failure of the Government of Iraq to implement the scheme under resolutions 706 (1991) and 712 (1991), which would have enabled it to buy foodstuffs and medicines for the people of Iraq, was itself a tragedy which contributed to the repression by the Government of its population in contravention of resolution 688 (1991). He agreed with Mr. van der Stoel's statement that the humanitarian programme was desperately needed in all parts of Iraq — and that included the work of the United Nations guards, which was vital for the well-being of the Iraqi population in all parts of the country. His Government therefore welcomed the news that the Under-Secretary-General for Humanitarian Affairs had been invited to visit Baghdad and hoped that the Government would renew the memorandum of understanding forthwith. The speaker added that it was clear from Mr. van der Stoel's account that Iraq was engaged in a full-scale repression of the Shia population in the southern marshes, and that the north was suffering from an economic blockade, both actions in defiance of the Council and its resolution 688 (1991). Like previous speakers, he recalled the Council's conclusion the year before that the repression of the Iraqi civilian population in many parts of Iraq, including the Kurdish-populated areas but also in the south, which had led to a massive exodus of refugees to Turkey and the Islamic Republic of Iran, itself threatened international peace and security. His Government and a number of others had felt that the situation was so serious and Iraqi intransigence so evident that measures had to be taken to help prevent the population from being further repressed. That situation now appeared to exist in the south of Iraq as it had the year before in the north. In concluding, the speaker stated that, if the Government of Iraq wished the Council to accept the claim that its intentions were good, three things had to be done immediately: one was to end the economic blockade of the north of Iraq; the second was to stop the forceful repression in the south of Iraq; and the third was to renew the memorandum of understanding.⁴⁶³

The representative of Hungary considered the participation of Mr. van der Stoel in the Council's meeting an important contribution towards enhancing

⁴⁶³ Ibid., pp. 54-57.

the awareness of the link between the way a Government treats its own citizens and the way it acts in the international arena, as well as the link between enforcing respect for human rights and maintaining international peace and security. Resolution 688 (1991) and the presidential statement of 11 March 1992 had clearly recognized this relationship by keeping the question of repression in Iraq under review by the Council. The speaker urged the Iraqi authorities to put an end to the repression of the civilian population throughout the country, to permit the continuance of humanitarian relief efforts unhindered and to implement the relevant Security Council resolutions. He concluded by reiterating a point made by his delegation at the summit meeting of Security Council members in January: for Hungary, respect for human rights and the rights of national minorities was not merely a legal or humanitarian question; it was also an integral part of international collective security, as exemplified during and after the Gulf crisis, and more recently in the conflict among the southern Slav peoples. It was indispensable, therefore, for the Council, in the context of its peacebuilding efforts, to take an unambiguous stand for the protection of those rights whenever and wherever they were flagrantly violated.⁴⁶⁴

A number of other speakers similarly deplored the continuing repression by the Iraqi Government of the civilian population in many parts of the country, which threatened international peace and security in the region.⁴⁶⁵ They urged Iraq to implement the relevant Security Council resolutions and to renew the memorandum of understanding with the United Nations.

The meeting was then adjourned.

E. Letter dated 24 August 1992 from the Secretary-General addressed to the President of the Security Council

Decision of 2 September 1992 (3112th meeting): statement by the President

By a letter dated 24 August 1992 addressed to the President of the Security Council,⁴⁶⁶ the Secretary-

⁴⁶⁴ Ibid., pp. 57-59.

⁴⁶⁵ Ibid., p. 46 (Japan); pp. 46-51 (Austria); and pp. 59-62 (Venezuela).

⁴⁶⁶ S/24509.

General informed the Council about the negotiations with Iraq in August on the extension of the memorandum of understanding governing the Inter-Agency Humanitarian Programme in Iraq. The Under-Secretary-General for Humanitarian Affairs, assisted by the Coordinator and senior officials from the United Nations programmes and agencies participating in the humanitarian programme, had held five rounds of talks with the Minister for Foreign Affairs of Iraq, discussions with the Deputy Prime Minister of Iraq, and several technical meetings with Government Ministers and officials. Iraq had taken the position that, in view of the changed circumstances since the adoption of the two preceding memorandums, the humanitarian programme should be based on transitional arrangements moving from an emergency phase towards “normalization” and regular cooperation with United Nations agencies. In that context, it considered that some of the exceptional measures provided for in the two earlier agreements were no longer applicable. The Secretary-General reported that, despite extensive negotiations, wide divergences remained in the positions of the two parties on certain key issues. Thus, for example, the Government insisted that United Nations sub-offices would no longer be permitted, although access on a functional basis would be granted for project implementation, whereas the United Nations considered such field stations to be essential for the effective implementation of the humanitarian programme throughout Iraq. The Government also wished to limit the overall strength and the location of the United Nations guards, which the United Nations found unacceptable, insisting upon the continued deployment of guards, with a ceiling of 500, in view of the grave security conditions prevailing in the country. The Government had also urged that every effort should be made to exempt humanitarian requirements from the imposition of sanctions, stressing the suffering these continued to inflict on the civilian population. In the course of the discussions, the Government had expressed particular concern at the declarations of impending action aimed at imposing an exclusion zone for Iraqi aircraft below the 32nd parallel. The Secretary-General had been asked to take up this issue, which the Government maintained was in contravention of international law. The Deputy Prime Minister had explicitly linked the implications of those declarations to the continued presence of the humanitarian programme in the south of the country and the Government’s refusal to permit the

maintenance of sub-offices under a renewed memorandum of understanding. He had further indicated that in the event of such an exclusion zone being put into effect, any eventual memorandum of understanding would no longer be tolerated on Iraqi territory. Moreover, in view of the possibility of demonstrations in the Basrah area, he had suggested that any remaining humanitarian personnel in the south be withdrawn to Baghdad to ensure their safety. That had been done. The Secretary-General added that, although no agreement had been reached, the Minister for Foreign Affairs of Iraq had expressed the view that there would be another opportunity “in a short while” to discuss the humanitarian programme and to reach a formula for the extension of the memorandum of understanding. In the meantime, he had given the Government’s assurance that “a de facto memorandum of understanding existed” and that cooperation would be extended to the office of the Coordinator and United Nations programmes and agencies based in Baghdad.

The Secretary-General concluded that, from the United Nations perspective, the Government’s position prevented the Inter-Agency Humanitarian Programme from providing effective humanitarian assistance to vulnerable groups in Iraq. No further United Nations presence, in terms of sub-offices or guards, was currently permitted in the south of the country. At the same time, the Programme’s implementation in the northern governorates had been brought to a halt. In the absence of a United Nations presence in the south, a reliable assessment of conditions prevailing in that region would not be possible; while in the north the population would be placed at serious risk if adequate food and fuel were not pre-positioned by November and should the Government not reinstate adequate food rations by then. He warned that such a situation could well lead to a renewed and large-scale displacement of the population.

At its 3112th meeting, held on 2 September 1992 in accordance with the understanding reached in its prior consultations, the Council included the Secretary-General’s letter in its agenda.

The President (Ecuador) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁴⁶⁷

⁴⁶⁷ S/24396.

The Security Council is deeply concerned at the current situation of the Inter-Agency Humanitarian Programme in Iraq, as outlined in the Secretary-General's letter of 24 August 1992 to the President of the Security Council, including its reference to Iraq's failure to renew its Memorandum of Understanding with the United Nations.

The Council recalls its statement of 17 July 1992, in which the Council expressed its profound concern at the deteriorating conditions affecting the safety and well-being of United Nations personnel in Iraq. The Council is particularly disturbed by Iraq's continuing failure to ensure the safety of United Nations personnel and the personnel of non-governmental organizations.

The Council expresses its concern regarding the conduct and statements of Iraq on the Programme which are inconsistent with the previous Council resolutions that demand that Iraq cooperate with the international humanitarian organizations.

The Council affirms that the critical humanitarian needs of vulnerable groups in Iraq require the speedy conclusion of arrangements that would ensure the continuation of the Programme. In this respect, the Council considers unrestricted access throughout the country and the assurance of adequate security measures as essential prerequisites for the effective implementation of the Programme. To this end, the Council fully endorses the Secretary-General's insistence upon appropriate field offices for participating United Nations agencies and programmes and the continuing deployment of the United Nations Guards. The Council strongly supports the Secretary-General's continuing efforts to sustain a United Nations and non-governmental organization humanitarian presence throughout Iraq, and urges him to continue to use all resources at his disposal to help all those in need in Iraq. The Council urges Iraq in the strongest possible terms to cooperate with the United Nations.

F. Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council

Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council

Letter dated 5 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council

Letter dated 3 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council

Letter dated 19 November 1992 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council

Decision of 23 November 1992 (3139th meeting): statement by the President

At its 3139th meeting, held on 23 November 1992 in accordance with the agreement reached in the course of its prior consultations, the Security Council included in its agenda the letters addressed to the President of the Security Council dated 2 and 4 April 1991 and 5 March 1992 from the representatives of Turkey, France and Belgium, respectively.⁴⁶⁸ The agenda also included two subsequent letters from the representative of Belgium addressed to the President of the Council: by a letter dated 3 August 1992,⁴⁶⁹ he transmitted part I of the interim report on the situation of human rights in Iraq prepared by Mr. van der Stoep, Special Rapporteur of the Commission of Human Rights; by a letter dated 19 November 1992,⁴⁷⁰ the representative of Belgium noted that the Council would be holding a meeting concerning Iraq on 23 November 1992, recalled that the Council had undertaken in previous decisions to continue its discussion of the repression in Iraq, and stated that the latter remained a matter of grave concern to his Government. The item was considered by the Council at its 3139th meeting, which was twice suspended and resumed, on 23 and 24 November 1992.

Pursuant to an agreement reached in its prior consultations, the Council invited the representatives of Iraq and Kuwait, at their request, to participate in the discussion without the right to vote. It also extended invitations under rule 39 of its provisional

⁴⁶⁸ S/22435, S/22442 and S/23685 and Add.1, respectively. These three letters were included in the agenda for the 3059th meeting of the Council, held on 11 March 1992; see section 22.C of the present chapter.

⁴⁶⁹ S/24386.

⁴⁷⁰ S/24828.

rules of procedure to Messrs. Hans Blix, Director General of the International Atomic Energy Agency, Rolf Ekeus, Executive Chairman of the Special Commission, and Jan Eliasson, Under-Secretary-General for Humanitarian Affairs and the Emergency Relief Coordinator. The President (Ecuador) then drew the attention of the members of the Council to the request contained in the letter of 19 November from the representative of Belgium that the Council extend an invitation under rule 39 of its provisional rules of procedure to Mr. van der Stoel. The representatives of China and Zimbabwe reiterated the reservations that they had expressed about such an invitation at the 3105th meeting on 11 August 1992. The representative of China also expressed a reservation about the references to the interim report of the Special Rapporteur on human rights and to the members' public meeting with Mr. van der Stoel contained in the text of the statement that was to be made shortly by the President of the Council.⁴⁷¹ The President stated that the observations that had been made would appear in the records of the Council. In the absence of any objections, the Council then agreed to invite Mr. van der Stoel under rule 39 of its provisional rules of procedure. The Council also invited the representative of the Islamic Republic of Iran, at his request, to participate in the discussion without the right to vote.

The President also drew the attention of the Council members to two other documents.⁴⁷² Welcoming the Deputy Prime Minister of Iraq, he stated that the Council members all hoped that the meetings would be very productive and constructive. He recalled that, in a letter dated 10 November 1992,⁴⁷³ the Minister for Foreign Affairs of Iraq had informed the Council of the wish of the Government of Iraq to send an official high-level delegation to United Nations Headquarters in order to pursue a dialogue

with the Council on Iraq's implementation of its obligations under certain resolutions of the Council.

The President then stated that, following prior consultations among the members of the Council, he had been authorized to make the following introductory statement on behalf of the Council:⁴⁷⁴

I. GENERAL OBLIGATION

1. The resolutions concerning the situation between Iraq and Kuwait impose a number of general and specific obligations upon Iraq.
2. As regards the general obligation, Iraq is required, under paragraph 33 of resolution 687 (1991) of 3 April 1991, to give official notification to the Secretary-General and to the Security Council of its acceptance of the provisions of that entire resolution.
3. Iraq signified its unconditional acceptance in identical letters dated 6 April 1991, addressed to the Secretary-General and to the President of the Security Council and in a letter dated 10 April 1991 from the Permanent Representative of Iraq to the United Nations addressed to the President of the Security Council, and in a letter dated 23 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council.

II. SPECIFIC OBLIGATIONS

4. In addition to the general obligation to accept the provisions of resolution 687 (1991) in their entirety, several Council resolutions impose specific obligations upon Iraq.

(a) Respect for the inviolability of the international boundary

5. By paragraph 2 of resolution 687 (1991) the Council demands that Iraq respect the inviolability of the international boundary and the allocations of islands previously agreed upon between Iraq and Kuwait. Pursuant to paragraph 3 of that resolution, the Secretary-General established a Boundary Demarcation Commission to demarcate the boundary between Iraq and Kuwait. Paragraph 5 of the same resolution requires Iraq and Kuwait to respect a demilitarized zone established by the Council.

6. Iraq did not participate in the work of the Iraq-Kuwait Boundary Demarcation Commission at its July 1992 and October 1992 sessions. Iraq has refused up to now to withdraw a number of police posts that are not in line with the United Nations Iraq-Kuwait Observation Mission's principle that both sides should stay 1,000 metres from the boundary line shown on the Mission's map. The Council in paragraph 2 of resolution 773 (1992) of 26 August 1992 welcomed the Commission's land demarcation decisions and, in paragraph 5, the intention of the Secretary-General to carry out at the earliest practicable time the

⁴⁷¹ For the relevant statements, see S/PV.3139, pp. 3-5; see also chapter III, case 4.

⁴⁷² The status of the implementation of the plan for the ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991) (S/24661); and notes by the Secretary-General transmitting to the Security Council the second report of the Director General of IAEA on the implementation of the Agency's plan for future ongoing monitoring and verification of Iraq's compliance with paragraph 12 of resolution 687 (1991) (S/24722).

⁴⁷³ S/24822, annex.

⁴⁷⁴ S/24836.

realignment of the demilitarized zone to correspond to the international boundary demarcated, by the Commission, with the consequent removal of the Iraqi police posts.

7. In response to the letter dated 21 May 1992 from the Foreign Minister of Iraq addressed to the Secretary-General, the Council in a 17 June 1992 statement stressed to Iraq the inviolability of the international boundary between Iraq and Kuwait being demarcated by the Commission and guaranteed by the Council pursuant to resolution 687 (1991). In this statement, members of the Council also noted with dismay that the above-mentioned letter recalled past Iraqi claims to Kuwait without also recalling Iraq's subsequent repudiation of these claims. The members of the Council firmly rejected any suggestion that tended to dispute the very existence of Kuwait. Resolution 773 (1992) underlined the Council's guarantee of the above-mentioned international boundary and its decision to take as appropriate all necessary measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991).

(b) Weapons-related obligations

8. Section C of resolution 687 (1991) imposes certain specific obligations upon Iraq with respect to its chemical and biological weapons programmes, its programmes for ballistic missiles with a range greater than 150 kilometres and its nuclear programmes. These obligations are elaborated upon in resolutions 707 (1991) of 11 August 1991 and 715 (1991) of 11 October 1991. The obligations are defined in paragraphs 8 to 13 of resolution 687 (1991) and they are elaborated upon in paragraphs 3 and 5 of resolution 707 (1991) and paragraph 5 of resolution 715 (1991).

9. By resolution 699 (1991) of 17 June 1991, the Council decided that the Government of Iraq shall be liable for the full costs of carrying out the tasks authorized by section C of resolution 687 (1991). No funds have so far been received from Iraq to meet this liability.

10. The Council has noted that since the adoption of resolution 687 (1991) progress has been made in the implementation of section C of that resolution but that much remains to be done. In particular, Iraq needs to provide the full, final and complete disclosure of all aspects of its programmes for weapons of mass destruction and ballistic missiles with a range greater than 150 kilometres. There is a particular and vital requirement for complete information, including credible documentary evidence on Iraq's past production, suppliers and consumption of all prohibited items, and its past capacity to produce such items.

11. Iraq must also acknowledge clearly its obligations under resolution 715 (1991) and the two plans for ongoing monitoring and verification approved thereunder. It must agree to implement these obligations unconditionally. In this connection the Council notes the letter of 28 October 1992 from the Minister of Foreign Affairs of Iraq addressed to the Secretary-General seeking a review of the terms and provisions not only of resolution 715 (1991) but also resolution 707 (1991). It is

accordingly clear that Iraq seems unprepared to comply with the obligations already prescribed.

12. The Special Commission has informed the Council about the outstanding matters that would at the present time appear to be the most important. The Council has noted the report of the Secretary-General of 19 October 1992 on the status of the implementation of the plan for the ongoing monitoring and verification of Iraq's compliance with relevant parts of section C of Security Council resolution 687 (1991).

13. The Council has also noted the second report of the Director General of the International Atomic Energy Agency of 28 October 1992 on the implementation of the Agency's plan for the future ongoing monitoring and verification of Iraq's compliance with paragraph 12 of resolution 687.

14. In a statement issued on behalf of the members of the Security Council on the Special Commission's right to conduct aerial surveillance flights in Iraq, the President stated on 10 April 1992 that:

The members of the Council wish to point out that the surveillance flights are carried out under the authority of Security Council resolutions 687 (1991) of 3 April 1991, 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991. Reaffirming the right of the Special Commission to conduct such aerial surveillance flights, the members of the Council call upon the Government of Iraq to take all the necessary steps to ensure that the Iraqi military forces will not interfere with or threaten the security of the flights concerned and to comply with its responsibilities to secure the safety of the Special Commission's aircraft and personnel flying over Iraq.

The President also said that:

The members of the Council warn the Government of Iraq of the serious consequences which would ensue from any failure to comply with these obligations.

15. The Special Commission, on 15 October 1992, informed the Council of actions endangering the safety and security of the Commission's inspection teams in Iraq, including a systematic campaign of harassment, acts of violence, vandalism and verbal denunciations and threats at all levels. The President of the Council issued on the same day a statement to the media stressing the Council's particular concern for the safety of the Commission's inspectors.

16. In a further statement made on 6 July 1992 on behalf of the members of the Council concerning the Government of Iraq's refusal to permit access to certain premises by a team of inspectors, the President said:

Iraq's present refusal to permit access to the Inspection Team currently in Iraq to the premises designated by the Special Commission constitutes a material and unacceptable breach by Iraq of a provision of resolution 687 (1991) which established the ceasefire and provided the conditions essential to the restoration of peace and security in the region. The members of the Council

demand that the Government of Iraq immediately agree to the admission to the premises concerned of the inspectors of the Commission as required by the Chairman of the Special Commission, so that the Commission may establish whether or not any documents, records, materials, or equipment relevant to the responsibilities of the Commission are located therein.

In its resolution 707 (1991) the Council demands that Iraq allow the Special Commission, the International Atomic Energy Agency and their inspection teams immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation which they wish to inspect. Therefore, the Council cannot accept Iraq's insistence that there must be a limit on access by the inspection teams.

(c) Repatriation of and access to Kuwaiti and third-State nationals in Iraq

17. As regards Kuwaiti and third-State nationals in Iraq, resolutions 664 (1990) of 18 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 674 (1990) of 29 October 1990, 686 (1991) of 2 March 1991 and 687 (1991) of 3 April 1991 impose an obligation on Iraq to release, facilitate repatriation of, and arrange for immediate access to them, as well as the return of the remains of any deceased personnel of the forces of Kuwait and of the Member States cooperating with Kuwait pursuant to resolution 678 (1990) of 29 November 1990. Furthermore, paragraph 30 of resolution 687 (1991) requires Iraq to extend all necessary cooperation to the International Committee of the Red Cross in facilitating the search for Kuwaiti and third-State nationals still unaccounted for.

18. In spite of its best ongoing efforts, the Committee has not received information as to the whereabouts of the persons reported missing in Iraq. Nor has it received detailed and documented information on the search conducted by the Iraqi authorities. Following the 11-12 March 1992 Council meeting with the Iraqi Deputy Prime Minister, Iraq published in its press lists of those believed missing detained inside Iraq. The Committee has still not received permission to visit Iraqi prisons and detention centres in accordance with its standard criteria. Very few missing persons detainees have been released since March 1992, while hundreds are believed still to be inside Iraq.

(d) Iraq's liability under international law

19. Another obligation concerns Iraq's liability under international law. In resolution 674 (1990), the Council reminded Iraq that "under international law it is liable for any loss, damage or injury arising in regard to Kuwait and third States and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq". Its liability under international law is reaffirmed in paragraph 2 (b) of resolution 686 (1991) and paragraph 16 of resolution 687 (1991). The latter resolution further specifies that it "is liable under international law for any direct loss, damage — including environmental damage and the depletion of natural resources —

or injury to foreign Governments, nationals and corporations, as a result of its unlawful invasion and occupation of Kuwait".

20. By paragraph 18 of the same resolution, the Council created a fund to pay compensation for claims that fall within paragraph 16, to be financed by a percentage of the value of the exports of petroleum and petroleum products from Iraq. In view of the existing economic sanctions against Iraq under resolution 661 (1990) of 6 August 1990, Iraq was permitted by the Council under resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991 to sell a limited quantity of oil, as an exception, a portion of the proceeds from which would be used to provide financial resources for the Fund. To date, it has not availed itself of this possibility. The Council noted that this authorization lapsed on 18 March 1992 but indicated its readiness to authorize the regime for the sale of Iraqi petroleum and petroleum products for a like period of time as that specified in these resolutions and also its readiness to consider possible further extensions, as set out in the statement of 19 March 1992, made by the President on behalf of the Council. Since then Iraq has not shown any willingness to resume discussions about implementing these resolutions. The members of the Council are aware of a previous request by Iraq for a five-year moratorium on meeting its financial obligations, including payments into the United Nations Compensation Fund.

21. In view of Iraq's refusal to cooperate in the implementation of resolutions 706 (1991) and 712 (1991) after several rounds of technical discussions with the Secretariat, the Council adopted on 2 October 1992 resolution 778 (1992) which mandates that certain frozen Iraqi assets be transferred to an escrow account opened by the United Nations. A portion of these funds will be transferred to the Compensation Fund.

(e) Repayment and servicing of Iraq's foreign debt

22. With regard to another obligation, the Council demands, in paragraph 17 of resolution 687 (1991), that Iraq scrupulously adhere to all of its obligations concerning servicing and repayment of its foreign debt.

(f) Non-entitlement to claims deriving from the effects of the measures taken by the Security Council in resolution 661 (1990) and related resolutions (para. 29 of resolution 687 (1991))

23. According to information received with regard to this item, Iraq has attempted to enforce some claims under which it would have benefited from a contract frustrated by the coming into effect of the terms of resolution 661 (1990), in particular, through the confiscation of the property of foreign companies and organizations left in Iraq.

(g) Return of property

24. I now turn to the question of return of property. The Security Council, in paragraph 2 (d) of resolution 686 (1991), demands that Iraq immediately begin to return all Kuwaiti property seized by it, to be completed in the shortest possible period. The members of the Council have previously noted with

satisfaction that Iraqi officials involved with the return of property have extended cooperation to the United Nations to facilitate the return of such property. However, much property, including military equipment and private property, remains to be returned.

(h) Monthly statements of gold and foreign currency reserves

25. Another obligation is set out by paragraph 7 of resolution 706 (1991), under which the Government of Iraq is required to provide to the Secretary-General and appropriate international organizations monthly statements of its gold and foreign currency reserves. To date, no such statements have been provided to the Secretary-General or to the International Monetary Fund.

(i) Undertaking not to commit or support acts of international terrorism

26. By paragraph 32 of resolution 687 (1991), Iraq is required not to commit or support acts of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism.

27. The Council notes Iraq's statements contained in identical letters dated 11 June 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council and the Secretary-General, and in a letter dated 23 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Iraq to the United Nations addressed to the President of the Security Council that it is a party to international conventions against terrorism and that it has never pursued a policy favourable to international terrorism as defined by international law.

(j) Security Council action with respect to the Iraqi civilian population

28. Resolutions 706 (1991) and 712 (1991) provide a means for Iraq to meet its obligations to supply its civilian population with needed humanitarian assistance, particularly food and medicine. Resolution 778 (1992) mandates that certain frozen Iraqi assets be transferred to an escrow account opened by the United Nations and urges States to contribute funds from other sources to the escrow account. A portion of these funds will be used for humanitarian assistance.

III. SECURITY COUNCIL RESOLUTION 688 (1991)

29. I should now like to refer to the demands by the Security Council with respect to the Iraqi civilian population. In paragraph 2 of resolution 688 (1991), the Council demands that Iraq, as a contribution to removing the threat to international peace and security in the region, end the repression of its civilian population. In paragraphs 3 and 7, the Council insists that it allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of

Iraq, and demands its cooperation with the Secretary-General to these ends.

30. The Council remains deeply concerned at the grave human rights abuses that, despite the provisions of resolution 688 (1991), the Government of Iraq continues to perpetrate against its population, in particular in the northern region of Iraq, in southern Shia centres and in the southern marshes. The Security Council notes that this situation is confirmed by the Special Rapporteur of the Commission on Human Rights in his report on the human rights situation of 5 March 1992 and in part I of his report of 3 August 1992. The members of the Council recall their public meeting with Mr. Max van der Stoep on 11 August 1992.

31. The members of the Security Council take note of the renewal on 22 October 1992 of the Memorandum of Understanding providing the framework for urgent humanitarian assistance throughout the country between the United Nations and the Government of Iraq.

IV. CONCLUDING OBSERVATION

32. In view of the observations on the record of Iraq's performance, and without prejudice to further action by the Security Council on the question of the implementation of its relevant resolutions by Iraq, the Council has considered itself justified in concluding that Iraq has up to now only selectively and then partially complied with the obligations placed upon it by the Council. It is the Council's hope that this meeting will prove a valuable opportunity to impress once again upon Iraq the imperative need for full compliance and to obtain from Iraq undertakings which would constitute an advance in the consideration of this issue as required in the interest of world peace and security, as well as that of the Iraqi people.

The representative of the United Kingdom concentrated on four areas of major political significance in which he said there had been prevarication, concealment, defiance, repression and non-compliance with the Council's resolutions. The first was the Iraq-Kuwait boundary. In recent months there had been a pattern of Iraqi actions and behaviour which completely invalidated Iraq's formal acceptance of Kuwait's existence within boundaries to be demarcated under an objective United Nations process. Most serious of all was the reassertion by Iraq of its claim to Kuwait in statements by Government ministers, officials, and in the Government-controlled media in Iraq. This struck at the very heart of the ceasefire resolutions, and called into question Iraq's commitment to resolution 687 (1991). The second area of concern was that of weapons of mass destruction. Iraq had still not complied with its obligation under resolution 707 (1991) to provide a full, final and complete declaration of its weapons of mass

destruction and ballistic missile programmes. It had also failed either to recognize or to accept its obligations under resolution 715 (1991), which provided for long-term monitoring and verification by inspection. He observed that the Foreign Minister of Iraq, in a letter of 28 October 1992, had called for a review of those two resolutions, which sounded like an attempt to escape from those obligations altogether. That would not be acceptable: without long-term monitoring and verification there could be no certainty that Iraq would not start the whole process over again. Since the Council's meeting in March, Iraq had had a very mixed track record over inspections. Although there had been some cooperation at the field level, the situation had been markedly different at the political level, access to the Ministry of Agriculture building in Baghdad having been denied. There had been hostile and inaccurate statements by Iraqi leaders about United Nations inspection teams and serious harassment of inspectors. The inspectors must be allowed to go about their work unhindered and in safety and be allowed access to wherever their work took them, without limits. The third area of concern mentioned by the speaker was the question of detainees. The detention of Kuwaiti and third-country nationals continued, he stated, and Iraq had still not agreed to ICRC standard procedures for visits to places of detention in Iraq. That was a serious humanitarian issue where Iraqi behaviour was clearly at variance with its obligations under international law and Security Council resolutions. The fourth area of concern was the matter of Iraq's treatment of its own citizens. Throughout the crisis, the Council's quarrel had been with the Government of Iraq, not with the Iraqi people. The Council had accordingly adopted resolutions 706 (1991) and 712 (1991), which would have created an exemption from the sanctions regime to permit Iraq to export oil to pay for humanitarian imports. Iraq had persistently refused to operate this fair and equitable scheme, in blatant disregard of the needs of its own people. However, the offer remained on the table. Iraq had also prevaricated over renewal of its memorandum of understanding with the United Nations, the basis for the United Nations humanitarian programmes in Iraq. The renewed memorandum of understanding, agreed to in October, did not meet all the United Nations aspirations, particularly in the south, and concerns remained about the security of humanitarian personnel in northern Iraq. The Government had, moreover, consistently ignored the Council's demand in resolution 688 (1991) that it

cease the repression of its own people. The speaker concluded that only when the leaders of Iraq heeded what was being said in the Council and took decisive steps to remedy these shortcomings would they be able to get off on a new foot.⁴⁷⁵

The representative of the United States noted that, in the face of Iraqi intransigence, the Council's efforts must continue undiminished. More than two years after Iraq's unprovoked aggression against Kuwait, and despite the concerted will of the world community, the Council still saw its requirements honoured only partially. It must know when Iraq would comply fully and completely with all its relevant resolutions, and should hold the senior Iraqi delegation attending the meeting to the strictest standards of accountability. The speaker recalled that resolution 687 (1991), which required Iraq to take precise steps on many issues, had been formally accepted by Iraq in a letter of 6 April 1991.⁴⁷⁶ Subsequently, a series of resolutions had spelled out Iraq's obligations in detail. Many of those resolutions were necessary because, from the first, Iraq had evaded its obligations. In a letter to the Council on 28 October 1992, the Foreign Minister of Iraq had challenged the implementation of resolution 687 (1991). The United States rejected that challenge: if the Gulf region were to enjoy peace and security, Iraq's weapons of mass destruction and ballistic missiles had to be permanently eliminated. That goal required Iraq's cooperation in two areas: the full and complete disclosure of its weapons programmes; and long-term monitoring and verification. Although some progress had been made in this regard since March, Iraq had left many gaps in its declarations to the Special Commission and to IAEA, which were essential for establishing a proper baseline for long-term monitoring and compliance. Even more worrisome was Iraq's call, in the Foreign Minister's letter of 28 October, for the Security Council to conduct a radical review of resolutions 707 (1991) and 715 (1991), which demanded that Iraq allow full access to all sites and accept a long-term monitoring regime. The letter also questioned the Special Commission's operation of surveillance helicopters and fixed-wing aircraft. Those views raised further doubts about Iraq's readiness to comply fully with all relevant resolutions of the Council. The speaker reiterated that the United States objected to, and would not countenance, an Iraqi

⁴⁷⁵ S/PV.3139, pp. 22-27.

⁴⁷⁶ S/22456.

belief that Baghdad could decide for itself what the Council intended by its resolutions. Iraq's record on boundary issues, notably its non-participation in the work of the Iraq-Kuwait Boundary Demarcation Commission, was also disappointing, and the Foreign Minister's recollection in May of past Iraqi claims to Kuwait was disturbing. The boundary issue and Iraq's challenge to Kuwait's sovereignty reached to the very cause of the Gulf war. In response, the Council had adopted resolution 773 (1992), which emphasized the importance of the Boundary Demarcation Commission and underlined the inviolability of the boundary. When the demarcation of the land boundary was completed, the Iraqi regime was expected to accept in full the Commission's work. The speaker added that Iraq had not fulfilled other obligations of resolution 687 (1991), including repatriation of, and access to, detained Kuwaiti and third-country nationals, allowing access by ICRC to detention facilities in Iraq, and the return of Kuwaiti property. The Iraqi regime's repression of its civilian population, which had led to the adoption of resolution 688 (1991), too, continued to be of concern. The Baghdad regime's response to that resolution had been an economic blockade of the north. It had also subjected the civilian communities in the southern marshes to food blockades, air attacks, artillery bombardments, forced relocations and torture. Within weeks of Mr. van der Stoep's report to the Council in August detailing these human rights abuses, the United States and its coalition partners had launched Operation Southern Watch, which monitored the implementation of resolution 688 (1991) and deterred the most serious forms of repression by the Iraqi military authorities, through the enforcement of a no-fly zone south of the 32nd parallel. Although that operation had been successful, Baghdad's repression by other means continued in the south, which the United States and the rest of the international community deplored. Additional steps would be considered if the Iraqi regime continued to violate resolution 688 (1991) or other Security Council resolutions. The speaker anticipated that the Iraqi delegation might tell the Council of human suffering brought about by economic sanctions established under resolution 661 (1990). However, he recalled that there had never been a prohibition on importing medical supplies into Iraq, that the embargo on food had come to an end in April 1991, and that large quantities had been subsequently imported, but that the Iraqi regime had manipulated food distribution as an instrument of

repression. Furthermore, resolutions 706 (1991) and 712 (1991) had offered Iraq the opportunity to sell oil to finance purchases of food, medicine and humanitarian supplies. In discontinuing discussions on how to implement those resolutions, Iraq had chosen not to meet the essential needs of its civilian population and therefore bore full responsibility for the humanitarian suffering in the country. In conclusion, the speaker observed that, without full and unconditional Iraqi compliance with all relevant resolutions, his Government saw no reason to lift sanctions against Iraq.⁴⁷⁷

The representative of Zimbabwe addressed four areas of Iraq's incomplete or lack of compliance with Security Council resolutions of particular concern to his delegation: the repatriation of, and access to, Kuwaiti and third-country nationals still unaccounted for in Iraq; the return of all Kuwaiti property; respect for the inviolability of the international boundary between Iraq and Kuwait as determined by the Boundary Commission; and the humanitarian situation. With regard to the latter, Zimbabwe was disappointed that resolutions 706 (1991) and 712 (1991) remained unimplemented. It believed that their implementation would go a long way towards taking care of the many victims of various nationalities, including Kuwaitis, who were still awaiting compensation for their suffering, loss and injury as a result of the hostilities in the Gulf on the one hand, and alleviating the humanitarian situation of the Iraqi civilian population who had suffered as a result of the war and the subsequent regime of sanctions, on the other. Finally, while Zimbabwe would insist that Iraq meet its obligations under Security Council resolutions, it was also important for the Council, while undertaking its reviews, to avoid the temptation to shift the goalposts. Where compliance had occurred, that had to be recognized. It was important for the prestige and credibility of the Council that it remained focused on the legitimate goals and objectives for which the sanctions regime had been imposed on behalf of the international community as a whole.⁴⁷⁸

The representative of France said that resolution 687 (1991) and subsequent resolutions imposed clear and precise obligations on the Government of Iraq. He reiterated his country's stance that once Iraq complied with those resolutions the sanctions regime could be lifted. Like previous speakers, he noted various aspects

⁴⁷⁷ S/PV.3139, pp. 27-36.

⁴⁷⁸ *Ibid.*, pp. 36-40.

of the Government's policies and practices that were cause for serious concern. With regard to weapons of mass destruction, the Council was pursuing two objectives: to eliminate such weapons stockpiled by Iraq; and to ensure that the Iraqi industrial capacity would not be used to rebuild its military potential once the latter had been destroyed. Those objectives had been set forth in resolutions 687 (1991), 707 (1991) and 715 (1991). Iraq was far from having fully complied with those resolutions. On the humanitarian side, France deplored the fact that the Iraqi authorities had broken off talks on the implementation of resolutions 706 (1991) and 712 (1991), which provided a mechanism for improving the standard of living of the Iraqi civilian population as a whole. The blockade imposed by the Iraqi authorities against Kurdistan was, moreover, causing a difficult health and humanitarian situation there and creating the risk of another exodus of populations towards neighbouring States. Armed operations, in which the Iraqi forces were engaged in the southern marshes, were another illustration of a repressive policy. That policy was depriving major portions of the Iraqi population of their fundamental rights, and was a direct violation of resolution 688 (1991) to whose implementation France remained deeply committed. Finally, the speaker was seriously concerned about the extremely critical human rights situation in Iraq, as highlighted in the reports prepared by the Special Rapporteur. In summary, what the Security Council expected of Iraq, over and above the technical details of the resolutions, was two very simple things. First, the Government of Iraq must live in peace with its neighbours — by accepting frontiers, by forgoing its expansionist designs against a less powerful neighbour, and by repudiating clearly the development of weapons of mass destruction. With regard to such weapons, the international community must not let down its guard, lest Iraq return to its aggressive designs. Secondly, the Government must live in peace with its people, by seeking a settlement with the Kurds and the Shiites of Iraq and by giving priority to ensuring the subsistence and well-being of its civilian population. The speaker concluded that, in those two areas, the Government had not made any progress. It knew, however, that if it were to accede to those two demands, it could bring about the lifting of sanctions.⁴⁷⁹

⁴⁷⁹ Ibid., pp. 41-44.

The representative of Japan stated that his country was sympathetic towards the Iraqi people, who were innocent victims of their Government's policy, and it supported the humanitarian efforts of the United Nations to ease their suffering. However, only the Iraqi leadership could resolve the situation by complying with all the relevant Security Council resolutions, and by reaching agreement with the United Nations on the export of Iraqi oil. Although some progress had been made on the implementation of the Council's resolutions, Iraq still refused to accept resolutions 707 (1991) and 715 (1991), which called for future monitoring by the Special Commission and IAEA. On the contrary, Iraq had demanded that the Council change the terms of those two important resolutions. Moreover, as had been stated by previous speakers, Iraq continued to make territorial claims over Kuwait and refused to cooperate with the Boundary Demarcation Commission. The plight of Kuwaiti and third-country nationals held prisoner in Iraq was also of concern to Japan. The speaker reiterated his country's position that the Government of Iraq did not have the right to interpret the Council's resolutions or to choose which provisions it would implement and which ones it would not. It should comply fully with the provisions of all resolutions. While Japan welcomed the opportunity to exchange views with the Deputy Prime Minister of Iraq, there must be no misunderstanding. The situation would not improve until the Government of Iraq decided to cooperate fully with the Council and the United Nations as a whole.⁴⁸⁰

At the first resumption of the 3139th meeting, on 23 November 1992, the representative of the Russian Federation observed that the questions involved in settling the consequences of Iraq's aggression against Kuwait were extremely important from the point of view of ensuring international peace and security. He hoped that the participation of the Deputy Prime Minister of Iraq in the meeting would prove useful to their successful resolution. While noting that Iraq had recently demonstrated a more open and reasonable attitude and had presented additional data on the prohibited military programmes, he stated that a full picture of Iraq's activities covered by resolution 687 (1991) did not yet exist; nor was there any certainty as to the completeness and accuracy of the information presented by Iraq concerning those programmes. Moreover, Iraq's failure to acknowledge its obligations

⁴⁸⁰ Ibid., pp. 44-46.

under resolutions 707 (1991) and 715 (1991), and its attempts to replace performance of its obligations with discussions concerning the clear demands of the Council, were making it impossible to carry out activities involved in monitoring and verification in accordance with the Council's decisions. Similarly, the Council could not overlook Iraq's essentially hostile attitude towards the activities of United Nations inspectors and acts that had threatened their personal safety and had caused material damage to United Nations property. Other facts also attested to an unconstructive attitude on the part of the Iraqi authorities: their refusal to cooperate with the Boundary Demarcation Commission, the detention of citizens of third countries by Iraqi military patrols in the demilitarized zone, including parts of Kuwaiti territory, and the delay in releasing Kuwaitis captured by Iraq and returning Kuwaiti property, including military property. Furthermore, the Iraqi authorities had reportedly confiscated the property of a number of foreign companies and organizations, including Russian ones, which constituted a violation of paragraph 29 of resolution 687 (1991). The Russian delegation was also concerned that Iraq had not complied with resolution 688 (1991), regarding ensuring respect for human rights in Iraq. It concluded from the foregoing that the Government of Iraq was continuing to evade conscientious and complete implementation of its obligations under Security Council resolutions. The Russian delegation had frequently raised with the Iraqi leadership the question of the inadmissibility of attempts to contest in any way the binding decisions of the Security Council, which was responsible to the world community for preventing the recurrence of such instances of adventurism as Iraq's aggression against Kuwait. It hoped that the present discussion would help Iraq to understand better the Council's position and make its Government more aware that it must comply vigorously and completely with all the provisions of Security Council decisions binding upon it that had been adopted under Chapter VII of the Charter of the United Nations.⁴⁸¹

The representative of Morocco hoped that the dialogue with the Deputy Prime Minister would lead to positive results and a better understanding that would enable the Council to achieve the objectives laid down in its resolutions, and ultimately contribute to the final restoration of peace and stability to the Gulf region. As

⁴⁸¹ S/PV.3139 (Resumption 1), pp. 66-69.

an Arab country, Morocco had itself greatly suffered from the region's fratricidal crisis and its disastrous consequences, which continued to devastate the Arab world. The speaker stated that he had no intention of reviewing the various questions dealt with in the introductory statement by the President of the Council, which had been "complete and useful". His purpose was to identify and stress certain developments and positive trends, without however overlooking those areas in which work remained to be done. He noted the Iraqi authorities' growing readiness to cooperate with the inspection missions, in particular with the Special Commission. His delegation also welcomed the signing of the renewed memorandum of understanding governing the inter-agency humanitarian programme in Iraq, which provided a realistic framework of cooperation between the United Nations and Iraq. His country remained very much concerned, however, by the serious humanitarian situation in Iraq. The speaker recalled, in this context, the moral obligation of the Council to do all in its power to ease the suffering of the innocent civilian population. He therefore appealed to all members of the Council that the Committee established under resolution 661 (1990) should initially take a more flexible, tolerant and responsible approach to the subject of goods related to Iraq's humanitarian needs. At the same time, Morocco was very much aware that in the humanitarian field, as in all the areas targeted by the Council's relevant resolutions, the Iraqi authorities must also continue to discharge their duties and obligations. It believed that respect for those resolutions remained essential to the restoration of peace, stability and prosperity in the Gulf region, and hoped that Iraq would continue to do all it could to cooperate with the United Nations bodies and to discharge the obligations incumbent upon it.⁴⁸²

A number of other Council members echoed the views of previous speakers, expressing concern about Iraq's non-compliance with its obligations under resolution 687 (1991) and related subsequent resolutions, notably regarding weapons disclosure and inspections, respect for the sovereignty and territorial integrity of Kuwait, and humanitarian and human rights matters.⁴⁸³ Several of those members noted, with

⁴⁸² *Ibid.*, pp. 72-75.

⁴⁸³ *Ibid.*, pp. 60-62 (Cape Verde); pp. 62-66 (Venezuela); pp. 69-72 (Ecuador); and pp. 76-81 (Hungary); see also S/PV.3139, pp. 46-48 (Belgium); and pp. 48-55 (Austria).

regard to sanctions, that they were not intended as a punishment and were not aimed at the Iraqi people, but had been imposed to bring about compliance by Iraq with its obligations.⁴⁸⁴ It followed, in their view, that they would not be revised or lifted until such compliance had been achieved. Responsibility for the maintenance of the sanctions regime was thus fundamentally in the hands of the Government of Iraq.

The representative of Iraq asserted that his country had complied with resolution 687 (1991) despite its “arbitrarily iniquitous nature”. He stated that the Foreign Minister of Iraq had submitted an updated and complete factual report dated 19 November 1992 on the measures taken by Iraq in implementation of section C of that resolution,⁴⁸⁵ and listed them briefly. The measures included the following: all weapons that the Council had prohibited Iraq from possessing had been destroyed, while the remaining chemical materials were under the control of Special Commission teams and being destroyed systematically; all equipment used or claimed to have been used in the production of weapons prohibited by resolution 687 (1991) had been identified by the Special Commission and IAEA; numerous inspection operations had been carried out, without prior notice, at various sites throughout Iraq; and Iraq had provided detailed information to the inspection teams. With regard to the inspections, the speaker quoted from the letter of the Minister for Foreign Affairs of Iraq dated 28 October 1992,⁴⁸⁶ alleging that most of the inspection teams had behaved in a hostile, confrontational and provocative manner. They had, moreover, based their inspection plans not on scientific and technical considerations but on “the tendentious reports and data intended to provide a cover for biased and predetermined actions that were supplied to them by the intelligence agencies of certain States with well-known political designs against Iraq”. The speaker contended that, despite Iraq’s compliance with the obligations imposed on it by resolution 687 (1991), the Security Council had refused to discharge its own obligations towards the people and the State of Iraq. It had not looked into the issue of implementing, either partially or completely, paragraph 22 of that resolution, which required it to lift the embargo on the import of commodities and products originating in Iraq and to lift the prohibitions

against financial transactions related thereto. The Council had recently, moreover, placed obstacles in the way of Iraq using its frozen assets abroad in order to meet the humanitarian needs of the Iraqi people for food, medicine and other essentials. The members of the Council had not implemented the sanctions Committee’s decision which allowed them to free Iraqi assets for the purpose of meeting those needs. The adoption by the Council of resolution 778 (1992) had then closed the door completely against Iraq’s using the remainder of its frozen assets abroad to provide for its urgent humanitarian needs. The sanctions Committee, meanwhile, had persisted in its shameful conduct of preventing Iraq from obtaining its needs. The speaker asserted that keeping the embargo in place against Iraq amounted to the perpetration of the crime of genocide against the people of Iraq. Thousands of children had died and the Iraqi population as a whole continued to suffer from dire shortages of food and medicine, while being denied many other essentials of human existence.

The representative of Iraq added that, at the same time, the Council had done nothing to follow up on another vital aspect of resolution 687 (1991) that related to other countries in the region: namely, paragraph 14, in which the Council noted that the actions to be taken by Iraq in relation to its weapons-related obligations represented “steps towards the goal of establishing in the Middle East a zone free from weapons of mass destruction and all missiles for their delivery and the objective of a global ban on chemical weapons”. He quoted in this connection once again from the letter of the Minister for Foreign Affairs of Iraq dated 28 October 1992, alleging that Israel and the Islamic Republic of Iran possessed such weapons of mass destruction and concluding that those facts not only raised acutely the question of the double standards the Council applied in the resolutions it adopted but also confirmed the selective and biased approach the Council took in dealing with the various parts of its resolutions, particularly with regard to resolution 687 (1991). The speaker also reiterated the call made by his Foreign Minister in the same letter for the series of arbitrary measures adopted by the Council in addition to resolution 687 (1991) to be fundamentally reviewed, since circumstances had changed and a stable relationship existed between the Iraqi authorities and the Special Commission and IAEA. He repeated Iraq’s call for a halt to the use of foreign helicopters by the inspection teams and the activities of United States U-2

⁴⁸⁴ Austria, Cape Verde, Venezuela and Ecuador.

⁴⁸⁵ S/24829.

⁴⁸⁶ S/24726.

“spy planes”. He emphasized, moreover, that special care should be taken in all the activities of United Nations missions to respect Iraq’s sovereignty and dignity. Finally, stressing the importance of security and stability in the region and the need to deal in a balanced manner with all its countries, the speaker called for the adoption of comprehensive measures all over the region, as provided for in resolution 687 (1991). Iraq should be part of those measures rather than the country that was singled out in regard to their application. It was ready for constructive and responsible cooperation to that end.⁴⁸⁷

Mr. Hans Blix, speaking in his capacity as Director General of IAEA, recalled that, under paragraph 13 of resolution 687 (1991), he had been directed to carry out three tasks with a view to dismantling Iraq’s nuclear capability: first, to identify, through on-site inspections, Iraq’s nuclear capability; secondly, to destroy, remove or render harmless all nuclear weapons, nuclear-weapon-usable material, any subsystems or components, or any related research, development, support or manufacturing facilities; and, thirdly, to develop and implement a plan for the future ongoing monitoring and verification of Iraq’s compliance with the requirement not to acquire or develop a nuclear-weapon capability. Taken together, the implementation of those tasks and the completion of the necessary actions by Iraq, critically important by themselves, were seen as part of the steps towards the goal of establishing in the Middle East a zone free of weapons of mass destruction. Since the speaker’s report to the Council in March, important parts of the first two tasks had been fulfilled and the Agency had begun implementing elements of the third task. The first task — the complete mapping of Iraq’s nuclear capabilities — required the Agency to identify all Iraq’s nuclear-relevant resources and the foreign sources of supply and technology. Through inspection visits and discussions with the Iraqi authorities, a fairly comprehensive picture of Iraq’s nuclear programme had emerged. However, the Agency could not be certain that it was complete. Iraq’s unwillingness to reveal foreign sources of equipment, material and technology made it difficult to ascertain whether all nuclear-related imported equipment and material had been identified. Moreover, new information, positively evaluated by the Special Commission and the Agency, could point to sites which would require inspection —

⁴⁸⁷ S/PV.3139 (Resumption 1), pp. 81-101.

after designation by the Special Commission. The Agency therefore saw a need for continued on-site inspection. With regard to the second task, the Agency had, with the active cooperation of the Iraqi authorities, destroyed or rendered harmless key buildings, equipment and material related to the clandestine nuclear programme. It expected cooperation in these matters to continue. IAEA had now begun to phase in elements of the third task — that of long-term monitoring and verification. This had met with some cooperation and some resistance from the Iraqi side. The Iraqi authorities continued to challenge the legitimacy of the plans approved by the Council under resolution 715 (1991). Of particular concern was the letter of 28 October 1992 addressed to the Secretary-General by the Minister for Foreign Affairs of Iraq,⁴⁸⁸ which restated Iraq’s non-acceptance of resolutions 707 (1991) and 715 (1991) in strong terms. The speaker reiterated his view that the lack of full and explicit acceptance of those resolutions ignored their binding nature, and also appeared to ignore Iraq’s own explicit acceptance of resolution 687 (1991), which in paragraph 12 imposed on Iraq the obligation to accept the plan for ongoing monitoring and verification in the nuclear sphere. He reported further that Iraq continued to delay compliance with repeated requests for clear and complete information on items to be reported to IAEA under that plan. In the important area of procurement information, there was no full, final and complete disclosure; there was hardly any disclosure. On the basis of the foregoing, the speaker stated that he could not conclude that Iraq had fully complied with its obligations under the relevant resolutions as they related to the tasks conferred upon IAEA.⁴⁸⁹

Mr. Rolf Ekeus, speaking in his capacity as Executive Chairman of the Special Commission, provided an analogous general assessment of where things stood with regard to the Commission’s three-fold responsibilities, namely, (1) the identification of Iraq’s weapons of mass destruction in the fields assigned to the Commission and the related programmes for their procurement and production; (2) the destruction, removal or rendering harmless of proscribed items and facilities; and (3) the institution of a credible system of ongoing monitoring and verification of Iraq’s compliance with its obligations

⁴⁸⁸ S/24726.

⁴⁸⁹ S/PV.3139 (Resumption 1), pp. 102-106.

not to acquire again such weapons of mass destruction. He noted that the speed with which the Commission could discharge its responsibilities was in large measure determined by the degree of Iraq's cooperation. The first stage was not yet complete. Iraq had still not provided the full, final and complete disclosure of all aspects of its programmes to develop weapons of mass destruction, as called for by resolution 707 (1991). With regard to the second stage, Iraq's cooperation continued to be good in the destruction of weapons that it had declared, particularly chemical weapons. Regarding the disposal of the capabilities for the production of weapons of mass destruction, the impediments to the destruction of certain missile-producing capabilities reported in March had been overcome, following a strong reaction by the Security Council and its members to Iraq's refusal to carry out the Commission's instructions. Indeed, the speaker noted that all cases of destruction of major facilities under resolution 687 (1991) had required strong backing by Council members before it was possible to carry out the destruction. The second stage of the Commission's activities remained incomplete, however; many items and facilities remained under seal pending a final decision on whether they should be destroyed, removed or rendered harmless for subsequent use in permitted activities under international monitoring. The third stage, though, was where the most serious problems arose. The impasse reported in March had persisted. Iraq had consistently refused to acknowledge the existence of its obligations under resolutions 707 (1991) and 715 (1991) and under the plans for ongoing monitoring and verification approved by the latter resolution, adopted under Chapter VII of the Charter. From the outset, Iraq had indicated that it was willing to accept ongoing monitoring and verification only in principle, and on its own terms. Those terms appeared to be Iraq's exclusive understanding of paragraphs 10 and 12 of resolution 687 (1991). This was an understanding that placed the most severe limitations — expressed as considerations of sovereignty, national security, dignity and non-interference in Iraq's internal affairs and industrial development, as interpreted by Iraq — on any form of monitoring. That position was clearly enunciated in the letter of 28 October 1992 addressed to the Secretary-General by the Minister for Foreign Affairs of Iraq,⁴⁹⁰ in which Iraq declared that

⁴⁹⁰ S/24726.

resolutions 707 (1991) and 715 (1991) constituted a flagrant violation of Iraq's sovereignty and called upon the Council "to conduct a radical review, on a basis of justice and fairness, of the terms and provisions of these two resolutions". In the Commission's view, that letter, taken as a whole, was a most retrograde step and illustrated that the promises made of a new approach and renewed cooperation were without real substance. To the extent that Iraq had taken any steps in regard to ongoing monitoring and verification, it had done so in a manner that did not meet the requirements of resolution 715 (1991) and the Commission's plan approved thereunder.

Continuing, the Executive Chairman stressed that the Special Commission, as a subsidiary organ of the Council, could not, in the face of Iraq's consistent and unyielding opposition to the Council's regime for monitoring and verification, fully institute it. Once Iraq acknowledged its obligations under resolution 715 (1991) and the plans approved thereunder, the Commission could, though, determine the extent to which Iraq's legitimate concerns could be accommodated within the requirements for a credible system of monitoring and verification. There could be no doubt, however, that if Iraq refused that acknowledgement and if sanctions and the oil embargo were to be lifted, the effectiveness of the Special Commission in Iraq would be gravely impaired. This was clearly confirmed by the Foreign Minister's letter of 28 October, in which he had also reiterated objections to essential aspects of the Commission's operations in the country, in particular its air transportation, helicopter and high-altitude surveillance activities — all clearly authorized by Council resolutions adopted under Chapter VII of the Charter. If, therefore, sanctions and the oil embargo were to end without Iraq's unconditional acceptance of its obligations under resolutions 707 (1991) and 715 (1991), the Commission's air transportation and aerial surveillance would be halted by withdrawal of Iraq's de facto acquiescence, and monitoring and verification would be reduced purely to visits to such installations as Iraq selected and at such times as it permitted. The speaker added that, since March, the Commission had had to defend vigorously the privileges and immunities of its inspectors and staff in Iraq, in particular their safety and security. However, its frequent protests appeared to be bearing some fruit and there were currently fewer incidents of individual harassment than had recently been the case. As to the conduct of

inspection personnel and other staff, which had been the subject of remarks in the Foreign Minister's letter of 28 October, they had acted in the most professional manner, often in most difficult and trying circumstances, in seeking to identify and map out Iraq's programmes. If, on occasion, their activities had appeared intrusive, that had been brought about by lack of cooperation by Iraq and by a sincere desire on the part of the inspection teams to ensure that the Council's mandates were carried out. Finally, the speaker observed that, in making a determination under paragraph 22 of resolution 687 (1991) — which linked the lifting of the oil embargo to Iraq's compliance with section C of that resolution — the Security Council would, of course, take into account all information available to it, over and above what was reported by the Special Commission and by IAEA. However, he trusted that prime importance would be attached to the assessments of the Commission and the Director General of IAEA as the Council's executives under section C of resolution 687 (1991). He looked forward to the day when positive results could be placed before the Council. He regretted, however, that if the course currently pursued by Iraq continued, the Executive Chairman of the Special Commission would have to repeat its March assessment — namely, that the possibility of the Special Commission's certifying Iraq's compliance with its obligations under section C of resolution 687 (1991) did not even arise.⁴⁹¹

The Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator reported that, on the basis of the new memorandum of understanding between the United Nations and the Government of Iraq, signed on 22 October, a plan of action for a six-month period ending on 31 March 1993 had been finalized to respond to the humanitarian needs of the civilian population throughout Iraq. The inter-agency programme, which entailed the delivery of fuel, food and medical services, covered all regions of Iraq, but emphasized the urgency of bringing humanitarian assistance to the northern provinces because of the impending harsh winter conditions and the internal supply restrictions to that part of the country. It was in an active implementation stage within the framework of available financial resources. The speaker emphasized that for the success of this important and complex operation, it was now essential to have the full cooperation of the Government of Iraq

⁴⁹¹ S/PV.3139 (Resumption 1), pp. 107-117.

and the financial support of the Member States for the humanitarian programme to Iraq.⁴⁹²

Mr. van der Stoel recalled that, at the Council meeting on 11 August, he had concluded on the basis of the evidence he had received that Iraq had still not ended its policy of repression of the Iraqi civilian population, and was therefore continuing its refusal to comply with resolution 688 (1991). The Government of Iraq had repeatedly stated that this conclusion was subjective and biased. However, it had been arrived at by using the yardsticks of the international human rights instruments to which Iraq had acceded. The Government had also repeatedly referred to special circumstances, such as the war between Iran and Iraq, the Gulf war, the uprisings in the spring of 1991 and the economic embargo, all of which it alleged had had a negative impact on the human rights situation in Iraq. There was not the slightest doubt, however, that the norms of applicable international law did not allow, even in special circumstances, summary or arbitrary executions and forced disappearances or torture. All that had happened in Iraq, not incidentally but on a massive scale. Moreover, there were reasons to fear that even if the special circumstances were to disappear, the violations of human rights would continue. The present order in Iraq had all the characteristics of a totalitarian system and precluded full respect of human rights obligations. The speaker recalled, further, that resolution 688 (1991) also insisted that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and make available all necessary facilities for their operations. Events, especially in the course of 1992, had increasingly made it clear that Iraq refused to implement in full that part of the resolution. As the Secretary-General had put it in his letter of 24 August to the President of the Security Council, "the Government's position prevents the inter-agency humanitarian programme from providing effective assistance to vulnerable groups in Iraq". United Nations personnel participating in the programme had repeatedly been subjected to harassment, vandalism and violence, mostly in Government-controlled areas. Although a new memorandum of understanding had eventually been signed on 22 October, United Nations sub-offices and guards were no longer allowed in the south of the country, notwithstanding the Secretary-

⁴⁹² *Ibid.*, pp. 118-122.

General's warning in the above-mentioned letter that, in the absence of a United Nations presence in the south, a reliable assessment of conditions prevailing in that region would not be possible. Notwithstanding Iraq's explicit assurances to the contrary, discrimination existed with respect to access to food and health care. The people in the marshlands to the south were subjected to a complete blockade, while the supply of food and fuel reaching the three Kurdish governates in the north had steadily diminished during the year. If the Government of Iraq did not change its policy rapidly and completely, thousands of lives were at risk. The speaker concluded by observing that when a Government tried to deny the right to life to a specific community within the State, the question inevitably arose as to whether it was engaging in genocidal practices. He hoped it would not prove necessary to pose that question, and that the Government of Iraq would make the necessary efforts to prevent a new disaster for the Kurdish people and the population of the southern marshes.⁴⁹³

The representative of Kuwait regretted that Iraq had still not met all its obligations under the relevant Security Council resolutions. Indeed, it seemed to have backed away from some of the basic obligations it had undertaken by its unqualified acceptance of resolution 687 (1991). Perhaps the most obvious example was Iraq's lack of compliance with the Boundary Demarcation Commission and its continued lack of respect for the sovereignty and territorial integrity of Kuwait. The situation of Kuwaiti and third-country nationals who were prisoners and detainees, moreover, remained unchanged. Kuwait hoped, in this regard, that the Council would establish a link between the elimination or easing of any form of sanctions against Iraq and the release of the last prisoner and a full account of every missing person. Iraq had also so far failed to comply with its obligations under resolutions 686 (1991) and 687 (1991) to return Government and private property stolen from Kuwait and to pay compensation. The speaker rejected the Government of Iraq's interpretation of resolution 687 (1991), which regarded the lifting of economic sanctions as related to the destruction of the weapons of mass destruction under section C of that resolution. That was an erroneous interpretation, a selective wish by Iraq. Resolution 687 (1991) aimed at restoring and maintaining peace and stability in the region. The

⁴⁹³ Ibid., pp. 123-131.

sanctions emanating from it were accordingly linked to the full implementation of all the provisions of the resolution. The Council should therefore examine carefully and fairly such questions as whether Iraq renounced, permanently and unreservedly, the use of force against Kuwait; would fully accept and respect the boundary between Iraq and Kuwait as demarcated by the Boundary Commission; and would provide full and immediate access to prisoners of war and other detainees and missing persons, and return them to their countries. These matters, among others, related to essential conditions for future peace and stability in the region and tested the seriousness of the Iraqi regime's commitment to the rule of law. If Iraq continued to fail to fulfil its obligations, Kuwait believed that the Council should, under paragraph 34 of resolution 687 (1991), take such further measures as might be required for the implementation of that resolution and to secure peace and security in the region.⁴⁹⁴

The representative of the Islamic Republic of Iran refuted the allegations made by the Deputy Prime Minister of Iraq of a so-called Iranian military build-up, particularly in the area of weapons of mass destruction. He said that Iraq's main objective after its defeat in Kuwait had been to portray the Islamic Republic of Iran as the threat in the region, and to distract the attention of the international community in general and the Council in particular from its non-compliance with Security Council resolutions.⁴⁹⁵

The President then stated his intention, with the agreement of the members of the Council, to suspend the meeting, and invited the members of the Council to meet immediately for consultations.

Decision of 24 November 1992 (3139th meeting): statement by the President

At the second resumption of the 3139th meeting, on 24 November 1992, the Deputy Prime Minister of Iraq was given an opportunity to respond to the opening statement made by the President on behalf of the Council and to the questions and concerns expressed by members of the Council during the deliberations the previous day. He maintained that, despite the unjust and arbitrary nature of resolution 687 (1991) and the other resolutions, his country had met the obligations imposed on it, particularly the most

⁴⁹⁴ Ibid., pp. 131-151.

⁴⁹⁵ Ibid., pp. 151-155.

substantive ones — those relating to the economic embargo. On the question of boundaries, he stated that Iraq had decided not to participate in the activities of the Boundary Demarcation Commission as its views were not listened to, but it had not hindered the Commission's activities. On the question of missing persons, he asserted that Iraq detained no such persons and that it was cooperating with the Red Cross in searching for them and trying to ascertain their fate. As to why Iraq did not allow the Red Cross to visit the detention centres in the country, he claimed that there were none — only ordinary prisons which the Red Cross was free to visit. With regard to the issue of "Iraq's liability under international law", he reiterated the need for the procedures themselves to be in conformity with international law. Claims for compensation must be linked to fault and damage. Moreover, the party directly concerned should be represented: Iraq, however, was not represented in any way in the machinery that dealt with such claims. As to its foreign debt, he repeated that Iraq could neither repay its debt nor service the interest when there was an economic embargo against it. The speaker denied claims that Iraq had expropriated the property of other countries and companies, maintaining that it had informed those concerned that certain equipment would be used in agricultural and service projects in order to mitigate the suffering of the Iraqis caused by the embargo and that all rights accruing to them from such use would be fully respected. He also challenged the accuracy of allegations that many items of property, including military equipment and private property, had not yet been returned. As for international terrorism, Iraq had reaffirmed its commitments in that regard. It had never engaged in such acts. In relation to resolutions 706 (1991) and 712 (1991), the speaker reiterated that they had been adopted not to mitigate the suffering of the Iraqi people, but with the aim of interfering in the internal affairs of Iraq. In three rounds of negotiations with the United Nations, Iraq had tried but failed to reach agreement on a reasonable arrangement that would meet the urgent humanitarian needs of its people, because the influential Powers in the Security Council which were behind the drafting of the two resolutions had frustrated those efforts. In any event, talk of those two resolutions after Iraq had met so many of its obligations relating to the economic embargo was but an attempt to divert attention from the essential issue: namely, the lifting of the economic embargo, in line with paragraph 22 of resolution 687

(1991). Efforts should be deployed in that direction, which alone would make it possible to address the suffering of the Iraqi people. As for what had been said on resolution 688 (1991), the speaker reiterated that Iraq considered that resolution to be a "blatant interference in the internal affairs of Iraq". Nevertheless, it had signed three memorandums of understanding with the United Nations and was cooperating constructively with the Organization on the implementation of the most recent one, of 22 October 1992. He noted generally that the statement made by the President on behalf of the Council had not referred to the substantive achievements made in the implementation of section C of resolution 687 (1991), while the statements of Messrs. Blix and Ekeus had referred to some of those achievements. The speaker renewed his call on the Council to seriously consider discharging its obligations towards Iraq, especially those under paragraph 22 of resolution 687 (1991) which were legally and practically linked with the implementation of paragraphs 8 to 13 of that resolution. In conclusion, he reaffirmed Iraq's desire to continue the dialogue with the Council and to continue clarifying the facts, with a view to reaching better understanding and constructive cooperation between them.⁴⁹⁶

The President then proposed, with the consent of the members of the Council, to suspend the meeting, and invited the members to meet immediately for consultations.

At the third resumption of the 3139th meeting, also on 24 November 1992, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁴⁹⁷

The views of the Security Council having been expressed through its President and by the statements of its members on the extent of compliance by the Government of Iraq with its obligations under the relevant resolutions, the Council has listened with close attention to the statements by the Deputy Prime Minister of Iraq. The Council regrets the lack of any indication in the statements by the Deputy Prime Minister of Iraq of how the Government of Iraq intends to comply with the resolutions of the Council. It also regrets the baseless threats, allegations and attacks launched by the Deputy Prime Minister of Iraq against the Council, the Special Commission, the International Atomic Energy Agency, the Iraq-Kuwait Boundary Demarcation Commission and the Security Council Committee

⁴⁹⁶ S/PV.3139 (Resumption 2), pp. 162-200.

⁴⁹⁷ S/24839.

established by resolution 661 (1990) concerning the situation between Iraq and Kuwait. The Council rejects in toto these threats, allegations and attacks.

Having heard all the interventions in the debate, the Council reiterates its full support for the statement made by the President of the Council on its behalf at the opening of the 3139th meeting.

In the view of the Council, while there have been some positive steps, the Government of Iraq has not yet complied fully and unconditionally with its obligations, must do so and must immediately take the appropriate actions in this regard.

Decision of 24 November 1992: statement by the President

On 24 November 1992, following consultations among the members of the Security Council, the

President of the Council made the following statement on their behalf:⁴⁹⁸

The members of the Security Council held informal consultations on 24 November 1992 pursuant to paragraphs 21 and 28 of resolution 687 (1991) and paragraph 6 of resolution 700 (1991).

After hearing all the opinions expressed in the course of the consultations, the President concluded that there was no agreement that the necessary conditions existed for a modification of the regimes established in paragraph 20 of resolution 687 (1991), as referred to in paragraph 21 of that resolution; in paragraphs 22 to 25 of that resolution, as referred to in paragraph 28 of that resolution and in paragraph 6 of resolution 700 (1991).

⁴⁹⁸ S/24843.

23. The situation in the Middle East

Decision of 30 January 1989 (2843rd meeting): resolution 630 (1989)

On 24 January 1989, pursuant to resolution 617 (1988) of 29 July 1988, the Secretary-General submitted to the Security Council a report on the United Nations Force in Lebanon (UNIFIL) for the period from 26 July 1988 to 24 January 1989.¹ He observed that the Force's ability to carry out the tasks that the Council had assigned to it in 1978 was still blocked. Israel continued to refuse to withdraw its forces from Lebanon, and the "security zone" it controlled in southern Lebanon had become a focus of attack, both by those aiming to attack Israel itself and by those with the aim of liberating Lebanese territory from foreign occupation. Attempts by armed elements to infiltrate Israel, which had increased substantially during 1988, and retaliatory air and commando raids

by Israel, often far to the north of the UNIFIL area of operation, meant that international peace and security were a long way from being restored. The failure to elect a new President of the Republic and the subsequent existence of two rival governments in Beirut had prevented UNIFIL from making any progress towards fulfilment of its third task, which was to assist the Government in ensuring the return of its effective authority in southern Lebanon. The Secretary-General added that another negative factor had been the continuing harassment of UNIFIL personnel by various armed groups in the area. UNIFIL had endeavoured to provide protection and security to the civilian population, protesting against forced expulsions of Lebanese civilians from their homes in the Israeli-controlled area by the so-called "South Lebanon Army", control, and forced recruitment of local men to that army. UNIFIL had also pursued its efforts to provide humanitarian assistance in its area of operation. The Secretary-General reported further that the Lebanese authorities on both sides in Beirut had stressed their hope that the Security Council would renew the UNIFIL mandate for a further period of six months, and that Lebanon had submitted a request for an extension of the Force's mandate. The Syrian authorities also supported an extension. The Israeli authorities continued to take the position that Israel's presence in Lebanon was a temporary arrangement, which was necessary for ensuring the security of

¹ S/20416 and Add.1 and Add.1/Corr.1 and Add.2. UNIFIL was established by the Security Council in 1978, by resolution 425 (1978) of 19 March 1978. It was entrusted with confirming the withdrawal of Israeli forces from Lebanese territory; restoring international peace and security; and assisting the Government of Lebanon in ensuring the return of its effective authority in the area. It was later also authorized, by resolution 511 (1982), to provide protection and humanitarian assistance to the local population. The mandate of UNIFIL was extended by subsequent resolutions, including resolution 617 (1988).

northern Israel so long as the Government of Lebanon was not able to exercise effective authority and prevent its territory from being used to launch attacks against Israel. They did not consider that UNIFIL, as a peacekeeping force, could assume that responsibility.

The Secretary-General acknowledged that, given the negative developments thus described, and in particular the continuing inability of UNIFIL to carry out its original mandate, it was understandable that questions had been asked about whether the Force should be maintained at its current strength. He presented four countervailing considerations that he thought the Council would wish to take into account in considering Lebanon's request for a mandate extension: the Council's conviction that a solution to the problems of southern Lebanon lay in the full implementation of resolution 425 (1978); the valuable role played by UNIFIL in controlling the level of violence in southern Lebanon; the Force's humanitarian support to the population in its area of operation; and its role — as seen by the people of Lebanon as a whole — as a symbol of the international community's commitment to the sovereignty, independence and territorial integrity of their country. On the basis of those arguments, the Secretary-General recommended that the Council should accede to Lebanon's request and renew the mandate of UNIFIL for a further period of six months.

At its 2843rd meeting, on 30 January 1989, the Security Council included the Secretary-General's report in its agenda. At the same meeting, the President (Malaysia) drew the attention of the Council members to a letter dated 19 January 1989 from the representative of Lebanon addressed to the Secretary-General by which the Government of Lebanon requested the Security Council to extend the mandate of UNIFIL for a further period of six months.² The Government was convinced that, in spite of the difficult conditions in southern Lebanon due to the continuing occupation by Israel in the so-called "security zone", the presence of UNIFIL continued to be highly necessary, and constituted an important factor of stability and an international commitment to the upholding of the independence, sovereignty and territorial integrity of Lebanon. The Government reaffirmed the terms of the UNIFIL mandate, as laid down in resolutions 425 (1978), 426 (1978) and all

other relevant resolutions, and stressed the need to enable UNIFIL to implement that mandate.

The President also drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.³ The draft resolution was then put to the vote and adopted unanimously as resolution 630 (1989), which reads:

The Security Council,

Recalling its resolutions 425 (1978) and 426 (1978) of 19 March 1978, 501 (1982) of 25 February 1982, 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982 and 520 (1982) of 17 September 1982, as well as all its resolutions on the situation in Lebanon,

Having studied the report of the Secretary-General on the United Nations Interim Force in Lebanon of 24 and 27 January 1989, and taking note of the observations expressed therein,

Taking note of the letter dated 19 January 1989 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General,

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further interim period of six months, that is, until 31 July 1989;

2. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

3. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978, approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

4. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978), 426 (1978) and all other relevant resolutions;

5. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of the present resolution and to report to the Security Council thereon.

**Decision of 31 March 1989 (2851st meeting):
statement by the President**

At its 2851st meeting, held on 31 March 1989 in accordance with the understanding reached in its prior consultations, the Council included in its agenda the item entitled "The situation in the Middle East".

² S/20410.

³ S/20429.

Following the adoption of the agenda, the President (Senegal) stated that, following consultations among the members of the Council, she had been authorized to make the following statement on behalf of the Council:⁴

The members of the Security Council express their grave concern at the recent deterioration of the situation in Lebanon, which has left many victims among the civilian population and caused considerable material damage.

In view of the threat that this situation poses to peace, security and stability in the region, they express encouragement and support for all ongoing efforts to find a peaceful solution to the Lebanese crisis, notably those made by the Ministerial Committee of the League of Arab States led by Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah, Minister for Foreign Affairs of Kuwait.

They urge all the parties to put an immediate end to the confrontations, to respond favourably to the appeals launched for an effective ceasefire and to avoid any action that might further heighten the tension.

They reaffirm their support for the full sovereignty, independence, territorial integrity and national unity of Lebanon.

The members of the Security Council also stress the importance of the role of the United Nations Interim Force in Lebanon and reaffirm their resolve to continue to keep the evolution of the situation in Lebanon under close review.

**Decision of 24 April 1989 (2858th meeting):
statement by the President**

At its 2858th meeting, held on 24 April 1989 in accordance with the understanding reached in its prior consultations, the Council renewed its consideration of the item. After the adoption of the agenda, the President (Union of Soviet Socialist Republics) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁵

The members of the Security Council, gravely concerned by the sufferings caused to the civilian population by the worsening situation in Lebanon, reaffirm their statement of 31 March 1989, in which, in particular, they urged all parties to respond favourably to the appeals for an effective ceasefire.

They reiterate their full support for the action of the Ministerial Committee of the League of Arab States led by Sheikh Sabah Al-Ahmad Al-Jaber Al-Sabah, Minister for Foreign Affairs of Kuwait, in order to put an end to the loss of

human lives, to alleviate the sufferings of the Lebanese people and to achieve an effective ceasefire indispensable for a settlement of the Lebanese crisis.

They invite the Secretary-General, in collaboration with the Ministerial Committee of the League of Arab States, to make all possible efforts and to make all contacts which could be deemed useful for these same purposes.

**Decisions of 30 May 1989 (2862nd meeting):
resolution 633 (1989) and statement by the
President**

On 22 May 1989, pursuant to resolution 624 (1988) of 30 November 1988, the Secretary-General submitted to the Council a report on the United Nations Disengagement Observer Force (UNDOF) for the period from 18 November 1988 to 22 May 1989, and on the implementation of resolution 338 (1973).⁶ He stated that, in accordance with its mandate and in cooperation with the parties, UNDOF had continued to supervise the observance of the ceasefire between Israel and the Syrian Arab Republic and to supervise the area of separation to ensure that there were no military forces within it. During the period under review, the situation in the Israel-Syria sector had remained quiet and there had been no serious incidents. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken to implement resolution 338 (1973) had been dealt with in his report on the situation in the Middle East,⁷ submitted pursuant to General Assembly resolution 42/209 B of 11 December 1987. The Secretary-General observed that, despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continued to be potentially dangerous and was likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem could be reached.⁸ He continued to hope that determined efforts would be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Council in its resolution 338 (1973). In the prevailing

⁴ S/20554.

⁵ S/20602.

⁶ S/20651. UNDOF was established by the Council by resolution 350 (1974) of 31 May 1974, to supervise the observance of the ceasefire in the Golan Heights, as called for by the Agreement on Disengagement between Israeli and Syrian Forces of 31 May 1974. Its mandate was extended by subsequent resolutions, including resolution 624 (1988).

⁷ A/43/867-S/20294.

⁸ S/20651, para. 24.

circumstances, the Secretary-General considered the continued presence of UNDOF in the area to be essential. He therefore recommended, with the agreement of the Syrian Arab Republic and Israel, that the Council extend the mandate of the Force for a further period of six months, until 30 November 1989.

At its 2862nd meeting, on 30 May 1989, the Security Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (United Kingdom) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁹ The draft resolution was then put to the vote and adopted unanimously as resolution 633 (1989), which reads:

The Security Council,

Having considered the report of the Secretary-General on the United Nations Disengagement Observer Force,

Decides:

(a) To call upon the parties concerned to implement immediately Security Council resolution 338 (1973) of 22 October 1973;

(b) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 30 November 1989;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 338 (1973).

At the same meeting, following the adoption of resolution 633 (1989), the President of the Council made the following statement:¹⁰

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council:

As is known, the report of the Secretary-General on the United Nations Disengagement Observer Force states, in paragraph 24: "Despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached." That statement of the Secretary-General reflects the view of the Security Council.

⁹ S/20656.

¹⁰ S/20659.

**Decisions of 31 July 1989 (2873rd meeting):
resolution 639 (1989) and statement by the
President**

On 21 July 1989, pursuant to resolution 630 (1989), the Secretary-General submitted to the Council a report on UNIFIL for the period from 25 January to 21 July 1989.¹¹ He regretted that, after another difficult period, UNIFIL remained unable to implement its mandate under resolution 425 (1978). The Force had again been unable to make progress towards deployment to the international border. Israel, maintaining the policy described in previous reports, had kept its forces in Lebanon and strengthened its hold on the so-called "security zone" where positions occupied by its own forces and those of the South Lebanon Army had increased by 18.5 per cent during the period under review. At the same time, there had been an increase both in attempts by armed elements to infiltrate Israel and in attacks by the Israeli Air Force on targets in Lebanon well to the north of the UNIFIL area. International peace and security had therefore not been restored. UNIFIL efforts relating to its third task — to assist the Government of Lebanon in ensuring the return of its effective authority in the area — would also remain frustrated as long as the tragic situation in Beirut remained unresolved.

At the same time, however, UNIFIL had certain positive achievements to its credit, such as its significant role in controlling the level of violence in its area of operation and in providing humanitarian assistance to the people of southern Lebanon. Its presence also had a symbolic value: it underlined the conviction of the Security Council and the international community that the solution to the problems of southern Lebanon lay in the full implementation of resolution 425 (1978), and symbolized the international community's commitment to the sovereignty, independence and territorial integrity of Lebanon. The Secretary-General pointed out, however, that the cost of those contributions was high. UNIFIL and its personnel were exposed to considerable dangers, and the Force had suffered loss of life and other casualties during the current mandate period as a result of harassment of its personnel by various armed groups in the area. He stated that significant efforts had been undertaken to improve further the security of UNIFIL personnel and facilities, and renewed his appeal to the

¹¹ S/20742.

parties concerned to cooperate with the Force with a view to enhancing the security of its members and helping them carry out their tasks. Meanwhile, by a letter dated 13 July 1989 addressed to the Secretary-General,¹² the representative of Lebanon had conveyed his country's request to the Council to extend the UNIFIL mandate for a further period of six months, adding that the renewal of the Force's mandate was "a desideratum for both Government and people of Lebanon and one which clearly and self-evidently enjoys the consensus of all leaders and all classes of the people". The Secretary-General observed that, as a result of that request, the Council was faced with a complex decision. On the one hand, there were the frustrations and dangers which resulted from the fact that UNIFIL was prevented from carrying out its mandate. On the other hand, there was the positive contribution of UNIFIL and the considerable distress that would be caused in Lebanon if the Council were to make any substantial change in the Force's strength or deployment. He believed that the prevailing view among the members of the Council was that due weight should be given to the latter consideration and that this was not the moment to make radical changes, especially when international efforts were under way to resolve the wider Lebanese crisis. The Secretary-General accordingly recommended that the Council extend the mandate of UNIFIL for a further period of six months, until 31 January 1990, in accordance with Lebanon's request.

At its 2873rd meeting, on 31 July 1989, the Council included the Secretary-General's report in its agenda. Following the adoption of agenda, the President (Yugoslavia) drew the attention of the Council members to the above-mentioned letter of 13 July 1989 from the representative of Lebanon addressed to the Secretary-General in which the Government of Lebanon requested the Council to extend the mandate of UNIFIL for a further six-month period, and to take action for the implementation of the resolutions it had adopted on the matter since 1978.¹³

The President also drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.¹⁴ The draft resolution was then put to

the vote and adopted unanimously as resolution 639 (1989), which reads:

The Security Council,

Recalling its resolutions 425 (1978) and 426 (1978) of 19 March 1978, 501 (1982) of 25 February 1982, 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982 and 520 (1982) of 17 September 1982, as well as all its resolutions on the situation in Lebanon,

Having studied the report of the Secretary-General on the United Nations Interim Force in Lebanon of 21 July 1989, and taking note of the observations expressed therein,

Taking note of the letter dated 13 July 1989 from the representative of Lebanon to the United Nations addressed to the Secretary-General,

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further interim period of six months, that is, until 31 January 1990;

2. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

3. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978, approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

4. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978), 426 (1978) and all other relevant resolutions;

5. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of the present resolution and to report to the Security Council thereon.

At the same meeting, after the adoption of resolution 639 (1989), the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁵

The members of the Security Council note with deep regret and sorrow that, during the current mandate period, the United Nations Interim Force in Lebanon has suffered additional loss of life and other casualties as a result of various serious incidents in the area of its deployment, including the harassment of its personnel by various armed groups and forces.

The members of the Council convey in this regard their deep-felt sympathy and condolences to the Governments of Ireland, Norway and Sweden and, through them, to the bereaved

¹² S/20733.

¹³ Ibid.

¹⁴ S/20755.

¹⁵ S/20758.

families of the victims and pay tribute to the valiant action, courage and self-sacrifice manifested by all the members of the Force, in service of the ideals of peace in the region.

They take note with great concern of reports appearing today that Lieutenant Colonel Higgins may have been murdered in Lebanon and, should these reports prove to be true, express their outrage that such a cruel and criminal act should be committed against an officer who serves the United Nations on a peacekeeping mission in Lebanon. They draw attention to Security Council resolution 638 (1989) adopted this morning, condemn all acts of hostage-taking and abduction and demand the immediate safe release of all hostages and abducted persons wherever and by whomever they are being held.

Given the serious situation in the zone of Force operations, the members of the Council consider it important to reaffirm their profound concern over the safety and security of Force personnel, who are exposed to constant threats and danger.

The members of the Council note with appreciation that, as stated in the latest Secretary-General's report on the Force, "significant efforts have been undertaken to improve further the security of Force personnel and facilities" during the current mandate period.

They call upon all parties to do their utmost in order to ensure the effective reinforcement of the security of the members of the Force and to enable the Force to carry out its mandate, as laid down in Security Council resolution 425 (1978).

**Decision of 15 August 1989 (2875th meeting):
statement by the President**

By a letter dated 15 August 1989 addressed to the President of the Security Council,¹⁶ the Secretary-General, in the exercise of his responsibility under the Charter of the United Nations, requested an urgent meeting of the Council. In his opinion, the current crisis in Lebanon posed a serious threat to international peace and security. He stressed that the United Nations had a responsibility to prevent further bloodshed in the country and to support the wider efforts, led by the League of Arab States, for a resolution of the conflict. As a step in that direction, the Secretary-General believed that an effective ceasefire was imperative. What was required was a concerted effort by the Council as a whole to impress upon the parties to the conflict that there was an immediate need to halt all military activities and to adhere to a ceasefire so that

¹⁶ S/20789.

the efforts of the Tripartite Committee of Arab Heads of State¹⁷ might continue unimpeded.

At its 2875th meeting, on 15 August 1989, the Council included the Secretary-General's letter in its agenda. At the same meeting, following consultations among the members of the Council, the President (Algeria) made the following statement on behalf of the Council:¹⁸

In response to the urgent appeal addressed to the Security Council by the Secretary-General in his letter of 15 August 1989, the Council met immediately and, without prejudice to any subsequent action by it, adopted the following statement:

Deeply concerned at the further deterioration of the situation in Lebanon, the Security Council profoundly deplores the intensification of the shelling and the bitter fighting in recent days. It expresses its great disquiet at the loss of human lives and the untold sufferings that it causes to the Lebanese people.

The Council reaffirms its statement of 24 April 1989 and urgently appeals to all the parties to put an immediate end to all operations and to all firing and shelling on land and at sea. It firmly appeals to all the parties to observe a total and immediate ceasefire. It also appeals to them to do everything possible to secure the consolidation of the ceasefire, the opening of the lines of communication and the lifting of the sieges.

The Council expresses its full support for the Tripartite Committee of the Arab Heads of State in the efforts it is making with a view to putting an end to the trials of the Lebanese people through the establishment of an effective and definitive ceasefire and the putting into effect of a plan for the settlement of the Lebanese crisis in all its aspects by guaranteeing the full sovereignty, independence, territorial integrity and national unity of Lebanon. It appeals to all States and to all the parties likewise to support the efforts of the Tripartite Committee.

In this context, the Council invites the Secretary-General to pursue all appropriate contacts, in liaison with the Tripartite Committee, in order to ensure observance of the ceasefire, and to keep it informed on the matter.

**Decision of 20 September 1989 (2884th
meeting): statement by the President**

At its 2884th meeting, held on 20 September 1989 in accordance with the understanding reached in its prior consultations, the Council resumed consideration of the item entitled "The situation in the Middle East: letter dated 15 August 1989 from the Secretary-General addressed to the President of the Security Council". The President (Brazil) stated that,

¹⁷ The Tripartite Committee comprised the Kings of Morocco and Saudi Arabia and the President of Algeria.

¹⁸ S/20790.

following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council.¹⁹

The members of the Security Council, recalling their statement of 15 August 1989, welcome the resumption of the work of the Tripartite High Arab Committee set up to resolve the Lebanese crisis.

In this regard, they once again express to the Tripartite High Committee full support in its efforts to stop the bloodshed and to establish an atmosphere conducive to ensuring security, stability and national reconciliation in Lebanon.

They strongly urge respect for the appeal by the Tripartite High Committee for an immediate and comprehensive ceasefire, the implementation of the security arrangements and the establishment of the necessary conditions for national reconciliation in Lebanon.

They express their full support to the Tripartite High Committee in its action to put into effect a plan for the settlement of the Lebanese crisis in all its aspects by guaranteeing the full sovereignty, independence, territorial integrity and national unity of Lebanon.

The members of the Security Council welcome the contacts maintained by the Secretary-General of the United Nations since 15 August 1989 with the members of the Tripartite High Committee and invite him to pursue these contacts and to keep the Council informed.

**Decision of 7 November 1989 (2891st meeting):
statement by the President**

At its 2891st meeting, held on 7 November 1989 in accordance with the understanding reached in its prior consultations, the Council renewed its consideration of the item. The President (China) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²⁰

The members of the Security Council recall their statements of 15 August and 20 September 1989, in which they have expressed their full support for the Tripartite High Committee of Arab Heads of State in its action for the implementation of a settlement plan for the Lebanese crisis in all its aspects by guaranteeing the full sovereignty, independence, territorial integrity and national unity of Lebanon.

In this spirit, they welcome the election of the President of the Lebanese Republic and the ratification of the Taif Agreement by the Lebanese Parliament. The members of the Council pay particular tribute to the high sense of responsibility and to the courage of the Lebanese members of Parliament. An

¹⁹ S/20855.

²⁰ S/20953.

essential stage has thus been accomplished on the road to restoring the Lebanese State and establishing renovated institutions.

In the aftermath of this constitutional election, the members of the Council call upon all Lebanese to stand resolutely by their President with a view to uniting the aspirations of the Lebanese people to achieve peace, dignity and harmony.

At this historic moment, the members of the Security Council urge all sectors of the Lebanese people, including the armed forces, to come to the support of their President in order to achieve the goals of the Lebanese people which are the restoration of the unity, independence and sovereignty of Lebanon on its entire territory, so that Lebanon can reassume its role as a leading centre of civilization and culture for the Arab nation and for the world.

**Decision of 22 November 1989 (2894th
meeting): statement by the President**

At its 2894th meeting, held on 22 November 1989 in accordance with the understanding reached in its prior consultations, the Council renewed its consideration of the item. The President (China) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²¹

The members of the Security Council express their deep indignation and dismay over the assassination of Mr. René Moawad, President of the Lebanese Republic, earlier today in Beirut. They express their sympathy and condolences to the family of the late President, to the Prime Minister and to the Lebanese people.

The members of the Council strongly condemn this cowardly, criminal and terrorist act for what it is, an attack upon the unity of Lebanon, the democratic processes and the process of national reconciliation.

The members of the Council recall their statement of 7 November 1989, and reaffirm their support for the efforts undertaken by the Tripartite High Committee of the League of Arab States and for the Taif Agreement. These remain the only basis for guaranteeing the full sovereignty, independence, territorial integrity and national unity of Lebanon.

The members of the Council reiterate their call of 7 November to all sectors of the Lebanese people to continue the process of achieving the goals of the restoration of the Lebanese State and the establishment of renovated institutions that had started with the election of President Moawad and the appointment of Prime Minister Salim al-Hoss. Democratic Lebanese institutions must be strongly supported and the

²¹ S/20988.

process of national reconciliation must go forward. This is the only way that Lebanese national unity can be fully restored.

The members of the Council solemnly reaffirm their support for the Taif Agreement, ratified by the Lebanese Parliament on 5 November 1989. In this regard, they urge all Lebanese people to exercise restraint, to rededicate themselves to the urgent task of national reconciliation and to demonstrate their commitment to democratic processes.

The members of the Security Council are convinced that all those who seek to divide the people of Lebanon through such cowardly, criminal and terrorist acts of violence cannot, and will not, succeed.

Decisions of 29 November 1989 (2895th meeting): resolution 645 (1989) and statement by the President

On 22 November 1989, pursuant to resolution 633 (1989), the Secretary-General submitted to the Security Council a report on UNDOF for the period from 23 May to 21 November 1989, and on the measures taken to implement resolution 338 (1973).²² He stated that UNDOF had continued, with the cooperation of the parties, to perform its functions effectively. During the period under review, the situation in the Israel-Syria sector had remained quiet and there had been no serious incidents. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken to implement resolution 338 (1973) had been dealt with in his report on the situation in the Middle East,²³ submitted pursuant to General Assembly resolution 43/54 A of 6 December 1988. The Secretary-General observed that, despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continued to be potentially dangerous and was likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem could be reached.²⁴ He continued to hope that determined efforts would be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Council in its resolution 338 (1973). In the prevailing circumstances, the Secretary-General considered the continued presence of UNDOF in the area to be essential. He therefore recommended, with the agreement of the Syrian Arab Republic and Israel, that

²² S/20976.

²³ A/44/737-S/20971.

²⁴ S/20976, para. 24.

the Council extend the mandate of the Force for a further period of six months, until 30 May 1990.

At its 2895th meeting, on 29 November 1989, the Security Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (China) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.²⁵ The draft resolution was put to the vote and adopted unanimously as resolution 645 (1989), which reads:

The Security Council,

Having considered the report of the Secretary-General on the United Nations Disengagement Observer Force,

Decides:

(a) To call upon the parties concerned to implement immediately Security Council resolution 338 (1973) of 22 October 1973;

(b) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 31 May 1990;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 338 (1973).

At the same meeting, following the adoption of resolution 645 (1989), the President made the following statement:²⁶

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council:

As is known, the report of the Secretary-General on the United Nations Disengagement Observer Force states, in paragraph 24: "Despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached." That statement of the Secretary-General reflects the view of the Security Council.

Decision of 27 December 1989 (2903rd meeting): statement by the President

At its 2903rd meeting, held on 27 December 1989 in accordance with the understanding reached in its prior consultations, the Council renewed its

²⁵ S/20996.

²⁶ S/20998.

consideration of the item. The President (Colombia) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²⁷

Recalling their statements of 7 November 1989 and 22 November 1989, and relevant Security Council resolutions, the members of the Council reaffirm their full support for the efforts undertaken by the Tripartite High Committee of the League of Arab States and for the Taif Agreement. These remain the only basis for guaranteeing the full sovereignty, independence, territorial integrity and national unity of Lebanon.

In this regard, the members of the Council welcome the election of Elias Hrawi as successor to the late René Moawad as President of the Lebanese Republic and the appointment of the Lebanese Government led by the Prime Minister Salim al-Hoss.

The members of the Council reaffirm the urgency of continuing the process of national reconciliation and political reform embodied in the Taif Agreement, and they express their deep concern over obstacles that have delayed progress in achieving these goals.

The members of the Council support President Hrawi's efforts in implementation of the Taif Agreement to deploy Lebanese Government forces to restore central government authority over all Lebanese territory.

The members of the Security Council reiterate their call on the Lebanese people, and in particular all Lebanese Government officials, civilian and military, to support their President and the constitutional process initiated at Taif to achieve peacefully the restoration of the unity, independence and sovereignty of Lebanon on its entire territory.

**Decision of 31 January 1990 (2906th meeting):
resolution 648 (1990)**

On 25 January 1990, the Secretary-General submitted to the Security Council a report on UNIFIL for the period from 22 July 1989 to 25 January 1990.²⁸ He stated that UNIFIL was still unable to implement the mandate given to it by the Council in resolution 425 (1978). Israel, maintaining the policy outlined in previous reports, had again increased the positions occupied in southern Lebanon by the Israel Defense Forces and the de facto forces. It had also further strengthened its hold on what UNIFIL referred to as the "Israel controlled area" — the so-called "security zone" — by introducing there some elements of a civilian administration in which a leading role was

given to the de facto forces. At the same time attempts by armed elements to infiltrate Israel and air and ground attacks by the Israeli forces on targets in Lebanon well to the north of the UNIFIL area had continued. The Secretary-General observed, however, that there had been positive developments in Lebanon, including the election of a new President and the appointment of a new Government committed to deploying Lebanese Government forces to restore central government authority over all Lebanese territory, in implementation of the Taif Agreement. He stated that UNIFIL stood ready to play its part in assisting the restoration of the Government's authority in southern Lebanon, including deployment of units of the Lebanese Army there. He accordingly recommended that the Council accede to Lebanon's request, and extend the UNIFIL mandate for a further period of six months. In making that recommendation, however, he also drew the Council's attention to the fact that there had been no easing of the difficulties faced by UNIFIL, such as loss of life and other casualties as well as continuing harassment.

At its 2906th meeting, on 31 January 1990, the Security Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (Côte d'Ivoire) drew the attention of the members of the Council to a letter dated 11 January 1990 from the representative of Lebanon addressed to the Secretary-General.²⁹ The Government of Lebanon requested the Council to extend the mandate of UNIFIL for a further six-month period and to take action for the implementation of the resolutions it had adopted on the matter since 1978. It contended that the renewal of the Force's mandate was of particular significance at a time when the new constitutionally elected government, with the support of the international community, had embarked on the realization of one of the most important national goals, namely extending central government authority over all Lebanese territory.

The President also drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.³⁰ The draft resolution was then put to the vote and adopted unanimously as resolution 648 (1990), which reads:

²⁷ S/21056.

²⁸ S/21102.

²⁹ S/21074.

³⁰ S/21117.

The Security Council,

Recalling its resolutions 425 (1978) and 426 (1978) of 19 March 1978, 501 (1982) of 25 February 1982, 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982 and 520 (1982) of 17 September 1982, as well as all its resolutions on the situation in Lebanon,

Having studied the report of the Secretary-General on the United Nations Interim Force in Lebanon of 25 January 1990, and taking note of the observations expressed therein,

Taking note of the letter dated 11 January 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Lebanon to the United Nations addressed to the Secretary-General,

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further interim period of six months, that is, until 31 July 1990;

2. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

3. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978, approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

4. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978), 426 (1978) and all other relevant resolutions;

5. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of the present resolution and to report to the Security Council thereon.

**Decisions of 31 May 1990 (2925th meeting):
resolution 655 (1990) and statement by the
President**

On 22 May 1990, pursuant to resolution 645 (1989), the Secretary-General submitted to the Security Council a report on UNDOF for the period from 22 November 1989 to 21 May 1990, and on the implementation of resolution 338 (1973).³¹ He stated that UNDOF had continued to perform its functions effectively, with the cooperation of the parties. During the period under review, the situation in the Israel-Syria sector had remained quiet and there had been no serious incidents. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken to implement resolution 338 (1973) had

been dealt with in his report on the situation in the Middle East,³² submitted pursuant to General Assembly resolution 43/54 A. The Secretary-General observed that, despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continued to be potentially dangerous and was likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem could be reached.³³ He continued to hope that determined efforts would be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Council in its resolution 338 (1973). In the prevailing circumstances, the Secretary-General considered the continued presence of UNDOF in the area to be essential. He therefore recommended, with the agreement of the Syrian Arab Republic and Israel, that the Council extend the mandate of the Force for a further period of six months, until 30 November 1990.

At its 2925th meeting, on 31 May 1990, the Security Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (Finland) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.³⁴ The draft resolution was then put to the vote and adopted unanimously as resolution 655 (1990), which reads:

The Security Council,

Having considered the report of the Secretary-General on the United Nations Disengagement Observer Force,

Decides:

(a) To call upon the parties concerned to implement immediately its resolution 338 (1973) of 22 October 1973;

(b) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 30 November 1990;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement Security Council resolution 338 (1973).

³² A/44/737-S/20971.

³³ S/21305, para. 24.

³⁴ S/21325.

³¹ S/21305.

At the same meeting, following the adoption of resolution 655 (1990), the President made the following statement:³⁵

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council:

As is known, the report of the Secretary-General on the United Nations Disengagement Observer Force states, in paragraph 24: "Despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached." That statement of the Secretary-General reflects the view of the Security Council.

**Decisions of 31 July 1990 (2931st meeting):
resolution 659 (1990) and statement by
the President**

On 24 July 1990, pursuant to resolution 648 (1990), the Secretary-General submitted to the Council a report on UNIFIL for the period from 26 January to 24 July 1990.³⁶ He stated that Israel's attitude to the situation in southern Lebanon and to the UNIFIL mandate remained unchanged. Israel continued to build up the de facto forces, the so-called "South Lebanon Army", and to improve their ability to reinforce quickly the strength of the Israel Defense Forces inside Lebanon. A consequence of that policy was that the Israeli-controlled area was becoming increasingly separated from the rest of Lebanon. Although hostile incidents in the UNIFIL area were fewer during the current mandate period than in the corresponding period in 1989, the Israel Defense Forces and the de facto forces had carried out many air and artillery attacks on targets to the north of the UNIFIL area. For its part, UNIFIL had continued its efforts to prevent its area of operation from being used for hostile activities, achieving a high degree of calm in those parts that lay outside the Israeli-controlled area. Recent months had seen a noteworthy increase in economic activity in those parts, with UNIFIL establishing some new positions close to the edge of the Israeli-controlled area in order to foster the confidence necessary for investment. UNIFIL had also continued to press the Israeli authorities to end the shelling of civilian targets by the de facto forces and to withdraw those forces

from certain positions that were most frequently responsible for such firing and that attracted attacks by armed elements. In carrying out its duties, the Force had again suffered fatalities, leading the Secretary-General to reiterate his appeal to the parties to cooperate with it, respect its international and neutral status and avoid exposing its members to danger. He concluded that, although it had not yet been possible for UNIFIL to carry out in full its mandate, the Force continued to make an important contribution to the maintenance of international peace and security in a volatile area. He accordingly recommended that the Council accept the request of the Government of Lebanon and extend the mandate of UNIFIL for a further period of six months.

At its 2931st meeting, on 31 July 1990, the Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (Malaysia) drew the attention of the members of the Council to two letters dated 16 July 1990 and 25 July 1990 from the representative of Lebanon addressed to the Secretary-General.³⁷ In his letter of 16 July 1990, the representative of Lebanon conveyed his Government's request that the mandate of UNIFIL be extended for a further period of six months. At a time when it had patiently embarked on a policy of extending its authority over its national territory, the Government was persuaded that the presence of UNIFIL in southern Lebanon remained essential. However, renewal of its mandate should not be considered as an alternative to the fulfilment of its original mandate. Israel had continued its daily acts of aggression against the civilians of southern Lebanon, and had been engaged in the process of linking the economic and administrative infrastructure of southern Lebanon to its own. That "creeping annexation" should be stopped through the immediate implementation of resolution 425 (1978). In his letter of 25 July 1990, the representative of Lebanon informed the Secretary-General that the Israeli occupation forces were building a road in the Kawkaba region, where UNIFIL was stationed. Despite the attempts of UNIFIL to stop them, the Israelis had finished the road by force, injuring a member of UNIFIL. Strongly condemning such practices, the Government of Lebanon called on the international community to take all necessary steps to put an end to the Israeli practices and acts of aggression.

³⁵ S/21338.

³⁶ S/21406 and Corr.1 and Add.1.

³⁷ S/21396 and S/21409.

The President also drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.³⁸ The draft resolution was then put to the vote and adopted unanimously as resolution 659 (1990), which reads:

The Security Council,

Recalling its resolutions 425 (1978) and 426 (1978) of 19 March 1978, 501 (1982) of 25 February 1982, 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982 and 520 (1982) of 17 September 1982, as well as all its resolutions on the situation in Lebanon,

Having studied the report of the Secretary-General on the United Nations Interim Force in Lebanon of 24 and 26 July 1990, and taking note of the observations expressed therein,

Taking note of the letter dated 16 July 1990 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General,

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further interim period of six months, that is, until 31 January 1991;

2. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

3. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978, approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

4. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978), 426 (1978) and all other relevant resolutions;

5. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of the present resolution and to report to the Security Council thereon.

At the same meeting, the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:³⁹

The members of the Security Council have noted with appreciation the report of the Secretary-General on the United Nations Interim Force in Lebanon, submitted in conformity with resolution 648 (1990) of 31 January 1990.

They reaffirm their commitment to the full sovereignty, independence, territorial integrity and national unity of Lebanon within its internationally recognized boundaries. In this context, they assert that any State shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

As the Security Council extends the mandate of the United Nations Interim Force in Lebanon for a further interim period on the basis of resolution 425 (1978) of 19 March 1978, the members of the Council again stress the need for the implementation of that resolution in all its aspects. They express their appreciation for the continuing efforts of the Secretary-General and his staff in this regard. They reiterate their full support for the Taif Agreement and for the efforts of the Lebanese Government to extend its authority over all Lebanese territory.

The members of the Security Council take this opportunity to commend the troops of the United Nations Interim Force in Lebanon and the troop-contributing countries for their sacrifices and commitment to the cause of international peace and security under difficult circumstances.

Decision of 24 September 1990: letter from the President of the Security Council to the Secretary-General

By a letter dated 24 September 1990, the President of the Security Council informed the Secretary-General as follows:⁴⁰

The members of the Security Council agreed, during their consideration in consultations on 31 July 1990 of the report of the Secretary-General on the United Nations Interim Force in Lebanon on the occasion of the renewal of the mandate of the Force to request that a review of the scale and deployment of the Force be carried out by the Secretariat in the light of the performance of its functions since its establishment in 1978 and with a view to fully implementing resolution 425 (1978) of 19 March 1978. The Council is mindful of the great benefit that the presence of the Force continues to contribute to Lebanon. The members of the Council also agreed that the review should be carried out during the interim period of six months for which the mandate of the Force was extended on 31 July 1990, that is, prior to the expiration on 31 January 1991 of the current mandate.

The members of the Council were of the view that such a review would accord with the spirit of the statement made by the President on behalf of the Council at the 2924th meeting, held on 30 May 1990, in connection with the Council's consideration of the item entitled "United Nations peacekeeping operations", and would provide the Council with a basis on which to assess

³⁸ S/21411.

³⁹ S/21418.

⁴⁰ S/21833.

whether existing arrangements for the Force should be maintained or changed.

Decisions of 30 November 1990 (2964th meeting): resolution 679 (1990) and statement by the President

On 23 November 1990, pursuant to resolution 655 (1990), the Secretary-General submitted to the Security Council a report on UNDOF for the period from 22 May to 23 November 1990, and on the implementation of resolution 338 (1973).⁴¹ He stated that UNDOF had continued to perform its functions effectively, with the cooperation of the parties. During the period under review, the situation in the Israel-Syria sector had remained quiet and there had been no serious incidents. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken to implement resolution 338 (1973) would be dealt with in his report on the situation in the Middle East,⁴² to be submitted shortly pursuant to General Assembly resolution 44/40 A of 4 December 1989. The Secretary-General observed that, despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continued to be potentially dangerous and was likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem could be reached.⁴³ He continued to hope that determined efforts would be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Council in its resolution 338 (1973). In the prevailing circumstances, the Secretary-General considered the continued presence of UNDOF in the area to be essential. He therefore recommended, with the agreement of the Syrian Arab Republic and Israel, that the Council extend the mandate of the Force for a further period of six months, until 31 May 1991.

At its 2964th meeting, on 30 November 1990, the Security Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (United States) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁴⁴ The draft resolution

was then put to the vote and adopted unanimously as resolution 679 (1990), which reads:

The Security Council,

Having considered the report of the Secretary-General on the United Nations Disengagement Observer Force,

Decides:

(a) To call upon the parties concerned to implement immediately its resolution 338 (1973) of 22 October 1973;

(b) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 31 May 1991;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 338 (1973).

At the same meeting, after the adoption of resolution 679 (1990), the President made the following statement:⁴⁵

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Force, I have been authorized to make the following complementary statement on behalf of the Security Council:

As is known, the report of the Secretary-General on the United Nations Disengagement Observer Force states, in paragraph 23: "Despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached." That statement of the Secretary-General reflects the view of the Security Council.

Decisions of 30 January 1991 (2975th meeting): resolution 684 (1991) and statement by the President

On 23 January 1991, pursuant to resolution 359 (1990), the Secretary-General submitted to the Council a report on UNIFIL for the period from 25 July 1990 to 22 January 1991,⁴⁶ and on the results of a review of the scale and deployment of UNIFIL,⁴⁷ carried out in accordance with the request made by the members of the Council on 31 July 1990.⁴⁸ The review concluded that the scale and deployment of UNIFIL were determined by two main factors: the Council's commitment to resolution 425 (1978) as the correct solution to the problem of southern Lebanon; and the

⁴¹ S/21950 and Corr.1.

⁴² A/45/726-S/21947.

⁴³ S/21950, para. 23.

⁴⁴ S/21972.

⁴⁵ S/21974.

⁴⁶ S/22129.

⁴⁷ S/22129/Add.1 of 28 January 1991.

⁴⁸ S/21833.

interim tasks that the Force had carried out with the Council's approval (controlling the level of hostilities in its present area of deployment and providing humanitarian support to the civilian population) until it was enabled to carry out its original tasks of confirming the withdrawal of Israeli forces, restoring international peace and security and assisting the Government of Lebanon in ensuring the return of its effective authority in the area. The review took note of the fact that UNIFIL faced certain difficulties and dangers owing to the anomaly that arose from giving a peacekeeping force a mandate to prevent its area from being used for hostile activities when those activities included resistance to an occupation against which the Security Council had repeatedly pronounced itself. It was clear that the solution to that anomaly must lie in the withdrawal of Israeli forces from Lebanese territory, accompanied by the progressive assumption by the Lebanese Army of responsibility for security in the present area of deployment of UNIFIL. Finally, the review recommended that, for the time being, there should be no substantive change in the Force's function or in its deployment but that certain measures should be taken to streamline the Force which would produce a saving of some 10 per cent in its military strength.⁴⁹

In his report, the Secretary-General informed the Council of recent consultations with the Lebanese authorities on the implementation of their decision relating to the deployment of the army to the south. He had welcomed the idea of the progressive deployment of the army to southern Lebanon as a necessary first step in the restoration of the Government's effective authority there. UNIFIL stood ready to cooperate with the Lebanese Army when it reached the UNIFIL area and to begin progressively transferring to it responsibility for security. Meanwhile, Israel's attitude to the situation in southern Lebanon and to the UNIFIL mandate remained as described in previous reports. The Israeli authorities continued to build up the de facto forces in the Israeli-controlled area and to increase the military positions held by them and the Israel Defense Forces. For its part, UNIFIL continued, to the best of its ability and in accordance with its mandate, to prevent its area of operation from being used for hostile activities. Hostile activities in the UNIFIL area had again declined during the current mandate, but the Israel Defense Forces and the de facto forces had carried out many air and artillery attacks on

targets to the north of the UNIFIL area. A high degree of calm and tranquillity prevailed in those parts of the UNIFIL area that lay outside the Israeli-controlled area and economic activity continued to increase there. In order to foster the confidence necessary for such investment, UNIFIL had established further new positions close to the edge of the Israeli-controlled area. The Secretary-General concluded that, although it had not yet been possible for UNIFIL to carry out in full the mandate given to it in 1978, the Force continued to make an important contribution to the maintenance of international peace and security in a volatile area. He accordingly recommended that the Council accept the request of the Government of Lebanon and extend the mandate of UNIFIL for a further period of six months, until 31 July 1991.

At its 2975th meeting, on 30 January 1991, the Council included the Secretary-General's report on UNIFIL in its agenda. Following the adoption of the agenda, the President (Zaire) drew the attention of the members of the Council to a letter dated 14 January 1991 from the representative of Lebanon addressed to the Secretary-General, conveying his Government's request to the Security Council to extend the mandate of UNIFIL for a further period of six months.⁵⁰ He stated that some major constructive developments had taken place since the last renewal of the Force's mandate: a Government of national unity had been formed; the army had assumed complete control of the Greater Beirut area; and the Council of Ministers had decided to further deploy the Lebanese Army in certain regions in the south and the western Bekaa adjacent to the area occupied by Israel. That would serve as a prelude to the full implementation of resolution 425 (1978), when the Government and the Lebanese Army, with the help of UNIFIL, would extend the Government's authority over the entire south up to the internationally recognized boundaries. In Lebanon's view, the time had come for the Council not to tolerate any more Israel's continuous occupation of Lebanese land and to demand the prompt implementation of resolution 425 (1978), which Israel consistently flouted under the pretext of its security and in violation of the Charter of the United Nations.

The President also drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior

⁴⁹ S/22129/Add.1, para. 59.

⁵⁰ S/22079.

consultations.⁵¹ The draft resolution was then put to the vote and adopted unanimously as resolution 684 (1991), which reads:

The Security Council,

Recalling its resolutions 425 (1978) and 426 (1978) of 19 March 1978, 501 (1982) of 25 February 1982, 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982 and 520 (1982) of 17 September 1982, as well as all its resolutions on the situation in Lebanon,

Having studied the report of the Secretary-General of 23 and 28 January 1991 on the United Nations Interim Force in Lebanon, and taking note of the observations expressed therein, and without prejudice to the views of the Member States thereon,

Taking note of the letter dated 14 January 1991 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General,

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further period of six months, that is, until 31 July 1991;

2. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

3. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978, approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

4. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978), 426 (1978) and all other relevant resolutions;

5. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of the present resolution and to report to the Security Council thereon.

At the same meeting, after the adoption of resolution 684 (1991), the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁵²

The members of the Security Council have noted with appreciation the report of the Secretary-General on the United Nations Interim Force in Lebanon submitted in conformity with Security Council resolution 659 (1990) of 31 July 1990.

They reaffirm their commitment to the full sovereignty, independence, territorial integrity and national unity of Lebanon within its internationally recognized boundaries. In this context, they assert that any State shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

As the Council extends the mandate of the Force for a further interim period on the basis of resolution 425 (1978) of 19 March 1978, the members of the Council again stress the need for the implementation of that resolution in all its aspects. They express their appreciation for the continuing efforts of the Secretary-General and his staff in this regard. They reiterate their full support for the Taif Agreement and for the recent efforts of the Lebanese Government to extend its authority over all Lebanese territory.

The members of the Council take this opportunity to commend the troops of the Force and the troop-contributing countries for their sacrifices and commitment to the cause of international peace and security under difficult circumstances.

**Decisions of 30 May 1991 (2990th meeting):
resolution 695 (1991) and statement by
the President**

On 21 May 1991, pursuant to resolution 679 (1990), the Secretary-General submitted to the Council a report on UNDOF for the period from 24 November 1990 to 20 May 1991, and on the implementation of resolution 338 (1973).⁵³ He stated that UNDOF had continued to perform its functions effectively, with the cooperation of the parties. During the period under review, the situation in the Israel-Syria sector had remained quiet and there had been no serious incidents. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken to implement resolution 338 (1973) had been dealt with in his report on the situation in the Middle East,⁵⁴ submitted pursuant to General Assembly resolution 44/40 A. The Secretary-General observed that, despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continued to be potentially dangerous and was likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem could be reached.⁵⁵ He continued to hope that determined efforts would be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Council in its resolution

⁵¹ S/22170.

⁵² S/22176.

⁵³ S/22631 and Add.1.

⁵⁴ A/45/726-S/21947.

⁵⁵ S/22631, para. 23.

338 (1973). In the prevailing circumstances, the Secretary-General considered the continued presence of UNDOF in the area to be essential. He therefore recommended, with the agreement of the Syrian Arab Republic and Israel, that the Council extend the mandate of the Force for a further period of six months, until 30 November 1991.

At its 2990th meeting, on 30 May 1991, the Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (China) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁵⁶ The draft resolution was then put to the vote and adopted unanimously as resolution 695 (1991), which reads:

The Security Council,

Having considered the report of the Secretary-General on the United Nations Disengagement Observer Force,

Decides:

(a) To call upon the parties concerned to implement immediately its resolution 338 (1973) of 22 October 1973;

(b) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 30 November 1991;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 338 (1973).

At the same meeting, following the adoption of resolution 695 (1991), the President made the following statement:⁵⁷

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Force, I have been authorized to make the following complementary statement on behalf of the Security Council:

As is known, the report of the Secretary-General on the United Nations Disengagement Observer Force states, in paragraph 23: "Despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached." That statement of the Secretary-General reflects the view of the Security Council.

⁵⁶ S/22650.

⁵⁷ S/22657.

**Decisions of 31 July 1991 (2997th meeting):
resolution 701 (1991) and statement by
the President**

On 21 July 1991, pursuant to resolution 684 (1991), the Secretary-General submitted to the Council a report on UNIFIL for the period from 23 January to 20 July 1991.⁵⁸ In Lebanon, outside the Israeli-controlled area, progress in the implementation of the Taif Agreement had continued. The Government of Lebanon had, in particular, declared its intention to dissolve and disarm all Lebanese and non-Lebanese militias by 30 September 1991. Significant steps in this regard had been taken in parts of southern Lebanon outside the UNIFIL area of operation. Important progress had also been achieved in the deployment of the Lebanese Army in southern Lebanon, as part of the Government's plans for the return of its effective authority in the area. UNIFIL had continued to discuss with the Lebanese authorities arrangements for the progressive transfer to the Lebanese Army of responsibility for security in the areas currently controlled by UNIFIL. It was envisaged that the transfer would proceed in parallel with movement by UNIFIL southwards towards the border and the progressive withdrawal of Israeli forces from the Israeli-controlled area, thus bringing about the implementation of resolution 425 (1978). Israel, while taking note of the efforts of the Government of Lebanon to restore its authority in southern Lebanon, was not at present prepared to modify the security arrangements which, in spite of resolution 425 (1978), it had established on Lebanese territory. Nor did it consider that UNIFIL, as a peacekeeping force, could replace those arrangements. In the meantime, although UNIFIL endeavoured to prevent its area from being used for hostile activities, recent weeks had seen a significant increase both in resistance operations inside the Israeli-controlled area and in harassment of villages to the north of it, by the Israel Defense Forces and de facto forces inflicting death, injury and material loss on the civilian population. UNIFIL did all it could to protect civilians but its ability to do so was limited when they were the subject of deliberate attack. Moreover, the Force itself continued to be exposed to many dangers. The Secretary-General believed, however, that the Council would again judge that, although it had not yet been possible for UNIFIL to carry out in full the mandate given to it in 1978, the

⁵⁸ S/22829.

Force continued to make an important contribution to the maintenance of international peace and security in a volatile area. In addition, recent positive developments in Lebanon had improved the prospects of its being able to carry out that part of its mandate which required it to assist the Government in ensuring the return of its effective authority in the area. He accordingly recommended that the Council accept the request of the Government of Lebanon and extend the mandate of UNIFIL for a further period of six months, until 31 January 1992. The Secretary-General also recalled the main recommendations made in the Secretariat's review of the scale and deployment of UNIFIL, which he believed to be on the right lines, and noted that the Council had not yet taken formal action on them.

At its 2997th meeting, on 31 July 1991, the Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (Cuba) drew the attention of the members of the Council to a letter dated 15 July 1991 from the representative of Lebanon addressed to the Secretary-General, conveying his Government's request that the Security Council extend the mandate of UNIFIL for a further period of six months.⁵⁹ He stated that, since the last renewal of the Force's mandate, the Government had extended its authority beyond the Greater Beirut area towards the north, east and south and, in accordance with the timetable of the Taif Agreement, militias previously operating in those areas had been disbanded and their weapons turned in to the Lebanese Army. One exception to Lebanon's success remained, however; that was in the southern most region of the country, where Israel imposed its reign of terror over the civilian population. The Government was sparing no effort to extend its sovereignty over southern Lebanon, in fulfilment of Security Council resolution 425 (1978). Israel, however, had amplified its refusal to withdraw from southern Lebanon and had intensified its aggressions by extending its attacks beyond the occupied zone. Senior Israeli officials were declaring publicly that they had no intention of withdrawing from the so-called "security zone" and would continue to strengthen Israel's proxy militia there. Lebanon insisted that it was no longer acceptable that the occupation of southern Lebanon be allowed to stand, in violation of the Charter as well as numerous Security

⁵⁹ S/22791.

Council resolutions, and demanded the prompt implementation of resolution 425 (1978).

The President also drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁶⁰ The draft resolution was then put to the vote and adopted unanimously as resolution 701 (1991), which reads:

The Security Council,

Recalling its resolutions 425 (1978) and 426 (1978) of 19 March 1978, 501 (1982) of 25 February 1982, 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982 and 520 (1982) of 17 September 1982, as well as all its resolutions on the situation in Lebanon,

Having studied the report of the Secretary-General on the United Nations Interim Force in Lebanon of 21 July 1991, and taking note of the observations expressed therein,

Recalling the report of the Secretariat team of 28 January 1991, and without prejudice to the views of Member States thereon,

Taking note of the letter dated 15 July 1991 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General,

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further interim period of six months, that is, until 31 January 1992;

2. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

3. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978, approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

4. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978), 426 (1978) and all other relevant resolutions;

5. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of the present resolution and to report to the Security Council thereon.

At the same meeting, after the adoption of resolution 701 (1991), the President stated that, following consultations among the members of the

⁶⁰ S/22857.

Council, he had been authorized to make the following statement on behalf of the Council:⁶¹

The members of the Security Council have noted with appreciation the report of the Secretary-General on the United Nations Interim Force in Lebanon submitted in conformity with resolution 684 (1991) of 30 January 1991.

They reaffirm their commitment to the full sovereignty, independence, territorial integrity and national unity of Lebanon within its internationally recognized boundaries. In this context, they assert that any State shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

As the Council extends the mandate of the Force for a further interim period on the basis of resolution 425 (1978) of 19 March 1978, the members of the Council again stress the need for the implementation of that resolution in all its aspects. They express their appreciation for the continuing efforts of the Secretary-General and his staff in this regard. They reiterate their full support for the Taif Agreement and commend the Lebanese Government for the recent successful deployment of its army in the Sidon and Tyre regions in the process of extending its authority over all Lebanese territory.

The members of the Council take this opportunity to commend the troops of the Force and the troop-contributing countries for their sacrifices and commitment to the cause of international peace and security under difficult circumstances.

Decisions of 29 November 1991 (3019th meeting): resolution 722 (1991) and statement by the President

On 22 November 1991, pursuant to resolution 695 (1991), the Secretary-General submitted to the Security Council a report on UNDOF for the period from 21 May to 20 November 1991, and on the implementation of resolution 338 (1973).⁶² He stated that UNDOF had continued to perform its functions effectively, with the cooperation of the parties. During the period under review, the situation in the Israel-Syria sector had remained generally quiet and there had been only one serious incident. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken to implement resolution 338 (1973) had been dealt with in his report on the situation in the Middle East,⁶³ submitted pursuant to General Assembly resolution 45/83 A of 13 December 1990. The Secretary-General observed

that, despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continued to be potentially dangerous and was likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem could be reached.⁶⁴ He continued to hope that determined efforts would be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Council in its resolution 338 (1973). In the prevailing circumstances, the Secretary-General considered the continued presence of UNDOF in the area to be essential. He therefore recommended, with the agreement of the Syrian Arab Republic and Israel, that the Council extend the mandate of the Force for a further period of six months, until 31 May 1992.

At its 3019th meeting, on 29 November 1991, the Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (Romania) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁶⁵ The draft resolution was then put to the vote and adopted unanimously as resolution 722 (1991), which reads:

The Security Council,

Having considered the report of the Secretary-General on the United Nations Disengagement Observer Force,

Decides:

(a) To call upon the parties concerned to implement immediately its resolution 338 (1973) of 22 October 1973;

(b) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 31 May 1992;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 338 (1973).

At the same meeting, following the adoption of resolution 722 (1991), the President made the following statement:⁶⁶

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council:

⁶¹ S/22862.

⁶² S/23233 and Corr.1.

⁶³ A/46/652-S/23225.

⁶⁴ S/23233, para. 24.

⁶⁵ S/23250.

⁶⁶ S/23253.

As is known, the report of the Secretary-General on the United Nations Disengagement Observer Force states, in paragraph 24: “Despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached.” That statement of the Secretary-General reflects the view of the Security Council.

**Decisions of 29 January 1992 (3040th meeting):
resolution 734 (1992) and statement by
the President**

On 21 January 1992, pursuant to resolution 701 (1991), the Secretary-General submitted to the Security Council a report on UNIFIL for the period from 21 July 1991 to 21 January 1992.⁶⁷ He observed that the period under review had been more difficult than preceding ones both for UNIFIL and for the inhabitants of southern Lebanon. Hostilities between Lebanese resistance groups and the Israel Defense Forces/de facto forces had intensified and the number of casualties had increased. UNIFIL had continued to do its best to prevent its area of deployment from being used for hostile activities and to protect civilians caught up in the conflict, although its ability to do the latter was limited by the amount of firing directed at UNIFIL itself. Hostilities in the UNIFIL area had generally focused on certain Israel Defense Forces/de facto forces positions that were close to population centres and in areas where UNIFIL was deployed. The Secretary-General endorsed the proposal made by his predecessor to the Government of Israel that the Israel Defense Forces/de facto forces be withdrawn from these positions, which would then be taken over by UNIFIL: such a move would have a beneficial effect and the proposal merited an early and positive response. He remarked further that the Lebanese Army’s forthcoming assumption of responsibility for a part of the UNIFIL area of operation was encouraging, and would certainly contribute to internal stability and to the restoration of the Government’s authority in the area. Israel’s general attitude to the situation in southern Lebanon and to the UNIFIL mandate remained, however, as described in previous reports. The Israeli authorities had recently added that, following the beginning of the Arab-Israeli peace talks, all problems between Israel and Lebanon — including the interpretation and implementation of resolution 425 (1978) and subsequent resolutions of the Security

⁶⁷ S/23452.

Council — should be dealt with in the bilateral talks in the framework of the peace process. Meanwhile, Israel continued to maintain the de facto forces and to consolidate its hold over the Israeli-controlled area, which was increasingly being separated from the rest of Lebanon. The Secretary-General concluded that, while the situation had remained difficult and UNIFIL was still far from being able to carry out its mandate, the Force’s contribution to stability in this very volatile region remained important. It was all the more valuable at a time when Arabs and Israelis were engaged in peace negotiations. He therefore recommended that the Council accept the request of the Government of Lebanon and extend the mandate of UNIFIL for another period of six months, until 31 July 1992. He also urged the Council to approve the recommendations summarized in paragraph 59 of the review of the scale and deployment of UNIFIL,⁶⁸ submitted to the Council by his predecessor on 28 January 1991. Like his predecessor, he considered the recommendations to be on the right lines: they would permit a reduction of some 10 per cent in the military strength of UNIFIL without affecting the Force’s operational capability to carry out the tasks assigned to it by the Security Council.⁶⁹

At its 3040th meeting, on 29 January 1992, the Security Council included the Secretary-General’s report in its agenda. Following the adoption of the agenda, the President (United Kingdom) drew the attention of the members of the Council to the following letters addressed to the Secretary-General: two letters dated 17 January 1992 and 21 January 1992 from the representative of Lebanon;⁷⁰ and a letter dated 27 January 1992 from the representative of Israel.⁷¹

In his letter of 17 January 1992, the representative of Lebanon transmitted his Government’s request for an extension of the UNIFIL mandate for a further period of six months. He stated that, since the last renewal of the Force’s mandate, some major constructive developments had taken place, which had further strengthened the position of the Lebanese Army and internal security forces in the south: the Army had confiscated all heavy and medium weapons and banned all forms of armed presence in areas under its control; deployment of the Lebanese

⁶⁸ S/22129/Add.1.

⁶⁹ S/23452, para. 33.

⁷⁰ S/23435 and S/23453.

⁷¹ S/23479.

Army had proceeded smoothly in areas in the south, in coordination with UNIFIL; and consultations were under way to ascertain the best way in which the Lebanese Army could take over additional areas from UNIFIL. Israel, however, had amplified its refusal to withdraw from southern Lebanon despite the participation of both countries in the Arab-Israeli peace conference, which had begun in Madrid and proceeded to Washington. As a pretext for perpetuating its occupation of the south, Israel sought to destabilize Lebanon so as to prevent the Lebanese Army from keeping law and order. Calling the attention of the Council to the gravity of the increase in hostilities in southern Lebanon, the Government of Lebanon implored the Council to take new and unprecedented steps to bring an end to the violence, through the prompt implementation of its resolution 425 (1978), which would enable the Government to extend its authority over the entire south of the country and up to its internationally recognized boundaries. In his letter of 21 January 1992, the representative of Lebanon stated that Israel had continued its attacks on villagers and their property in the south of the country. As a result, at least 80 per cent of the villagers had fled and one of the villages had been incorporated into Israel's so-called "security zone". The Government condemned these latest acts of aggression, and alerted the international community to the fact that Israel was seeking to extend the zone which it occupied in Lebanese territory, even as it participated in the Middle East peace negotiations under way in Washington. It reserved its right to call on the Security Council to consider ways and means of putting an end to Israel's constant, unwarranted, attacks in southern Lebanon, in the light of the threat they posed to international peace and security.

In his letter of 27 January 1992, the representative of Israel drew attention to the escalation of terrorist activities in southern Lebanon since the deployment of the Lebanese Army in the area. He stated that the Government of Lebanon had done nothing to halt or prevent the activities of Hizbullah and other terrorist organizations, which continued to use civilian centres as bases of operation. On the contrary, it had tacitly and explicitly encouraged them to continue with their acts of terrorism. The Government of Lebanon had thus demonstrated its unwillingness to abide by its international obligations to prevent activities within its territory directed towards organizing, instigating, assisting and

participating in acts of violence and terror across Israel's northern border. Such obligations were part of the Charter of the United Nations and other related international norms and declarations, particularly the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.⁷² Drawing attention to the 35,000 Syrian troops and hundreds of Iranian Revolutionary Guards stationed on Lebanese soil, the representative asserted that Syrian interference in Lebanese internal affairs made a mockery of Lebanon's sovereignty and was a clear violation of its territorial integrity and political independence. He maintained that his Government's position regarding southern Lebanon remained unchanged. Israel had no territorial claims on any part of Lebanese territory. However, Lebanon had failed to carry out its international obligations and to prevent the use of its territory for acts of terrorism against Israel. The latter had therefore found it necessary to undertake security functions and patrols in a narrow zone of the south of Lebanon, aimed at detecting and preventing the organization of terrorist activities and access by terrorist elements to Israel's northern border areas. Such security arrangements were essential and would be maintained as long as there existed a threat that acts of violence and terror would continue to emanate unimpeded from Lebanon. In conclusion, the representative asserted that the appropriate forum for the resolution of outstanding issues between the two countries lay in the bilateral negotiations which had been taking place within the framework of the peace process.

The President also drew the attention of the Council members to a draft resolution that had been prepared in the course of the Council's prior consultations.⁷³ The draft resolution was then put to the vote and adopted unanimously as resolution 734 (1992), which reads:

The Security Council,

Recalling its resolutions 425 (1978) and 426 (1978) of 19 March 1978, 501 (1982) of 25 February 1982, 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982, and 520 (1982) of 17 September 1982, as well as all its resolutions on the situation in Lebanon,

⁷² General Assembly resolution 2625 (XXV) of 24 October 1970.

⁷³ S/23483.

Having studied the report of the Secretary-General on the United Nations Interim Force in Lebanon of 21 January 1992, and taking note of the observations expressed therein,

Recalling the addendum of 28 January 1991 to the Secretary-General's report of 22 January 1991,

Taking note of the letter dated 17 January 1992 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General,

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further interim period of six months, that is, until 31 July 1992;

2. *Approves* the overall objective of the Secretary-General, as set out in paragraph 33 of his report of 21 January 1992 on the United Nations Interim Force in Lebanon, aimed at promoting the greater effectiveness of the Force;

3. *Approves in particular* the recommendations summarized in paragraphs 59 (c) (i) and (ii) of the addendum of 28 January 1991 to the report of the Secretary-General of 22 January 1991;

4. *Invites* the Secretary-General to consider further, in consultation with the troop-contributing countries, how to achieve the overall objective referred to in paragraph 2 above, and to take action on the objectives in paragraphs 2 and 3 above;

5. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

6. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978, approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

7. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978) and 426 (1978) and all other relevant resolutions;

8. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of the present resolution and to report to the Security Council thereon.

At the same meeting, after the adoption of resolution 734 (1992), the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁷⁴

The members of the Security Council have noted with appreciation the report of the Secretary-General on the United Nations Interim Force in Lebanon of 21 January 1992 submitted

in conformity with Council resolution 701 (1991) of 31 July 1991.

The members of the Council reaffirm their commitment to the full sovereignty, independence, territorial integrity and national unity of Lebanon within its internationally recognized boundaries. In this context, they assert that any State shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

As the Council extends the mandate of the Force for a further interim period on the basis of resolution 425 (1978) of 19 March 1978, the members of the Council again stress the need for the implementation of that resolution in all its aspects. They reiterate their full support for the Taif Agreement and commend the Lebanese Government for its successful efforts to deploy units of its army in the south of the country in full coordination with the Force. The members of the Council urge all the parties concerned to support the Force fully.

The members of the Council express their concern over the continuing violence in southern Lebanon and urge all parties to exercise restraint.

The members of the Council take this opportunity to express their appreciation for the continuing efforts of the Secretary-General and his staff in this regard and commend the Force's troops and troop-contributing countries for their sacrifices and commitment to the cause of international peace and security under difficult circumstances.

Decision of 19 February 1992 (3053rd meeting): statement by the President

By a letter dated 17 February 1992 addressed to the President of the Security Council,⁷⁵ the representative of Lebanon requested an urgent meeting of the Council to consider the latest acts of aggression by Israel against the sovereignty and territorial integrity of Lebanon and its continuous occupation of southern Lebanon and part of the Bekaa. Those aggressions and the occupation, he stated, constituted "a flagrant violation of the Charter of the United Nations and Security Council resolutions" and posed a grave threat to international peace and security.

At its 3053rd meeting, on 19 February 1992, the Council included the letter from the representative of Lebanon in its agenda. The President (United States) stated that, following consultations among the members of the Council, he had been authorized to

⁷⁵ S/23604.

⁷⁴ S/23495.

make the following statement on behalf of the Council:⁷⁶

The members of the Council are deeply concerned about the renewed and rising cycle of violence in southern Lebanon and elsewhere in the region. The Council deplores in particular the recent killings and the continued violence, which threatens to claim additional lives and to destabilize the region further.

The members of the Council call upon all those involved to exercise maximum restraint in order to bring such violence to an end.

The members of the Council reaffirm their commitment to the full sovereignty, independence, territorial integrity and national unity of Lebanon within its internationally recognized boundaries, as set out in resolution 425 (1978) of 19 March 1978. In this context, they assert that any State shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

The members of the Council express their continued support for all efforts to bring peace to the region on the basis of resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973. The members of the Council urge all the parties concerned to work vigorously to enhance the ongoing peace process.

**Decisions of 29 May 1992 (3081st meeting):
resolution 756 (1992) and statement by
the President**

On 19 May 1992, pursuant to resolution 722 (1991), the Secretary-General submitted to the Council a report on UNDOF for the period from 21 November 1991 to 19 May 1992, and on the implementation of resolution 338 (1973).⁷⁷ He stated that UNDOF had continued to perform its functions effectively, with the cooperation of the parties. During the period under review, the situation in the Israel-Syria sector had remained generally quiet and there had been no serious incidents. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken to implement resolution 338 (1973) had been dealt with in his report on the situation in the Middle East,⁷⁸ submitted pursuant to General Assembly resolution 45/83 A. The Secretary-General observed that, despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continued to be potentially dangerous and was likely to remain so, unless and until a comprehensive settlement covering

all aspects of the Middle East problem could be reached.⁷⁹ He continued to hope that determined efforts would be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Council in its resolution 338 (1973). In the prevailing circumstances, the Secretary-General considered the continued presence of UNDOF in the area to be essential. He therefore recommended, with the agreement of the Syrian Arab Republic and Israel, that the Council extend the mandate of the Force for a further period of six months, until 30 November 1992.

At its 3081st meeting, on 29 May 1992, the Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (Austria) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁸⁰ The draft resolution was then put to the vote and adopted unanimously as resolution 756 (1992), which reads:

The Security Council,

Having considered the report of the Secretary-General of 19 May 1992 on the United Nations Disengagement Observer Force,

Decides:

- (a) To call upon the parties concerned to implement immediately its resolution 338 (1973) of 22 October 1973;
- (b) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 30 November 1992;
- (c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 338 (1973).

At the same meeting, after the adoption of resolution 756 (1992), the President made the following statement:⁸¹

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council:

As is known, the report of the Secretary-General of 19 May 1992 on the United Nations Disengagement Observer Force states, in paragraph 20: "Despite the present quiet in the

⁷⁶ S/23610.

⁷⁷ S/23955.

⁷⁸ A/46/652-S/23225.

⁷⁹ S/23955, para. 20.

⁸⁰ S/24026.

⁸¹ S/24030.

Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached.” That statement of the Secretary-General reflects the view of the Security Council.

**Decisions of 30 July 1992 (3102nd meeting):
resolution 768 (1992) and statement by
the President**

On 21 July 1992, pursuant to resolution 734 (1992), the Secretary-General submitted to the Council a report on UNIFIL for the period from 22 January to 21 July 1992.⁸² He observed that, during this period, the situation in southern Lebanon had been marked by a continuously high level of firing, and that UNIFIL had been severely hampered in carrying out its tasks by the amount of firing directed at its personnel. At the same time, a source of encouragement had been the Lebanese Army’s assumption of responsibility for a part of the UNIFIL area of operation, which represented a further important step towards the restoration of the Government’s authority in southern Lebanon. Meanwhile, Israel’s general attitude to the situation in southern Lebanon and to the UNIFIL mandate remained as described in previous reports. In summary, UNIFIL had once again been prevented from carrying out its mandate, and the parties to the conflict in southern Lebanon continued to be locked in a vicious cycle. In the absence of the cooperation which was essential to the success of any peacekeeping operation, the efforts of UNIFIL had merely succeeded in limiting the consequences of the parties’ actions, something upon which they seemed to have come to rely. The Force’s contribution to stability in the region remained nevertheless important, particularly at a time of negotiation. The Secretary-General therefore recommended that the Council accept the request of the Government of Lebanon and extend the Force’s mandate for another period of six months, until 31 January 1993.

At its 3102nd meeting, on 30 July 1992, the Council included the Secretary-General’s report in its agenda. Following the adoption of the agenda, the President (Cape Verde) drew the attention of the members of the Council to a letter dated 15 July 1992 from the representative of Lebanon addressed to the Secretary-General, transmitting his Government’s request that the Council extend the UNIFIL mandate

for a further period of six months.⁸³ He stated that, since the last renewal of the Force’s mandate, the Government of Lebanon had continued to consolidate the peace, national unity and security which were necessary for lasting stability. In that context, it had established plans for displaced persons; in conformity with the principles and timetable of the Taif Agreement, it had taken the decision to collect all light weapons — a process under way in different regions of the country; and it had taken the decision to conduct in the coming weeks the nation’s first parliamentary elections in 20 years. Moreover, UNIFIL had handed over part of one of its sectors to the Lebanese Army, enabling UNIFIL to strengthen its own deployment elsewhere in its area of operation. Israel, on the other hand, was doing everything in its power to undermine the process of consolidating national unity. Despite the participation of both countries in the Arab-Israeli peace conference, Israel had intensified its efforts to destabilize and terrorize Lebanon. In perpetuating its occupation of the south, Israel had subjected Lebanese citizens to daily air raids and bombardments. The Lebanese Government drew the Council’s attention to Israel’s “perpetual state of attack” against Lebanon, and its flagrant routine incursions beyond the area under its occupation. It urged the Council to take new and vigorous steps to bring an end to Israel’s reign of terror, through the prompt implementation of resolution 425 (1978) and galvanization of the mechanism set out in resolution 526 (1978), which would enable the Lebanese Government to extend its authority over the entire south of the country up to its internationally recognized boundaries. The time had come for the Council to institute a timetable for the implementation of resolution 425 (1978).

The President also drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council’s prior consultations.⁸⁴ The draft resolution was then put to the vote and adopted unanimously as resolution 768 (1992), which reads:

The Security Council,

Recalling its resolutions 425 (1978) and 426 (1978) of 19 March 1978, 501 (1982) of 25 February 1982, 508 (1982) of 5 June 1982, 509 (1982) of 6 June 1982, and 520 (1982) of 17 September 1982, as well as all its resolutions on the situation in Lebanon,

⁸² S/24341.

⁸³ S/24293.

⁸⁴ S/24360.

Having studied the report of the Secretary-General of 21 July 1992 on the United Nations Interim Force in Lebanon and taking note of the observations expressed therein,

Taking note of the letter dated 15 July 1992 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General,

Responding to the request of the Government of Lebanon,

1. *Decides* to extend the present mandate of the United Nations Interim Force in Lebanon for a further interim period of six months, that is, until 31 January 1993;

2. *Reiterates* its strong support for the territorial integrity, sovereignty and independence of Lebanon within its internationally recognized boundaries;

3. *Re-emphasizes* the terms of reference and general guidelines of the Force as stated in the report of the Secretary-General of 19 March 1978, approved by resolution 426 (1978), and calls upon all parties concerned to cooperate fully with the Force for the full implementation of its mandate;

4. *Reiterates* that the Force should fully implement its mandate as defined in resolutions 425 (1978) and 426 (1978) and all other relevant resolutions;

5. *Requests* the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of the present resolution and to report to the Security Council thereon.

At the same meeting, after the adoption of resolution 768 (1992), the President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁸⁵

The members of the Council have noted with appreciation the report of the Secretary-General on the United Nations Interim Force in Lebanon of 21 July 1992 submitted in conformity with resolution 734 (1992) of 29 January 1992.

The members of the Council reaffirm their commitment to the full sovereignty, independence, territorial integrity and national unity of Lebanon within its internationally recognized boundaries. In this context, they assert that any State shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations.

As the Council extends the mandate of the Force for a further interim period on the basis of resolution 425 (1978) of 19 March 1978, the members of the Council again stress the urgent need for the implementation of that resolution in all its aspects. They reiterate their full support for the Taif Agreement and for the continued efforts of the Lebanese Government to consolidate peace, national unity and security in the country.

⁸⁵ S/24362.

The members of the Council commend the Lebanese Government for its successful efforts to deploy units of its army in the south of the country in full coordination with the Force.

The members of the Council express their concern over the continuing violence in southern Lebanon, regret the loss of civilian life and urge all parties to exercise restraint.

The members of the Council take this opportunity to express their appreciation for the continuing efforts of the Secretary-General and his staff in this regard and commend the Force's troops and troop-contributing countries for their sacrifices and commitment to the cause of international peace and security under difficult circumstances.

Decisions of 25 November 1992 (3141st meeting): resolution 790 (1992) and statement by the President

On 19 November 1992, pursuant to resolution 756 (1992), the Secretary-General submitted to the Council a report on UNDOF for the period from 20 May to 19 November 1992, and on the implementation of resolution 338 (1973).⁸⁶ He stated that UNDOF had continued to perform its functions effectively, with the cooperation of the parties. During the period under review, the situation in the Israel-Syria sector had remained generally quiet and there had been no serious incidents. The search for a peaceful settlement in the Middle East and, in particular, the efforts undertaken to implement resolution 338 (1973) had been dealt with in his report on the situation in the Middle East,⁸⁷ submitted pursuant to General Assembly resolution 46/82 A of 16 December 1991. The Secretary-General observed that, despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continued to be potentially dangerous and was likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem could be reached.⁸⁸ He continued to hope that determined efforts would be made by all concerned to tackle the problem in all its aspects, with a view to arriving at a just and durable peace settlement, as called for by the Council in its resolution 338 (1973). In the prevailing circumstances, the Secretary-General considered the continued presence of UNDOF in the area to be essential. He therefore recommended, with the

⁸⁶ S/24821.

⁸⁷ A/47/672-S/24819.

⁸⁸ S/24821, para. 20.

agreement of the Syrian Arab Republic and Israel, that the Council extend the mandate of the Force for a further period of six months, until 31 May 1993.

At its 3141st meeting, on 25 November 1992, the Council included the Secretary-General's report in its agenda. Following the adoption of the agenda, the President (Hungary) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.⁸⁹ The draft resolution was then put to the vote and adopted unanimously as resolution 790 (1992), which reads:

The Security Council,

Having considered the report of the Secretary-General of 19 November 1992 on the United Nations Disengagement Observer Force,

Decides:

(a) To call upon the parties concerned to implement immediately its resolution 338 (1973) of 22 October 1973;

⁸⁹ S/24842.

(b) To renew the mandate of the United Nations Disengagement Observer Force for another period of six months, that is, until 31 May 1993;

(c) To request the Secretary-General to submit, at the end of this period, a report on the developments in the situation and the measures taken to implement resolution 338 (1973).

At the same meeting, after the adoption of resolution 790 (1992), the President made the following statement:⁹⁰

In connection with the resolution just adopted on the renewal of the mandate of the United Nations Disengagement Observer Force, I have been authorized to make the following complementary statement on behalf of the Security Council:

As is known, the report of the Secretary-General of 19 November 1992 on the United Nations Disengagement Observer Force states, in paragraph 20: "Despite the present quiet in the Israel-Syria sector, the situation in the Middle East as a whole continues to be potentially dangerous and is likely to remain so, unless and until a comprehensive settlement covering all aspects of the Middle East problem can be reached." That statement of the Secretary-General reflects the view of the Security Council.

⁹⁰ S/24846.

24. The situation in the occupied Arab territories

Decision of 17 February 1989 (2850th meeting): rejection of a draft resolution

By a letter dated 8 February 1989 addressed to the President of the Security Council,¹ the representative of Tunisia, in his capacity as Chairman of the Group of Arab States, requested an immediate meeting of the Council to consider the situation in the "occupied Palestinian territory".

By a letter dated 9 February 1989 addressed to the President of the Security Council,² the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People supported that request.

At its 2845th meeting, on 10 February 1989, the Council included the two letters in its agenda. The Council considered the item at its 2845th, 2846th, 2847th, 2849th and 2850th meetings, on 10, 13, 14 and 17 February 1989.

¹ S/20454.

² S/20455.

Following the adoption of the agenda, the Council invited the following to participate in the discussion: the representatives of Egypt, Israel, Jordan, Kuwait, the Syrian Arab Republic, Tunisia and Yemen; and, under rule 39 of its provisional rules of procedure, the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People and Mr. Clovis Maksoud, Permanent Observer of the League of Arab States. At its subsequent meetings, the Council also invited the following to participate in the discussion: at the 2846th meeting, the representatives of Bahrain, Democratic Yemen, Lebanon, Pakistan, Qatar, the Sudan and Zimbabwe; at the 2847th meeting, the representatives of Afghanistan, Bangladesh, Czechoslovakia, the German Democratic Republic, Indonesia, the Islamic Republic of Iran, Japan, the Libyan Arab Jamahiriya, Nicaragua, Turkey and the Ukrainian Soviet Socialist Republic, and, under rule 39 of its provisional rules of procedure, Mr. A. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference; at the 2849th meeting, the representatives of India, Cuba, the Lao People's

Democratic Republic, Morocco and Panama; and at the 2850th meeting, the representative of the United Arab Emirates.

At the 2845th meeting, the President (Nepal) informed the Council members that he had received a letter dated 9 February 1989 from the Chargé d'affaires a.i. of the Permanent Observer Mission of Palestine,³ requesting that, in accordance with previous practice, the Council invite the representative of the Permanent Observer Mission of Palestine to participate in the debate, and enquired if any member wished to speak on the request.

The representative of the United States explained that he would vote against the proposal on two grounds. First, he believed the Council did not have before it a valid request to speak. Second, he maintained that the observer of the Palestine Liberation Organization should be granted permission to speak only if the request complied with rule 39 of the rules of procedure. In the United States view, it was unwarranted and unwise for the Council to break with its own practice and rules.

The Council then decided, by 11 votes to 1 (United States), with 3 abstentions (Canada, France, United Kingdom), to invite the observer of Palestine, at his request, to participate in the debate, not under rule 37 or 39 but with the same rights of participation as under rule 37.⁴

The President then drew the attention of the members of the Council to a letter dated 7 February 1989,⁵ by which the representative of Palestine informed the Secretary-General of the deterioration of the situation in the Palestinian territory occupied by Israel as a result of additional repressive measures taken by the latter.

In his statement, the representative of Palestine urged the Security Council to take three facts into consideration in its deliberations: the extreme gravity of the situation, the inaction of the Security Council for a considerable period of time, and Israel's non-compliance with Security Council resolutions 605

(1987), 607 (1988) and 608 (1988), and with international law and treaties. He denounced the recent measures taken by Israel in the occupied Palestinian territory including the demolition of houses and the use of plastic bullets against unarmed civilians. Stressing the unity of the Palestinian people inside and outside the occupied territories, he defined the intifada as a new form of popular resistance against occupation. The speaker added that history, international law, and the Charter of the United Nations had taught that resistance to occupation by any means, including violence, was legitimate and that it was even required for the achievement of freedom. Yet the intifada was limited to demonstrations, strikes and boycotts. The representative of Palestine also recalled a number of historic decisions taken by the Palestine Liberation Organization (PLO) in order to achieve peace. He mentioned first the declaration of independence of the State of Palestine by the Palestine National Council, on 15 November 1988 in Algiers, which was in line with General Assembly resolution 181 (II) providing for the creation of two States in Palestine, one Jewish and the other Arab. He then cited a political statement by the Palestine National Council which reflected a new position accepting Security Council resolutions 242 (1967) and 338 (1973), and called for the International Peace Conference on the Middle East under United Nations auspices to be convened on the basis of the above-mentioned resolutions and the national and political rights of the Palestinian people, and to be attended by the permanent members of the Security Council and the parties to the conflict, including the Palestine Liberation Organization, on an equal footing. Finally, he referred to the peace initiative, based on the Palestine National Council's position which the Chairman of the PLO Executive Committee had announced before the General Assembly at Geneva on 13 December 1988. He noted that these steps had been welcomed throughout the world, that 94 States had recognized the new Palestinian State, and that the United States had announced the opening of a dialogue with the PLO, thus ending 13 years of boycott. While Israel had rejected the Palestinian appeal for peace, an overwhelming majority of States had voted in its favour through General Assembly resolution 43/176, in which the Assembly requested the Council to consider measures needed to convene the International Peace Conference on the Middle East, including the establishment of a preparatory committee. The speaker believed that the situation was now ripe for the Council

³ S/20456.

⁴ For the statement by the representative of the United States, see S/PV.2845, pp. 6-8. See also chapter III, case 6, which concerns the first instance in which the Council extended an invitation to the observer of Palestine at his request.

⁵ S/20451.

to begin to move in that direction, particularly in view of the positive attitude of the Secretary-General and his constant readiness to contribute to the work required. Meanwhile, he urged the United Nations to provide the necessary protection for the Palestinian people in the occupied territory.⁶

The representative of Tunisia, speaking in his capacity as Chairman of the Group of Arab States, recalled the resolutions adopted by the Council in 1987 and 1988, and the recommendations made by the Secretary-General in his report of 21 January 1988, and noted that Israel had responded to those initiatives with contempt, arrogance and aggression. The increased Israeli repression could not be justified by the Palestinian uprising, which was not an aggression against Israel, but an act of self-defence. He stressed that the Palestinian leadership had opted for the path of peace, basing itself on international legitimacy as embodied in General Assembly and Security Council resolutions, whereas Israel remained intransigent. For the speaker, the Security Council had the responsibility to consider the situation, which represented a grave danger to international peace and security. He expressed hope that the Council would adopt all appropriate measures with a view to ending the repressive measures being taken by Israel, protecting the Palestinians and hastening the convening of an international peace conference.⁷

The representative of Senegal, speaking on behalf of her country and in her capacity as Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, urged an appropriate response from the international community and immediate action by the Security Council to ensure that Israel abided by its obligations under the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War. She invited the Council to discuss the best means of translating into reality the peace message of the Chairman of the PLO, who had accepted a settlement on the basis of Security Council resolutions 242 (1967) and 338 (1973), and the Palestinian people's right to self-determination. The speaker also pointed out that it was incumbent on the Council to implement the decisions and recommendations of the General Assembly on this issue, in particular those calling for an international

peace conference on the Middle East. In that regard she noted that the proposed international peace conference enjoyed broad support not only at the United Nations, but also within organizations such as the Organization of African Unity, the League of Arab States, the Organization of the Islamic Conference, the Movement of Non-Aligned Countries, and the European Economic Community. She finally appealed to all Council members to help to establish a policy of dialogue among all the parties.⁸

The representative of Jordan expressed the hope that the Security Council, which had last met on the issue before it 10 months previously, would take a firm and effective decision commensurate with the seriousness of the situation in the occupied Arab territories and the latest developments regarding the question of Palestine as a whole. It was essential, as a first step, to take the measures necessary to ensure the protection of the Palestinian people, recommended in the Secretary-General's report of 21 January 1988,⁹ pending progress towards the achievement of a comprehensive peace settlement which should begin at once. The Security Council should also work to bring about the desired peaceful settlement. Stressing the recent move made in this direction by the Palestine National Council, the speaker stated that Israel, for its part, should make a sincere contribution to the promotion of a peaceful settlement by withdrawing from the occupied territories and by recognizing the national rights of the Palestinian people, in particularly its right to self-determination.¹⁰

The representative of Egypt noted that the important development of the Palestinian position and the many initiatives undertaken by the PLO had led to an American-Palestinian dialogue that demanded a favourable response from the Government of Israel and recognition by it of the need to speak with the representatives and leaders of the Palestinian people. Egypt believed that a comprehensive political settlement guaranteeing the right of the peoples of the region to self-determination and the security of all the States of the region was the only way to achieve stability. To hasten the achievement of that end, Israel should first recognize the applicability of the Fourth Geneva Convention to the occupied territories, and then all the parties concerned should agree to hold

⁶ S/PV.2845, pp. 11-23.

⁷ *Ibid.*, pp. 23-32.

⁸ *Ibid.*, pp. 33-38.

⁹ S/19443.

¹⁰ S/PV.2845, pp. 41-48.

direct talks within the framework of the International Peace Conference and on the basis of Council resolutions 242 (1967) and 338 (1973) and the Palestinian people's right to self-determination. The speaker called upon the Security Council to take a decisive stand on the situation in the occupied Arab territories, which had become more alarming since it had last been considered.¹¹

The representative of Israel stated that his country had always sought political accommodation, coexistence and peace with all its neighbours. He stressed that Israel had repeatedly called for dialogue and direct negotiations to solve the Arab-Israeli conflict, despite wide-ranging threats to its security and survival. The so-called uprising in the territories administered by Israel since 1967 was the latest manifestation of the conflict. Contrary to what had been said, Israel was facing large-scale rioting and widespread violence resulting in hundreds of people injured, sometimes fatally. It was this irrational pursuit of terror and violence, to which the PLO was contributing, that prevented the beginnings of a political solution in the territories. Israel believed that, in order to reach a political solution, an attempt should be made to introduce a gradual and pragmatic approach of confidence-building measures. Interim solutions were possible and could be reached in a relatively short period of time, but could not be attained under the threat of firebombs and violence. The speaker further stated that Israel had two objectives: to restore tranquillity in Judea, Samaria and Gaza, and to reach peace agreements with its neighbours. It was determined to resolve the ultimate status of the territories — taking into account the legitimate rights of the Palestinian Arab residents — through direct negotiations with its neighbours and the Palestinian Arabs residing in the administered territories, on the basis of Security Council resolutions 242 (1967) and 338 (1973). Israel opposed an international conference which, in its view, would be convened to implement a predetermined outcome, which would not provide for direct negotiations but act as a substitute for them. He added that Israel did not object in principle to third party assistance. Direct negotiations could take place under the auspices of the United States and the Soviet Union, or the Secretary-General of the United Nations, or both, provided that such auspices constituted the framework of the negotiations and did not intervene in

¹¹ Ibid., pp. 48-55.

their substance. The speaker concluded that if negotiations started with Arab States and representatives of the Palestinians living in the territories, a solution recognizing both Israel's security needs and the Palestinians' legitimate rights would be found.¹²

During the course of the debate, most of the speakers called for the convening of an international peace conference under the auspices of the United Nations with the participation of the permanent members of the Security Council and the parties to the conflict, including the PLO, on an equal footing.¹³ Some of them supported the setting up of a preparatory committee with a view to convening the international conference.¹⁴ Others stressed the need for the Council to adopt urgently measures to ensure protection of the Palestinians in the occupied territories.¹⁵ One speaker was in favour of the Council adopting compulsory measures against Israel.¹⁶

At the 2846th meeting, on 13 February 1989, the representative of the Syrian Arab Republic stated that the Council was meeting amidst great hope that it would at last be able to shoulder its responsibility and would take immediate effective measures to put an end to Israel's massacre of the population of the occupied Arab territories. He recalled the Secretary-General's report submitted to the Council pursuant to resolution 605 (1987),¹⁷ which described the tragic situation and the incredible conditions in which the Palestinian people were living under Israeli occupation. He added that the report demonstrated clearly that the Palestinian people in the West Bank and the Gaza Strip completely rejected the Israeli occupation. The report also

¹² Ibid., pp. 56-63.

¹³ S/PV.2846, pp. 22-30 (Kuwait); and pp. 51-56 (Pakistan); S/PV.2847, pp. 16-22 (Algeria); pp. 22-28 (Yugoslavia); pp. 28-32 (Turkey); pp. 32-38 (Democratic Yemen); pp. 43-47 (Afghanistan); and pp. 82-88 (Ukraine); and S/PV.2849, pp. 3-7 (India); pp. 36-37 (Cuba); and pp. 45-48 (Lao People's Democratic Republic).

¹⁴ S/PV.2847, pp. 56-59 (Bangladesh); and pp. 78-82 (Czechoslovakia); and S/PV.2850, pp. 12-17 (Nicaragua).

¹⁵ S/PV.2846, pp. 22-30 (Kuwait); S/PV.2847, pp. 4-8 (Sudan); pp. 16-22 (Algeria); and pp. 47-51 (Indonesia); S/PV.2849, pp. 12-16 (Brazil); and pp. 37-45 (Panama); and S/PV.2850, pp. 12-17 (Nicaragua).

¹⁶ S/PV.2846, p. 36 (Bahrain).

¹⁷ S/19443.

contained a legal analysis of the applicability of the Fourth Geneva Convention for which the Council had a special responsibility, and an account of Israeli violations of its provisions that had also been the subject of Security Council resolutions 452 (1979), 465 (1980), 468 (1980), 471 (1980) and 478 (1980). The speaker called upon the Council to take urgent measures, including the imposition of sanctions against Israel, to compel it to desist from its brutal practices, and to ensure its earliest and urgent withdrawal from all Arab occupied territories.¹⁸

The representative of Malaysia stated that this was a historic opportunity not to be missed. The Palestinian leadership had taken decisions for peace and the United States had begun discussions with Palestine. Certain Western countries too were engaged in efforts that would build on the prospects for a settlement. All efforts should now converge in an international peace conference on the Middle East under United Nations auspices. He pointed out that the Security Council was the repository body to implement the yet unfulfilled General Assembly resolution 181 (II), which partitioned Palestine into a Jewish State and a Palestine State. As such the Council could not be removed from all the above-mentioned developments. The General Assembly in resolution 43/176 of 20 December 1988 had also made clear the responsibilities and the role of the Security Council. The speaker called on the Council to consider measures to convene an international conference, including the establishment of a preparatory committee.¹⁹

The representative of Lebanon stated that the Israeli practices of deportation and expulsion had also been extended to Lebanon, in particular in the southern part of the country and the occupied zones. In addition to that Israel had, since the beginning of the year, implemented a policy of expulsion from the occupied parts of southern Lebanon. The speaker characterized expulsions and deportations as crimes against humanity and stressed that those who had been expelled and deported had the right to demand that the international community and the Security Council see to it that they returned to their homes. He appealed to the Council to halt the Israeli practices and to speed up the peace process.²⁰

¹⁸ S/PV.2846, pp. 3-11.

¹⁹ Ibid., pp. 18-22.

²⁰ Ibid., pp. 37-40.

The representative of Zimbabwe recalled the position of the Movement of Non-Aligned Countries on the issue of the Arab occupied territories: namely, that no comprehensive, just and durable solution to this problem could be achieved without the total and unconditional withdrawal of Israel from all Palestinian and other Arab territories occupied since 1967, and the regaining and exercise in Palestine of the legitimate and inalienable rights of the Palestinian people, including the right to return to their homes and the right to national independence, as well as the right to establish a sovereign, independent State in Palestine. He stated that the Council had a duty to start the peace process, even through such modest beginnings as regular consultations with the Secretary-General and all the members of the Council. Such consultations could be structured later. In the meantime, the Council should fulfil its obligations and take the necessary measures to protect the lives and property of the Palestinians in the occupied territories.²¹

At the 2847th meeting, on 14 February 1989, Mr. A. Engin Ansay, speaking on behalf of the Organization of the Islamic Conference, recalled that the last Islamic Conference of Foreign Ministers had reaffirmed its support for the Palestinian struggle, its condemnation of Israel's policy of expansion, occupation and repression and its rejection of any partial and individual solutions which would disregard the inalienable rights of the Palestinian people or ignore the Palestine Liberation Organization, their sole legitimate representative. The Conference had also mandated its Secretary-General to maintain contacts with the Secretary-General of the United Nations and other regional and international organizations with a view to implementing the relevant Security Council resolutions and the Fourth Geneva Convention. The speaker called upon the international community, particularly the parties directly concerned, to urgently convene the international peace conference with the full and equal participation of the PLO and to recognize the independent Palestinian State.²²

The representative of Japan stated that peace in the Middle East should be achieved as quickly as possible through, first, the withdrawal of Israel's armed forces from all territories occupied since 1967; secondly, the recognition of the Palestinian people's

²¹ Ibid., pp. 44-50.

²² S/PV.2847, pp. 8-16.

right to self-determination, including the right to establish an independent State; and, thirdly, the recognition of Israel's right to exist. He insisted that as the international community continued to strive to attain a negotiated settlement, it should not forget the need to alleviate the social and economic difficulties besetting the Palestinian people. His Government had taken steps to increase significantly its contributions to the United Nations Development Programme and the United Nations Relief and Works Agency for Palestine Refugees in the Near East in an effort to improve the quality of life of the Palestinians in the occupied territories.²³

At the 2849th meeting, on 17 February 1989, the representative of the Union of Soviet Socialist Republics said that the Security Council could not and should not remain indifferent to acts of lawlessness which were systematically perpetrated by the occupying Power in the Arab lands. Peace could not be built upon violence against the peoples of neighbouring countries but only through a policy of good-neighbourliness towards other peoples and rejection of attempts to retain the territories of other peoples through violence. Referring to General Assembly resolution 43/176 calling for the convening of the International Peace Conference on the Middle East, the speaker pointed out that the request of the General Assembly that the Security Council consider measures needed to convene the Conference, including the beginning of preparatory work, was particularly significant from the point of view of initiating the settlement process. Believing that real prospects had emerged for such a settlement, he urged the Council to seize this unique opportunity to start the peace process in accordance with General Assembly resolution 43/176.²⁴

The representative of the United Kingdom stated that the further deterioration of the situation in the occupied territories, brought about by a cycle of violence and counter-violence, had drawn new attention to the fundamental problems underlying the conflict, that Security Council resolutions 242 (1967) and 338 (1973) remained unfulfilled and that Israel continued to occupy territories which did not belong to it. The ultimate solution to that problem, to be resolved at an international conference, would have to take

account of the Palestinian right to self-determination as well as all parties' concerns. In the meantime, the military occupation of the territories laid heavy responsibilities on Israel in terms of international law. The United Kingdom could not accept that the need to maintain law and order could be used as a pretext to override the specific and unambiguous obligations placed upon the occupying Power under the terms of the Fourth Geneva Convention. Israel should abide fully by its obligations under that Convention, including the obligation under article 27 which required it to treat the population of the occupied territories humanely at all times. Noting that the need for a political solution was recognized by all concerned, including Israel, the speaker emphasized that the members of the Council, whose responsibilities in this matter went back to the first days of the United Nations, stood ready to help.²⁵

The representative of China stated that the Israeli authorities bore an unshirkable responsibility for the rapid deterioration of the situation in the occupied territories. His delegation hoped that the Council would respond resolutely and prevent further deterioration of the situation. Recalling several Council resolutions affirming the applicability of the Fourth Geneva Convention to the occupied Arab territories, he said that Israel was duty-bound to comply with those resolutions, implement the Convention, and assure the Palestinians of their basic right to life. Pointing out the need for a comprehensive settlement of the Middle East question, he mentioned that an increasing number of countries had advocated the convening of an international conference under the auspices of the United Nations. China hoped that Israel would desist from its erroneous policy of force and cooperate with the international community in the peace process.²⁶

At the 2850th meeting, also on 17 February 1989, the President drew the attention of the Council to a draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.²⁷

Under the operative part of the draft resolution, the Council would have called upon Israel to abide by the relevant resolutions of the Security Council, as well as to comply with its obligations under the Fourth

²³ Ibid., pp. 66-72.

²⁴ S/PV.2849, pp. 16-22.

²⁵ Ibid., pp. 22-27.

²⁶ Ibid., pp. 28-31.

²⁷ S/20463. The draft resolution was not adopted, owing to the negative vote of a permanent member.

Geneva Convention and to desist forthwith from its policies and practices that were in violation of the provisions of the Convention; called furthermore for the exercise of maximum restraint; affirmed the urgent need to achieve, under the auspices of the United Nations, a comprehensive, just and lasting settlement of the Middle East conflict, and expressed its determination to work towards that end; and requested the Secretary-General to follow the implementation of the resolution.

The representative of France, having expressed deep concern at the deterioration of the situation in the occupied territories, noted, however, that a glimmer of hope for peace had appeared recently and that it should be grasped. Israel was entitled to live within secure and recognized boundaries. The Palestinian people was entitled to possess a country, a land, and in that land to organize itself according to the structures it chose. France believed that it was urgent that preparations be made for the holding of an international conference with the participation of all parties concerned as well as the permanent members of the Security Council.²⁸

Before the vote, the representative of the United States stated that his country remained seriously concerned over the events in the occupied territories and had actively engaged in diplomatic efforts to defuse tensions, by urging restraint on all sides and denouncing acts of violence from whatever quarter. The United States maintained that the Fourth Geneva Convention applied to the occupied territories and that Israel had an obligation to comply with it, but did not view Israeli practices in the territories in a vacuum. As the occupying Power, Israel had a responsibility recognized under international law to maintain order and security in the territories, a task that the intifada had made more difficult. The speaker indicated that his delegation would vote against the draft resolution because it was flawed and would not advance the prospects for peace in the Middle East. In severely criticizing Israeli policies and practices, it did not take into sufficient account the context in which they occurred, or the excesses of the other side. Neither Palestinian acts of violence nor those committed by Israelis could be condoned. The situation could only be resolved in the context of an overall negotiated settlement of the Arab-Israeli dispute, grounded in Security Council resolutions 242 (1967) and 338

²⁸ S/PV.2850, pp. 26-27.

(1973), taking into account both the security of the State of Israel and the legitimate rights of the Palestinian people. Furthermore, the complex issues involved could not be resolved in New York by third parties, but only in the region by the parties themselves. If the Council was to play a positive role in that process, it could not do so by adopting unbalanced resolutions, but by urging reconciliation and mutual understanding while denouncing violence by all sides.²⁹

The draft resolution was then put to the vote. There were 14 votes in favour and 1 against (United States), and the draft resolution was not adopted, owing to the negative vote of a permanent member of the Council.

Speaking after the vote, the representative of the United Kingdom stated that his country's vote in favour of the draft resolution, which made use of certain language to describe territories occupied by Israel since 1967, did not imply any change in its view of the status of those territories.³⁰

The representative of Palestine underlined the great efforts made to submit a text acceptable to all. He regretted the decision of the United States to break with unanimity and to use its right of veto, which made it impossible for the Council to address the grave situation in the occupied Arab territories and to shoulder its responsibilities. Hoping that the Council's decision would not lead to a further deterioration of the situation and that it will not encourage the occupying Power to adopt further repressive measures and to defy the principles of international law, he remained confident that the Council would be able to address the situation more effectively in the future.³¹

Decision of 9 June 1989 (2867th meeting): rejection of a draft resolution

By a letter dated 31 May 1989 addressed to the President of the Security Council,³² the representative of the Sudan, in his capacity as Chairman of the Group of Arab States, requested an urgent meeting of the Council to discuss the situation in the occupied Palestinian territory.

²⁹ Ibid., pp. 32-34.

³⁰ Ibid., p. 36.

³¹ Ibid., pp. 36-38.

³² S/20662.

At its 2863rd meeting, on 6 June 1989, the Council included the letter in its agenda. The Council considered the item at its 2863rd to 2867th meetings, from 6 to 9 June 1989.

Following the adoption of the agenda, the Council invited the representatives of Bahrain, Egypt, Jordan, Saudi Arabia, the Syrian Arab Republic, Tunisia and Yemen to participate in the discussion without the right to vote; and extended an invitation under rule 39 of its provisional rules of procedure to Mr. Clovis Maksoud, Permanent Observer of the League of Arab States, and to Mr. A. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference. At the same meeting, the Council also decided, by a vote of 11 votes to 1 (United States), with 3 abstentions (Canada, France, United Kingdom), to invite the Permanent Observer of Palestine, at his request, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.³³ At its subsequent meetings, the Council invited the following to participate in the discussion without the right to vote: at the 2864th meeting, the representatives of Democratic Yemen, Israel, Kuwait, Pakistan and Qatar; at the 2865th meeting, the representatives of Bangladesh, Cuba, Japan and the Ukrainian Soviet Socialist Republic; and at the 2866th meeting, the representatives of Afghanistan, the German Democratic Republic, the Libyan Arab Jamahiriya, Mauritania and Zimbabwe.

At the 2863rd meeting, the President (United States) drew the attention of the members of the Council to several other documents.³⁴

The representative of Palestine stated that the Council was meeting to address Israel's new acts of State terrorism such as the attacks carried out by settlers on Palestinian civilians, the closing of schools by the Israeli authorities, depriving the Palestinians of the right to education, the recent obligation to wear

identity cards, and acts of desecration of the Koran by Israeli soldiers. He denounced Israel's policy of settlement and deportation in the occupied territories and characterized the intifada as the legal obligation for the Palestinians to resist occupation. Israel, for its part, had the legal obligation to respect and treat humanely the population in the occupied territories. The speaker recalled in this regard that under the Charter the Members of the United Nations undertook to respect and carry out the decisions of the Security Council, which had reaffirmed on several occasions the applicability of the Fourth Geneva Convention to the occupied territories. The High Contracting Parties to the Fourth Geneva Convention, including all the Council members, were duty-bound to ensure respect for that Convention. However, no action had been taken to that effect. Though fully informed of the situation, the Council had been prevented by one of its members from fulfilling its duty. The speaker emphasized that the Council was meeting to consider "exclusively" the recommendations on ways and means to ensure the safety and protection of Palestinian civilians contained in the last report, of 25 November 1980, of the Commission established under resolution 446 (1979) to examine the situation relating to the settlements in the occupied Arab territories.³⁵ However this should not in any way be construed as an appeal to the Council to forgo its responsibility to contribute towards the achievement of a comprehensive, just and durable peace in the Middle East through political and diplomatic means under the auspices of the United Nations, and precisely in exercise of the powers vested in the Council by the Charter to maintain international peace and security. He concluded by calling upon the Council to provide international protection to the occupied Arab territories.³⁶

Speaking on behalf of the Arab Group, the representative of the Syrian Arab Republic stated that the Security Council had once again been convened to adopt the necessary emergency measures to ensure the protection of the Palestinian people and the withdrawal of the Israeli forces from the occupied Arab territories. He noted that since the Council last met many massacres had been carried out by the Israeli armed forces and settlers. The speaker voiced his concern over the increased participation of Israeli settlers in acts of repression. Quoting from the Secretary-

³³ For the statement by the representative of the United States, see S/PV.2863, pp. 6-8. See also chapter III, case 6.

³⁴ Note by the Secretary-General transmitting General Assembly resolution 43/233 (S/20609); letters addressed to the Secretary-General from the Permanent Observer of Palestine (S/20611); the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (S/20623 and S/20668); the representative of Israel (S/20637); and the representative of Spain (S/20667).

³⁵ S/14268.

³⁶ S/PV.2863, pp. 11-28.

General's report of 21 January 1988,³⁷ he said that the central issue was the continuing occupation by Israel of the territories captured in 1967. The occupation was an act of aggression which the Council should act to end. Also referring to the Secretary-General's report he emphasized that the Secretary-General had recommended to the Council to consider making a solemn appeal to the High Contracting Parties to the Fourth Geneva Convention that had diplomatic relations with Israel to use all means at their disposal to ensure respect for the Convention. The speaker concluded that only recourse to Chapter VII of the Charter would compel Israel to end its massacres and to withdraw from the occupied territories.³⁸

The representative of Senegal, speaking also in her capacity as Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, said that the current meeting to discuss the situation in the occupied territories was taking place in the face of the Council's near-paralysis, Israel's intransigent insistence on its policy of occupation, domination and repression, and the numerous delays holding up the convening of the international peace conference on the Middle East. She stressed that only political action could meet the aspirations of the Palestinian people. The speaker further stressed that the ideals of peace, justice and freedom that formed the basis of the Charter should cause the Security Council to support the solidarity that was growing in favour of the restoration of the inalienable rights of the Palestinian people in conformity with the wish of the United Nations, the Non-Aligned Movement, the Organization of the Islamic Conference and the Organization of African Unity. It was high time for the Council to increase its involvement by taking appropriate action. In that regard, the speaker also drew the attention to the Secretary-General's report of 21 January 1988.³⁹

During the debate, most of the speakers called for immediate action by the Security Council to protect the Palestinian people in the occupied territories and to compel Israel to apply the provisions of the Fourth Geneva Convention to those territories, and urged the Council to consider the report of the Secretary-General of January 1988, which contained recommendations in

this regard.⁴⁰ One speaker called upon the Council to adopt measures under Chapter VII of the Charter of the United Nations.⁴¹

At the 2864th meeting, on 7 June 1989, the President drew the attention of the Council to a draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.⁴²

Under the preambular part of the draft resolution, the Council would have recalled, in particular, its resolutions 446 (1979), 465 (1980), 607 (1988) and 608 (1988), as well as the Secretary-General's report of 21 January 1988⁴³ and the recommendations contained therein. Under the operative part, the Council would have strongly deplored Israel's policies and practices which violated the human rights of the Palestinian people as well as vigilante attacks against Palestinian towns and villages and desecration of the Holy Koran; called upon Israel, as the occupying Power and as a High Contracting Party to the Geneva Convention of 12 August 1949, to accept the de jure applicability of the Convention to the occupied Arab territories, including Jerusalem, and fully to comply with its obligations under that Convention; recalled the obligations of all the High Contracting Parties, under article 1 of the Convention, to ensure respect for the Convention in all circumstances; demanded that Israel desist forthwith from deporting Palestinian civilians from the occupied territory and ensure the safe and immediate return of those already deported; expressed great concern about the prolonged closure of schools in parts of the occupied territory and called upon Israel to permit the immediate reopening of those schools; and requested the Secretary-General to continue to monitor the situation, to make timely reports to the Council, including on ways and means to ensure respect for the Convention and protection of Palestinian civilians, and to submit the first such report no later than 23 June 1989.

⁴⁰ S/PV.2863, pp. 46-53 (Jordan); S/PV.2864, pp. 37-46 (Tunisia); S/PV.2865, pp. 11-13 (Malaysia); pp. 36-37 (Brazil); pp. 43-47 (Yugoslavia); pp. 47-52 (Kuwait); and pp. 52-57 (Democratic Yemen); and S/PV.2866; pp. 3-5 (Cuba); pp. 6-8 (Nepal); pp. 12-17 (Ukraine); pp. 24-27 (Afghanistan); and pp. 28-32 (German Democratic Republic).

⁴¹ S/PV.2864, pp. 54-63 (Bahrain).

⁴² S/20677. The draft resolution was not adopted, owing to the negative vote of a permanent member.

⁴³ S/19443.

³⁷ S/19443.

³⁸ S/PV.2863, pp. 28-40.

³⁹ *Ibid.*, pp. 41-45.

The representative of Algeria stated that the responsibilities of the Security Council towards the Palestinian people were as clear as its duties regarding the restoration of a just and lasting peace in the Middle East. According to the speaker, the Council's failure to act respecting the necessity to guarantee adequate international protection would be a failure to assist a people in danger. Any measure should include the full implementation of the Fourth Geneva Convention and United Nations supervision. To that end, a minimal draft resolution had been submitted to the members of the Council, indicating the measures that were indispensable to the protection of the Palestinians in the occupied territories. The speaker stressed that being limited in scope, the draft resolution should enjoy the Council's unanimous support. He warned that failure to adopt it would be seen as an encouragement to repression and a reward for the occupier's violence.⁴⁴

Mr. Engin Ansay, Permanent Observer of the Organization of the Islamic Conference, underlined the United Nations historic and special responsibility towards the people of Palestine. The speaker recalled the position of the Eighteenth Islamic Conference of Foreign Ministers on the Palestinian question, in March 1989, in particular its call for the occupied territories to be placed under the provisional control of the United Nations and for international forces to protect the Palestinian citizens and supervise Israel's withdrawal from those territories. It also held the view that all settlements were null and void as well as illegal and requested the United States to develop and promote its dialogue with the PLO and adopt an impartial stand by recognizing the right of self-determination of the Palestinian people. With respect to Israel's election plan, he said that a democratic election could not take place under the rules of occupation, which denied the right to various forms of political expression and activity that were intrinsic to genuine democratic choice. He recalled that the Arab summit held in Casablanca in May 1989 had fully supported the Palestinian stand on that issue, namely that the elections should take place after the Israeli withdrawal and under international supervision. Only on the basis of withdrawal could steps towards peace be negotiated, elections held, and the final status of the West Bank and Gaza determined. Action by the Council was

⁴⁴ S/PV.2864, pp. 12-18.

needed in that respect, as well as in regard to the current situation in Palestine.⁴⁵

Mr. Clovis Maksoud, Permanent Observer of the League of Arab States, charged that Israel attempted to routinize the casualties of the Palestinians and to marginalize the United Nations and its Security Council, reducing it to a platform for verbalizing frustration while ensuring it would not be an instrument of consequential resolution. On the other hand, the Arabs were determined to render the Council functional, credible and effective. That was reflected in the fact that the Arab League summit had advocated a central role for the Council in preparing an international conference and bringing about a peaceful outcome to the conflict. In connection with Israel's elections proposal, the speaker held that it was lacking in credibility and in respect for the Palestinian State's authority to designate its own negotiators. As for the negotiations themselves, there was a need to define the goal. Negotiations would need to be about how to structure, phase and determine the independent State of Palestine. The Palestinians' right to self-determination was no more negotiable for the Arab States than Israel's right to exist within the pre-1967 borders as proclaimed by the international community.⁴⁶

The representative of Yemen stated that it was the Council's duty to make Israel comply with its obligations under all the instruments, including treaties, it accepted as a State on its admission to membership in the United Nations. He took note of several positive events, including the proposal to hold elections in the West Bank and Gaza Strip and the advancement of certain United States ideas on a peaceful settlement by means of elections as well as statements made by its officials. However the call for elections would not contribute effectively to the achievement of a comprehensive peace, unless and until the Council endorsed a comprehensive peace plan that would set a specific time frame for its implementation and be guaranteed by the permanent members and all parties to the conflict. He added that if the Council were to accept an international peace conference, it would have to make Israel commit itself to withdrawing its forces from the occupied territories and to replacing them with an international force to be deployed for a specific period of time to supervise free

⁴⁵ Ibid., pp. 18-27.

⁴⁶ Ibid., pp. 27-37.

and fair elections. The same force would later oversee the exercise by the Palestinian people of its right to self-determination. The speaker concluded by saying that the Council would be held fully accountable for the adverse consequences of a delayed political solution to the problem.⁴⁷

At the 2865th meeting, on 8 June 1989, the representative of Egypt stated that the Israeli policy, confronted with the intifada, had worsened the situation in the occupied territories. This was a good indicator of whether Israel truly wished to live in peace with its neighbours. As a first step Israel had to fulfil its commitments under international treaties dealing with the protection of civilian persons in time of war and respond favourably to the constructive initiatives put forward by the PLO. He further stated that, given the radicalization of the situation in the occupied territories, which was fraught with very serious dangers to peace and security, it had become even more necessary to take urgent action. He called upon the Security Council to adopt, by consensus, a resolution expressing the international community's repudiation of the situation. Acknowledging that members of the Council bore a share of the responsibility for achieving peace in the region, the speaker stressed that the brunt of it lay with the Palestinians and the Israelis. A just political settlement required negotiations between the representatives of the two parties involved.⁴⁸

The representative of Israel said that the statements made by some representatives of the Arab Group in the General Assembly and the Security Council served as additional proof that the Arab-Israeli conflict could not be resolved in an international conference, nor by blatant accusations, extreme demands and futile debates in the Council. The speaker observed that the United Nations succeeded in furthering peaceful solutions in cases where the parties to the conflict genuinely wished for peace and were ready for dialogue and direct negotiations. He warned that the Arab-Israeli conflict had not yet reached that stage. Peace could not be achieved while violence reigned, Syrian troops occupied Lebanon in the name of "peacekeeping", and the PLO daily initiated terror against fellow Palestinians as well as Israelis. The speaker told the Council that the Government of Israel, which categorically opposed all acts of violence, had

approved a peace initiative on 14 May 1989, calling for the simultaneous implementation of the following components. First, the peace between Israel and Egypt, based on the Camp David accords, should serve as a corner-stone for enlarging the circle of peace in the region. Secondly, peace should be achieved between Israel and those Arab States that still maintained a state of war with it so that a comprehensive settlement could be concluded. Thirdly, an international endeavour was needed to improve the living conditions of residents of the Arab refugee camps in Judea, Samaria and Gaza. Fourthly, Israel proposed that free and democratic elections be held in those districts to choose a representation to conduct negotiations for a transitional period of self-rule. At a later stage, negotiations would be carried out for a permanent solution during which all options would be examined and peace between Israel and Jordan would be achieved. The complexity of the issues involved in negotiations and the depth of emotion of all sides made some transitional period essential.⁴⁹

The representative of the Syrian Arab Republic charged that Israel did not want peace. It wanted more land and expansion through settlements. The Golan was annexed in the full view of the world, and contrary to the will of the international community. Israel occupied southern Lebanon and had established a so-called security zone, which was nothing other than occupation. He warned that, if the Council did not adopt the measures dictated by its mandate and provided by the Charter, Israel would continue to pursue its expansionist policies. Peace could be based only on Israel's total and unconditional withdrawal from all occupied Arab territories, and the Palestinian people's exercise of its inalienable rights to self-determination and the establishment of an independent State on its national soil. Such a settlement should be arrived at within the framework of an international conference under United Nations auspices, in conformity with the relevant resolutions of the Organization. Replying to Israel's comment about the role of the Syrian Arab Republic in Lebanon, the speaker underlined that his country was in Lebanon at the latter's request and had been authorized by the other Arab countries to help all the Lebanese parties to reach agreement and to settle their problems. The Syrian Arab Republic itself was not a party to the dispute there. On the other hand, he contended, Israel

⁴⁷ Ibid., pp. 46-55.

⁴⁸ S/PV.2865, pp. 3-10.

⁴⁹ Ibid., pp. 21-32.

was an occupying Power in Lebanon which it had invaded in 1982 and from which it refused to withdraw despite the relevant Security Council resolutions calling for such action.⁵⁰

At the 2867th meeting, on 9 June 1989, the representative of the Union of Soviet Socialist Republics referred to the general world trend towards establishing a new system of global and regional relations. He said that one of its main distinguishing features was an increase in efforts by the United Nations to seek ways of unblocking conflict situations and finding practical solutions to them. At this important stage, no part of the world should be left out of this process of improvement in the international atmosphere. Unfortunately, there had been no real movement towards untying the Middle East knot — one of the oldest and most difficult. The speaker expressed his belief that the tragedy of the Palestinians was the tragedy of all the peoples living in the Middle East. A solution to it was to be found through a comprehensive settlement. His delegation considered that favourable conditions had now been established in the region for peace. The broadest possible consensus had been reached on the core of the matter, through support for the convening of an international conference on the Middle East. The shift to peace in the region had been also facilitated by the balanced and constructive policy adopted by the PLO. The speaker appealed to Israel to reconsider its negative position and become involved in the international efforts for peace. Stressing the peacemaking potential of the Security Council, he recalled his country's proposals for a special meeting of the Council at the level of foreign ministers and multilateral and bilateral talks among the interested parties, carried on directly or indirectly through mediators. He supported the draft resolution which he called an humanitarian one, carefully balanced and a compromise.⁵¹

The representative of Finland noted that the parties concerned agreed on at least one thing, that the continuation of the present situation was untenable and that there had to be a change. In his opinion what was needed was bold steps by the occupying Power. The role of the Israeli settlers also deserved special attention. Israeli settlements in the occupied territories were clearly a violation of international law. Ensuring

full respect for the principles regarding the protection of civilians under occupation was one of the steps. In this regard the speaker endorsed the conclusions contained in the Secretary-General's report as fully valid. He hoped that the activities of the International Committee of the Red Cross and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) would be further supported and strengthened. He also stressed the importance of having additional future reports by the Secretary-General on conditions in the occupied territories.⁵²

The representative of France maintained that the Security Council could not remain indifferent to the escalation of repression by the occupying forces in the West Bank and Gaza, and the repeated attacks by Israeli settlers against Palestinian villages. The international community should live up to its responsibilities, and it was necessary for the permanent members of the Council, together with the parties directly concerned, to begin laying the groundwork for an international peace conference that would deal with all aspects of the conflict.⁵³

The representative of the United Kingdom underlined the urgent need for the two sides to come together in direct negotiations that would prepare the way for a comprehensive settlement. In that respect he welcomed the declared commitment of the PLO to peace with Israel, and described the Israeli Government's proposals for elections in the occupied territories as another useful step forward. He called upon Israel to give a clear promise of progress towards negotiations and a solution based on territory for peace, in fulfilment of Security Council resolutions 242 (1967) and 338 (1973). Regretting the representative of Israel's description of the proceedings in the Council as a "futile debate", the speaker welcomed the fact that the other speakers had concentrated on the need for measures to protect the population under occupation. He hoped that the Council would consider urgently what action it could take in that regard.⁵⁴

Speaking before the vote, the representative of the United States stated that he was deeply disturbed by the continuing violence in the occupied territories. He appealed to all parties to refrain from acts of

⁵⁰ *Ibid.*, pp. 58-67.

⁵¹ S/PV.2867, pp. 2-8.

⁵² *Ibid.*, pp. 8-13.

⁵³ *Ibid.*, pp. 13-16.

⁵⁴ *Ibid.*, pp. 16-18.

violence and, in particular, to Israel to utilize methods of maintaining order that did not result in unnecessary deaths and casualties. He said that his Government was engaged in active efforts to help reach a negotiated settlement for a comprehensive peace, based on Security Council resolutions 242 (1967) and 338 (1973). As a practical step in that direction, free and fair elections in the occupied territories, grounded in a broader political process, provided a basis for moving ahead. He welcomed the initiative of the Government of Israel, while acknowledging that much work needed to be done to bridge the differences between the Israelis and the Palestinians and between the Israelis and the Arabs over how such elections would be conducted. Recalling that his Government had repeatedly urged the Security Council to refrain from unhelpful, divisive and one-sided rhetoric in addressing the Arab-Israeli problem, the speaker stated that the draft resolution fell short of that goal. The United States agreed with certain aspects of the text, such as its affirmation of the applicability of the Geneva Convention to the occupied territories, the condemnation of the actions of settlers, and the opposition to the deportation of Palestinians. However, he continued, it was an unbalanced text, making sweeping condemnations of Israeli policies and practice, without reference to any of the serious acts of violence by the other side. He indicated that the United States, which took seriously its responsibilities as a member of the Security Council, would vote against the draft resolution which did not enhance the role of the Council and the United Nations in the peace process.⁵⁵

The draft resolution was then put to the vote. It received 14 votes in favour and 1 against (United States) and was not adopted, owing to the negative vote of a permanent member of the Council.

Speaking after the vote, the representative of the United Kingdom stated that his country's vote in favour of the draft resolution, which made use of certain language to describe territories occupied by Israel since 1967, did not imply any change in its view of the status of those territories.⁵⁶

Reflecting on the voting, the representative of Palestine rejected the argument that the draft resolution was unbalanced. He asked whether the United States,

⁵⁵ Ibid., pp. 26-30.

⁵⁶ Ibid., p. 36.

which had proposed removing the expression "including Jerusalem" from the reference in the text to the occupied territories, had changed its position on the status of Jerusalem. He questioned the United States Government for speaking about free elections for a people who were being denied the right to self-determination.⁵⁷

**Decision of 6 July 1989 (2870th meeting):
resolution 636 (1989)**

By a letter dated 30 June 1989 addressed to the President of the Security Council,⁵⁸ the representative of the Syrian Arab Republic, in his capacity as the Chairman of the Group of Arab States, requested the convening of an immediate meeting of the Council to consider the situation in the occupied Palestinian territory, in particular the deportation of Palestinian civilians.

At its 2870th meeting, on 6 July 1989, the Council included the letter in its agenda and considered the matter at the same meeting. Following the adoption of the agenda, the Council decided to invite the representative of Israel, at his request, to participate in the discussion without the right to vote. The Council also decided, by 11 votes to 1 (United States), with 3 abstentions (Canada, France, United Kingdom), to invite the Permanent Observer of Palestine, at his request, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.⁵⁹

At the same meeting, the President (Yugoslavia) drew the attention of the members of the Council to a letter dated 29 June 1989 from the Permanent Observer of Palestine addressed to the Secretary-General,⁶⁰ in which he informed the Council that the situation in the occupied Palestinian territory, including Jerusalem, had deteriorated further with Israel's deportation of eight Palestinians to southern Lebanon on 29 June 1989, in violation of the Fourth Geneva Convention and Security Council resolutions 607 (1988) and 608 (1988). The President also drew the attention of the Council to several other documents,⁶¹ including a draft

⁵⁷ Ibid., pp. 32-37.

⁵⁸ S/20709.

⁵⁹ For the statement by the representative of the United States, see S/PV.2870, pp. 8-10. See also chapter III, case 6.

⁶⁰ S/20708.

⁶¹ Letters addressed to the Secretary-General from the

resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.⁶²

The representative of Israel charged that the Council consistently attempted to censure Israel for its measures, while ignoring the intense and continuous violence that had necessitated them. He stated that Israel, which had the unequivocal responsibility to ensure the safety and security of all inhabitants, had acted with the utmost restraint and within the confines of local and international law. It chose not to utilize the death penalty expressly contemplated by the Fourth Geneva Convention, preferring to exercise less severe measures in conformity with article 63 of the Hague Regulations. The speaker indicated that those expelled were given the opportunity fully to exercise their legal rights during lengthy legal proceedings, which lasted nearly a year. He added that should quiet be restored the possibility of their return would be considered. The speaker noted that while several extreme political events had recently disturbed the global order, the Council was being asked to meet to criticize Israel only. Maintaining that the Council should call for the cessation of all violence and encourage dialogue and peace, he stressed that draft resolutions such as the one before the members did not promote those goals.⁶³

Before the vote, the representative of the United States recalled his Government's opposition to the practice of deportations because they violated article 49 of the Fourth Geneva Convention and were unnecessary to maintain order and unhelpful to the peace process. But it was also important for members of the Council to understand that Israel, which for many years had been dealing with a very difficult situation, was presented with new challenges to its security. The United States, which was actively engaged in seeking to assist the parties to come together for interim and final status arrangements leading to a comprehensive peace, believed that there was no military solution but only a negotiated solution. While regretting the deportation of an additional eight Palestinians, and agreeing with the call for Israel to desist from further such acts, he asserted that raising the issue in the Council, in the form in which it was being presented, would not help to reduce tensions.

observer of Palestine (S/20708); and from the Acting Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (S/20714).

⁶² S/20710.

⁶³ S/PV.2870, pp. 12-17.

That was why the United States delegation would abstain in the vote on the draft resolution. For the record, the speaker affirmed that his Government objected to the phrases "occupied Palestinian territories", and "Palestinian territories occupied by Israel since 1967, including Jerusalem, and ... the other occupied Arab territories", considering that those phrases describe the territories demographically, were limited to territories occupied in 1967 and did not prejudge their status. Jerusalem should remain undivided and its final status be decided through negotiations.⁶⁴

The draft resolution was then put to the vote. It was adopted by 14 votes to none, with 1 abstention (United States), as resolution 636 (1989), which reads:

The Security Council,

Reaffirming its resolutions 607 (1988) of 5 January 1988 and 608 (1988) of 14 January 1988,

Having been apprised that Israel, the occupying Power, has once again, in defiance of those resolutions, deported eight Palestinian civilians on 29 June 1989,

Expressing grave concern over the situation in the occupied Palestinian territories,

Recalling the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and in particular articles 47 and 49 thereof,

1. *Deeply regrets* the continuing deportation by Israel, the occupying Power, of Palestinian civilians;

2. *Calls upon* Israel to ensure the safe and immediate return to the occupied Palestinian territories of those deported and to desist forthwith from deporting any other Palestinian civilians;

3. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian territories, occupied by Israel since 1967, including Jerusalem, and to the other occupied Arab territories;

4. *Decides* to keep the situation under review.

Following the adoption of the resolution, the representative of Palestine expressed confidence that the Council would take further steps to ensure that the Fourth Geneva Convention was respected, that the Palestinian civilians would return safely and

⁶⁴ *Ibid.*, pp. 18-20.

immediately to their homes, and that Israel would not undertake any more deportations.⁶⁵

**Decision of 30 August 1989 (2883rd meeting):
resolution 641 (1989)**

By a letter dated 29 August 1989 addressed to the President of the Security Council,⁶⁶ the representative of Qatar, on behalf of the Group of Arab States, requested the convening of an urgent meeting of the Council to consider the situation in the occupied Palestinian territory, and in particular the deportation of Palestinian civilians. At its 2883rd meeting, on 30 August 1989, the Council included the letter in its agenda, and considered the matter at the same meeting.

Following the adoption of the agenda, the Council invited the representative of Israel, at his request, to participate in the discussion without the right to vote. The Council also decided, by 11 votes to 1 (United States), with 3 abstentions (Canada, France, United Kingdom), to invite the observer of Palestine, at his request, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.⁶⁷

The President (Algeria) drew the attention of the members of the Council to a draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.⁶⁸

He then drew their attention to a letter dated 28 August 1989 from the Observer of Palestine,⁶⁹ in which the Council was informed that Israel had expelled five Palestinians from the occupied Palestinian territory to Lebanon and France on 27 August 1989, in violation of the Fourth Geneva Convention and Security Council resolutions 607 (1988), 608 (1988) and 636 (1989) and requested that appropriate measures be taken. The President also drew the attention of the members of the Council to a letter dated 29 August 1989 from the representative of Lebanon.⁷⁰

The representative of Israel asserted that the increase of violence was the direct response of the PLO to the challenge posed by his country's peace initiative of April 1989. Many more Palestinians than Israelis had been, in recent months, the casualties of PLO violence. This violence was intended to intimidate the local population and ensure absolute PLO domination. The speaker stated that, despite the violence, his Government was determined to pursue the dialogue with local Palestinian leaders. Extensive talks were held between the Government of Israel and leaders from all elements of Palestinian society in order to reach an agreement as to the modalities and process of holding free and democratic elections in the territories. While admitting that international law placed the responsibility to maintain public order and safety in the "administered" territories on Israel, he emphasized that Israel did not accept the de jure applicability of the Fourth Geneva Convention to Judea, Samaria and the Gaza district, but acted de facto in accordance with its humanitarian provisions. Israel's Supreme Court had examined repeatedly the proper interpretation and application of article 49 of the Convention and held that while mass deportations were prohibited under that article, the expulsion of individuals was allowed. In his concluding remarks, the speaker drew attention to the inability of the Council to respond in an effective manner to the indiscriminate slaughter perpetrated recently by the Syrian Arab Republic and its proxies in Lebanon while taking quick action when it came to Israel. Yet he invited the nations of the Middle East to support the peace initiative, and called on the Council to encourage a breakthrough in the current stalemate.⁷¹

Before the vote, the representative of the United States reiterated his Government's opposition to deportations. He stated that despite the Security Council's last call on Israel to desist from further deportations, in resolution 636 (1989), it had proceeded with further deportations. It was in this context that his Government would not oppose the draft resolution, but abstain. In conclusion, he recorded once again his country's objection to the wording of the draft resolution regarding the occupied Palestinian territories.⁷²

⁶⁵ Ibid., pp. 21-22.

⁶⁶ S/20817.

⁶⁷ For the statement by the representative of the United States, see S/PV.2883, pp. 6-8. See also chapter III, case 6.

⁶⁸ S/20820.

⁶⁹ S/20816.

⁷⁰ S/20822.

⁷¹ S/PV.2883, pp. 9-16.

⁷² Ibid., pp. 16-18.

The draft resolution was then put to the vote. It was adopted by 14 votes to none, with 1 abstention (United States), as resolution 641 (1989) which reads:

The Security Council,

Reaffirming its resolutions 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988 and 636 (1989) of 6 July 1989,

Having been apprised that Israel, the occupying Power, has once again, in defiance of those resolutions, deported five Palestinian civilians on 27 August 1989,

Expressing grave concern over the situation in the occupied Palestinian territories,

Recalling the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and in particular articles 47 and 49 thereof,

1. *Deplores* the continuing deportation by Israel, the occupying Power, of Palestinian civilians;

2. *Calls upon* Israel to ensure the safe and immediate return to the occupied Palestinian territories of those deported and to desist forthwith from deporting any other Palestinian civilians;

3. *Reaffirms* that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian territories, occupied by Israel since 1967, including Jerusalem, and to the other occupied Arab territories;

4. *Decides* to keep the situation under review.

Following the adoption of the resolution, the representative of Palestine expressed the hope that preparations would be initiated under the supervision of the United Nations for the convening of the international peace conference.⁷³

Decision of 7 November 1989 (2889th meeting): rejection of a draft resolution

By a letter dated 3 November 1989, addressed to the President of the Security Council,⁷⁴ the representative of Kuwait, in his capacity as Chairman of the Group of Arab States, requested an immediate meeting of the Council to consider the situation in the occupied Palestinian territory.

At its 2887th meeting, on 6 November 1989, the Council included the letter in its agenda. The Council considered the item at its 2887th, 2888th and 2889th meetings, on 6 and 7 November 1989.

Following the adoption of the agenda, the Council invited the representatives of Israel, Kuwait and Saudi Arabia, at their request, to participate in the discussion without the right to vote. It also extended an invitation to Mr. Clovis Maksoud, Permanent Observer of the League of Arab States, under rule 39 of the provisional rules of procedure. At the same meeting, the Council also decided, by 11 votes to 1 (United States), with 3 abstentions (Canada, France, United Kingdom), to invite the Permanent Observer of Palestine, at his request, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.⁷⁵ At the 2888th meeting, the Council invited the representative of the Islamic Republic of Iran, at his request, to participate in the discussion without the right to vote.

At the 2887th meeting, the President drew the attention of the members of the Council to a draft resolution submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.⁷⁶ Under the preambular part of the draft resolution, the Council would have recalled its relevant resolutions on the occupied Arab territories, including Jerusalem, in particular 605 (1987), and the Geneva Convention, and taken note of General Assembly resolution 44/2 of 6 October 1989. Under its operative part, the Council would have strongly deplored the policies and practices of Israel which violated the human rights of the Palestinian people, and in particular the siege of towns, the ransacking of homes, and the illegal and arbitrary confiscation of their property and valuables; reaffirmed the applicability of the Geneva Convention to the occupied Arab territories, including Jerusalem, and called upon Israel to abide by the Convention; also called upon Israel to desist from its policies and practices and lift its siege; urged that Israel return the confiscated property to its owners; and requested the Secretary-General to conduct on-site monitoring of the situation in the occupied territory, and to submit periodic reports thereon.

The President also drew the attention of the members of the Council to a note by the Secretary-

⁷³ *Ibid.*, pp. 18-20.

⁷⁴ S/20942.

⁷⁵ For the statement by the representative of the United States, see S/PV.2887, pp. 3-6. See also chapter III, case 6.

⁷⁶ S/20945. The draft was subsequently revised, but was not adopted, owing to the negative vote of a permanent member.

General dated 16 October 1989,⁷⁷ transmitting the text of paragraph 6 of General Assembly resolution 44/2, in which the Assembly requested the Council to examine with urgency the situation in the occupied Palestinian territory with a view to considering measures needed to provide international protection to the Palestinian civilians in the Palestinian territory occupied by Israel since 1967, including Jerusalem.

The President further drew the attention of the Council to two letters dated 23 and 30 October 1989 from the Permanent Observer of Palestine addressed to the Secretary-General,⁷⁸ in which he described the most recent measures taken by Israel against the Palestinian people and requested the Council to take immediate measures to protect the Palestinian civilians and to ensure respect for the Fourth Geneva Convention.

The representative of Kuwait, speaking also on behalf of the Group of Arab States, said that the meeting had been requested by the Arab Group because of the gravity of the situation and the Council's delay in examining the situation to consider measures for the protection of Palestinians in accordance with General Assembly resolution 44/2. According to the representative, the dimensions and significance of Israeli policies were most recently manifested in Beit Sahur, where houses were ransacked, roads closed, and property confiscated. The matters had gone further with the so-called renovation of the temple of Solomon near Al-Aqsa Mosque in Jerusalem. The Arab Group expected that Israeli plundering of Palestinian properties and the expropriation of property and means of production in an attempt to force entrepreneurs to pay the so-called tax dues would lead to widespread civil disobedience whose effects would spread to other areas. The speaker called upon the Council to adopt all the necessary measures to compel Israel to end its onslaught on the population and to comply with the Fourth Geneva Convention, and to pay reparations for the damage resulting from its blockade of Beit Sahur. He insisted that it was high time for the Council to carry out in-depth, objective reviews and assessments of the reasons and factors preventing implementation of its resolutions.⁷⁹

⁷⁷ S/20902.

⁷⁸ S/20920 and S/20925.

⁷⁹ S/PV.2887, pp. 8-16.

The representative of Palestine said that the members of the Council were meeting to ensure respect, as High Contracting Parties, for the Fourth Geneva Convention, and as members of the Council jointly to carry out their obligations under the Charter of the United Nations to consider a request made by the General Assembly in resolution 44/2. He charged Israel with committing "State crimes" in Beit Sahur by confiscating the property of innocent civilians and imposing taxation by brute force for the maintenance and perpetuation of foreign occupation. Referring to the Secretary-General's report of 21 January 1988,⁸⁰ which the speaker described as being the result of an on-the-spot examination of the situation, he called upon the members of the Council to request, on a priority basis, that the Secretary-General submit such on-the-spot reports as often as needed. He added that the Council should also demand that Israel return the stolen property to the victims or compensate them for damage. Lastly, the speaker noted that the United States Government had authorized massive additional economic and military aid for Israel and expressed fear that it would provide additional funds for the military occupation and the atrocities committed in the occupied territories. He urged the United States to join in a consensus, so that the Secretary-General might at least be enabled to immediately dispatch or assign a monitoring team to provide the Council with on-the-spot reports.⁸¹

During the course of the debate, other speakers expressed concern about Israel's repressive measures against the Palestinian civilians in Beit Sahur and its intervention against UNRWA offices and personnel in the West Bank and Gaza.⁸² Stating that the Council had a responsibility to ensure the protection of Palestinians, they called upon it to consider the recommendations outlined in the Secretary-General's report of 21 January 1988. They maintained that a peaceful settlement of the problem had to be based on the ending of the Israeli occupation, the realization of the legitimate rights of the Palestinians to self-determination, and the recognition of the right of Israel

⁸⁰ S/19443.

⁸¹ S/PV.2887, pp. 16-33.

⁸² S/PV.2888, pp. 3-12 (Saudi Arabia); pp. 26-31 (Yugoslavia); pp. 31-35 (Nepal); and pp. 36-40 (Islamic Republic of Iran); and S/PV.2889, pp. 12-16 (Malaysia); pp. 17-18 (Finland); pp. 22-27 (Algeria); pp. 27-28 (Canada); pp. 29-32 (Ethiopia); pp. 32-35 (Brazil); and pp. 35-36 (Colombia).

to live in secure and recognized borders. Several speakers appealed to the Council to address the question through an international peace conference with the equal participation of the PLO. One representative called upon the Council to establish the conditions necessary for the convening of that conference.⁸³ Another appealed to the permanent members of the Council to take practical steps and to begin considering the early establishment of a preparatory committee for the conference.⁸⁴

At the 2888th meeting, the representative of Senegal, speaking also in her capacity as Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, stated that repression was growing and that the raids launched against Beit Sahur clearly demonstrated that Israel was seeking a military solution to the Palestinian problem. She stated that the Security Council should do more with regard to the Middle East by initiating and overseeing the peace process on the basis of the guidelines set out in General Assembly resolution 43/176. She hoped that the Council would work with the Secretary-General to organize the international peace conference on the Middle East, and adopt the draft resolution to assure impartial and international protection for Palestinians. The speaker added that, in carrying out the peace process, the Council would need the support and assistance of all its members, especially of its permanent members.⁸⁵

The representative of Israel contended that if there was any deterioration in the situation, it involved not the efforts of the Israeli authorities to maintain public order and safety, but the escalation in inter-Palestinian violence. He held that the draft resolution, orchestrated by the Arab States in their campaign of political jihad against Israel, ignored the murder of Palestinians by the PLO and directed its fury at entirely legal measures, such as tax collection. The charge that Israel, by collecting taxes in Beit Sahur, had violated international law, was baseless, since the collection of taxes, dues, tolls and other forms of payment was permitted under the Hague Regulations. By customary international law, the occupant might even utilize for its own purpose the balance left over after administration costs had been met. Instead, Israel had used the funds to finance the provision of services for

the Palestinian residents and had complemented them with its own funds whenever necessary. The speaker asserted that countries which claimed to be concerned about the welfare of the Palestinians resorted to the Security Council only to attack Israel. He recalled that negotiations were being undertaken at that time between Israelis and Palestinian representatives from Judea, Samaria and Gaza with the goal of opening a dialogue. He concluded by saying that his country's peace initiative was the only realistic, viable and practical endeavour towards a solution of the Arab-Israeli conflict.⁸⁶

The representative of Yugoslavia, speaking also in his capacity as Chairman of the Coordinating Bureau of the Movement of Non-Aligned Countries, expressed concern at the fact that, owing to the positions of some, the United Nations was not in a position to play an appropriate role in the consideration of this problem, which had the potential of posing one of the most serious threats to peace and stability. The non-aligned countries had repeatedly pointed out the need for the continued consideration of the problem of Palestine in the Council. They expected the Council on this occasion to take resolute action and, as a first step, to secure implementation and compliance with resolution 605 (1987). At the same time they believed the Council should become more involved by seeking the most suitable basis for opening the process leading to a political solution of the problem, on the basis of resolutions 242 (1967) and 338 (1973) and other relevant United Nations resolutions. The speaker recalled that at their ninth summit conference in Belgrade the non-aligned countries had reaffirmed the position that the most realistic and acceptable way to achieve a solution was the early convening of an international conference under United Nations auspices.⁸⁷

Mr. Clovis Maksoud, Permanent Observer of the League of Arab States, said that the Arab Group had asked for the meeting to affirm its commitment to salvaging peace in the Middle East through the United Nations and the Security Council. He stated that Israel's intention, through the proliferation of settlements in the occupied territories, was to distort the unity of the Palestinian people and to facilitate the annexation of the West Bank, Gaza and East Jerusalem.

⁸³ S/PV.2888, p. 26 (Algeria).

⁸⁴ *Ibid.*, p. 16 (Malaysia).

⁸⁵ *Ibid.*, pp. 12-20.

⁸⁶ *Ibid.*, pp. 21-26.

⁸⁷ *Ibid.*, pp. 26-31.

That intent was evident in Israel's past declarations of the Golan Heights and East Jerusalem as part of its territory, its deliberate failure to define the land of the 1967 occupation, and its refusal to evacuate the lands it had occupied in 1947. Israel wanted to be treated as an occupant when it collected taxes but did not want to be considered as such when deporting Palestinians. The speaker reiterated the support of the Arab League for the international conference to be sponsored by the United Nations and stressed that any peace negotiations would have to be undertaken with the PLO, the sole legitimate representative of the Palestinian people.⁸⁸

At the 2889th meeting, on 7 November 1989, the representative of the Union of Soviet Socialist Republics condemned the Israeli authorities' repressive actions against the Palestinian people and their attempts to impede the humanitarian work of UNRWA. He expressed concern over the use of force against the Agency's international staff and the arrests and detention of staff members as well as the raids against the Agency's offices in the occupied territories. He noted the discrepancy between Israel's assurances regarding a political settlement, and its actual policy with regard to the intifada. The speaker recalled his country's proposal in February aiming at improving the situation in the region and stated that the Soviet Union was ready to cooperate actively with all parties, the United Nations, and the Secretary-General in the convening of a conference to find a peaceful settlement in the Middle East. In supporting the draft resolution, he stressed the need to bring into play the potential of the Security Council.⁸⁹

The representative of the United Kingdom deplored the recent raids by the Israeli forces on UNRWA premises in the West Bank and Gaza Strip, which he described as a violation of the privileges and immunities of a United Nations body. He informed the Council that his Government had received disturbing reports of the situation in Beit Sahur. Whatever the rights and wrongs of the tax strike by the citizens of Beit Sahur, due legal process should be followed. Furthermore, there was no excuse for the illegal and arbitrary confiscation of Palestinian property. Britain condemned both the killing of civilians by the Israeli forces and the killing of so-called Palestinian

collaborators. The speaker held that elections should take place in the occupied territories on the basis of land for peace, in fulfilment of Council resolutions 242 (1967) and 338 (1973). That could set in motion a process leading to an international peace conference under United Nations auspices.⁹⁰

The representative of France stated that, whatever the justifications offered, the events in Beit Sahur and the methods employed by the Israeli army should be condemned. He also condemned the occupation authorities for forbidding access to the town by representatives of foreign States and called upon Israel to respect its obligations under the Fourth Geneva Convention. The speaker stressed that lasting peace could only be based on mutual recognition by Palestinians and Israelis of each other's respective rights and aspirations. In that sense, a comprehensive political settlement should ensure Israel's right to live within secure and recognized borders, and the equally important right of the Palestinians to a homeland in which they could establish the political structures of their choice. The international community had a duty to perform in that regard, and negotiations between the parties directly concerned should take place within the framework of an international peace conference.⁹¹

The representative of China supported the draft resolution and was in favour of the Council's taking action to check the Israeli authorities' suppression of Palestinians. He reiterated the recent proposal by his Government on a peace settlement. First, the Middle East question should be settled through political means and all parties should refrain from using force. Secondly, an international peace conference should be convened under the auspices of the United Nations, with the participation of the five permanent members of the Council and the parties to the conflict. Thirdly, the concerned parties should hold various forms of dialogue, including a direct dialogue between Israel and the PLO. Fourthly, Israel should stop suppressing Palestinian residents in the occupied areas and withdraw from the occupied territories. Accordingly the security of Israel should be also guaranteed. Fifthly, the State of Palestine and the State of Israel should extend mutual recognition and their peoples coexist peacefully.⁹²

⁸⁸ *Ibid.*, pp. 41-52.

⁸⁹ S/PV.2889, pp. 2-11.

⁹⁰ *Ibid.*, pp. 18-21.

⁹¹ *Ibid.*, pp. 37-38.

⁹² *Ibid.*, pp. 38-41.

The President then put the draft resolution to the vote. It received 14 votes in favour and 1 against (United States), and was not adopted, owing to the negative vote of a permanent member of the Council.

Following the vote, the representative of the United States stated that his Government had raised directly with Israel its concerns over the blockade of Beit Sahur, the interference with the operations of UNRWA, school closures and other questions. Yet, he said, the United States was not willing to support unbalanced draft resolutions, which criticized Israeli actions without regard for the situation in the occupied territories, and did not refer to the Palestinians' acts of violence against Israelis and other Palestinians. While supporting efforts by the Secretary-General to visit the occupied territories to report periodically on the situation, the United States did not agree with the request in the draft resolution that the Secretary-General conduct on-site monitoring, since it connoted a permanent, ongoing presence on the ground. In the view of the United States, which was engaged in intensive efforts to help launch an Israeli-Palestinian dialogue, repeated recourse to the Council with one-sided draft resolutions did not contribute to this process or to a real reduction of confrontation in the occupied territories but exacerbated tensions and distracted the parties from addressing the critical issues.⁹³

The representative of Canada emphasized that the territories referred in the text were the West Bank, Gaza and East Jerusalem, and Canada's vote in favour did not indicate any change in its view on the status of those territories.⁹⁴

The representative of Palestine blamed the United States for blocking the Secretary-General's and the Security Council's involvement in the search for a comprehensive settlement, as requested by the General Assembly. Referring to United States individual action he stated that the situation did not permit such action. Action should be collective. Furthermore, on-site monitoring of crimes committed in a territory under occupation did not entail any unnecessary violation of the sovereignty of the State of Israel. Therefore it was the duty of the United Nations to have a presence in the territories to report on such violations.⁹⁵

⁹³ Ibid., pp. 42-45.

⁹⁴ Ibid., p. 45.

⁹⁵ Ibid., pp. 45-47.

**Letter dated 12 February 1990 from the
Permanent Representative of the Union of
Soviet Socialist Republics to the United Nations
addressed to the President of the Security
Council**

By a letter dated 12 February 1990 addressed to the President of the Security Council,⁹⁶ the representative of the Union of Soviet Socialist Republics requested that a meeting of the Security Council be convened to consider the Israeli moves to settle the occupied territories, which ran counter to the Fourth Geneva Convention and to the decisions of the United Nations and were obstructing the peace effort in the Middle East. He called upon the Council to request the Government of Israel not to permit any action which might alter the demographic structure of the occupied territories.

At its 2910th meeting, on 15 March 1990, the Council included the letter in its agenda. The Council considered the item at its 2910th to 2912th, 2914th, 2915th and 2920th meetings, from 15 to 29 March, and on 3 May 1990.

Following the adoption of the agenda, the Council invited the representatives of Israel, Jordan and Senegal, at their request, to participate in the discussion without the right to vote. It also extended an invitation, under rule 39 of its provisional rules of procedure, to Mr. Clovis Maksoud, Permanent Observer of the League of Arab States. At the same meeting, the Council also decided, by 11 votes to 1 (United States) and 3 abstentions (Canada, France, United Kingdom), to invite the Permanent Observer of Palestine, at his request, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.⁹⁷

At the 2912th meeting, the Council invited the representatives of Algeria, Bahrain, Egypt, India, Indonesia, Iraq, the Libyan Arab Jamahiriya, Pakistan, Qatar, Saudi Arabia, the Syrian Arab Republic, Tunisia, the Ukrainian Soviet Socialist Republic, Yemen and Yugoslavia to participate in the discussion. It also extended an invitation, under rule 39 of its provisional rules of procedure, to Mr. A. Engin Ansay, Permanent Observer of the Organization of the Islamic

⁹⁶ S/21139.

⁹⁷ For the statement by the representative of the United States, see S/PV.2910, pp. 3-6. See also chapter III, case 6.

Conference. At its subsequent meetings, the Council invited the following to participate: at the 2914th meeting, the representatives of Bangladesh, Morocco and the United Republic of Tanzania; at the 2915th meeting, the representatives of Afghanistan, the Islamic Republic of Iran, Kuwait and Nicaragua; and at the 2920th meeting, the representatives of Greece and Turkey.

At the 2910th meeting, the President (Democratic Yemen) drew the attention of the members of the Council to several documents.⁹⁸

The representative of the Union of Soviet Socialist Republics stated that the meeting had been convened because his Government had come to the conclusion that the question of Israel's action in settling the occupied territories with persons who had never lived in those territories was extremely serious and affected matters of security in the Middle East. The settlement in the occupied Arab territories of immigrants arriving from the Soviet Union caused deep concern in his country. Noting that appeals were made to his country to prevent Soviet Jews from emigrating to Israel, he pointed out that it was impossible for the Soviet Union to prevent its Jewish citizens from doing so, because it would be contrary to the policy of equal rights and freedoms for all citizens, including the right to emigrate, resulting from the democratization of Soviet legislation. The responsibility lay with Israel, which should prohibit its citizens and others from settling in the occupied territories in accordance with article 49 of the Fourth Geneva Convention and the relevant resolutions of the Security Council. Instead, the Government of Israel was planning to build some 4,000 homes on the West Bank for the settlement of immigrants. The Soviet Union, however, hoped that the Government of Israel would make an assessment of the situation and not permit actions liable to alter the demographic structure of the occupied territories. Pointing out that very few of the Soviet Jews leaving the Soviet Union wanted to live in Israel, the speaker encouraged Western countries, including the United States which had recently cut the number of entry permits for Soviet Jews, to grant residence to them. In the Soviet Union's view, the Council should focus on

⁹⁸ Letters addressed to the Secretary-General by the representatives of the Soviet Union (S/21118, S/21137, S/21143 and S/21186); Kuwait (S/21133); Saudi Arabia (S/21134); Tunisia (S/21144); Oman (S/21182); and Yugoslavia (S/21192).

the three following elements: confirmation of the applicability of the Fourth Geneva Convention to Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem; disagreement by the Council with the intention of the Government of Israel to settle immigrants in the occupied territories in contravention of the provisions of the Geneva Convention, in particular article 49, which prohibits the settlement of non-native inhabitants in occupied lands; and an appeal by the Council to the Government of Israel not to permit actions liable to alter the demographic structure of the occupied territories. The speaker also stressed the importance of balancing the interests of all parties concerned within the framework of an international conference. A comprehensive settlement should be based on Security Council resolutions 242 (1967) and 338 (1973), the exercise by the Palestinian people of its right to self-determination, and the right of all parties to existence within internationally recognized borders. As part of the practical preparations for a conference, he agreed that there could be purposeful bilateral and multilateral contacts to find compromise decisions, including interim ones. He supported also the commencement of preparatory work for the peace conference within the framework of the Security Council.⁹⁹

The representative of Palestine stated that the immigration of Soviet Jews and their settlement in the occupied territories was an act of aggression against national Palestinian rights and an usurpation of Palestinian land in preparation for expelling the Palestinian people, as happened in 1948 where approximately 1 million Palestinians were expelled. The massive organized Jewish emigration from the Soviet Union to Palestine was no more than a continuation of the Zionist invasion of the Palestinian and Arab lands. The speaker indicated that, despite all the suffering of the Palestinian people, their aim remained peaceful coexistence. They had offered constructive initiatives which were met on the Israeli side by an escalation of violence, a strengthening of the occupation and persistence in the practice of eviction. He regretted that the United States remained hesitant to agree to the convening of an international peace conference and insisted on pursuing unilateral efforts which proved to be inadequate and futile. It was also inadequate for the Council to adopt a resolution or to issue a statement. The Council should take measures

⁹⁹ S/PV.2910, pp. 9-20.

similar to the actions taken against the Pretoria regime. Equally important was the stand expected to be taken by the United States and the Soviet Union against the organized massive immigration.¹⁰⁰

The representative of Malaysia said that the Israeli policy of encouraging mass Jewish immigration and its policy of territorial occupation of Palestinian lands, leading to their eventual annexation, could not be condoned and should be condemned by the Council. It was imperative that the Council sent a clear and unequivocal message to the Government of Israel that it deplored its policies and practices, including the illegal opening-up of settlements in the occupied territories, and that Israel should desist forthwith from those practices. It was equally imperative that the Council declare the illegality of those settlements and reaffirm the inalienable right of the Palestinian people to its land, including the right of return. Israel should be pressured by the collective weight of international opinion, if not by sanctions, to respect its international obligations. At the same time Governments should refrain from providing financial assistance to Israel for the purpose of developing settlements in the occupied territories. In the speaker's opinion, there was a special responsibility on the part of the sender country to ensure they did not open the floodgates of Jewish emigration to Israel and on the part of the traditional recipient countries not to erect artificial barriers against those intending to emigrate. The speaker added that, pending the settlement of the Palestinian problem, which could only be achieved via the formula "land for peace", his Government urged the Council to reconsider the Secretary-General's report of 21 January 1988 in order to provide protection for the inhabitants of the occupied territories.¹⁰¹

During the course of the debate, several speakers referring to the systematic settlement of Soviet Jews in the occupied territories as another phase in the Israeli occupation aimed at replacing Palestinians with settlers, in order to change the demographic composition of those territories and ultimately to annex them, stating that these practices were contrary to the Fourth Geneva Convention and to Security Council resolution 465 (1980). They condemned Israel's intensification of its expansionist policy at a time when there were promising steps towards the restoration of

peace in the Middle East. They appealed, in various terms, to the Council to take firm action to stop the settlements.¹⁰² A number also called upon the Council to appeal to all States to refrain from giving any assistance to Israel that might be used in establishing new settlements.¹⁰³ A few speakers appealed to the Council to consider deterrent measures under Chapter VII of the Charter of the United Nations.¹⁰⁴

At the 2911th meeting, on 15 March 1990, the representative of Jordan, speaking in his capacity as Chairman of the Group of Arab States, pointed out that the history of Jewish immigration to Palestine was closely linked to the course of the Israeli-Arab conflict. Indeed, this immigration was the reason behind the conflict and its continuation a major factor in the persistence of the conflict. The arrival of huge numbers of immigrants and their settlement in the occupied Arab territories meant the continuation of the creeping annexation of those territories and the expulsion of their rightful inhabitants. He warned that, as a result of that immigration, Israel might sooner or later annex the West Bank and the Gaza Strip. It might also commit the crime of deporting the Palestinian people en masse, called "transferral" in Israel. In this regard, the speaker drew attention to recent statements by the Israeli authorities in which it was said, inter alia, that those immigrants had the freedom to settle wherever they wanted and that this large-scale immigration required the establishment of a Greater Israel. He deplored the attitude of countries which had set quotas or shut their doors to Jewish immigration and indicated that in the case of the Soviet Union those immigrants had left the country carrying travel documents and not passports, which meant they could not return. It was a matter of evacuation not emigration. It was unfair to allow Jews from all parts of the world to settle in the occupied territories and to deny the Palestinian refugees in the diaspora their right to return to their land. The Council ought to act in an effective manner which meant that it had to use its powers to implement its resolutions. What was expected of the Council was, inter alia, the suspension of that immigration to Israel or its

¹⁰⁰ *Ibid.*, pp. 21-36.

¹⁰¹ *Ibid.*, pp. 37-47.

¹⁰² S/PV.2912, pp. 47-51 (Indonesia); S/PV.2914, pp. 29-35 (Qatar); pp. 35-43 (Libyan Arab Jamahiriya); S/PV.2915, pp. 6-7 (Finland); pp. 28-36 (Kuwait); pp. 36-47 (Morocco); and pp. 47-52 (Islamic Republic of Iran).

¹⁰³ S/PV.2912, pp. 26-35 (Tunisia); pp. 51-56 (Saudi Arabia); and S/PV.2915, pp. 13-21 (Algeria).

¹⁰⁴ S/PV.2912, pp. 51-56 (Saudi Arabia); and S/PV.2914, pp. 44-57 (Bahrain).

redirection to other countries, reaffirmation of its past resolutions and of the applicability of the Fourth Geneva Convention, and a request to the Secretary-General to monitor the implementation of the resolution to be adopted by the Council on this matter and to submit a report.¹⁰⁵

The representative of Senegal, speaking also as Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, said that it had been reported that the settlers already living in the occupied territory were actively encouraging new immigrants to come to the occupied territory and that the Government of Israel was offering large cash bonuses, low-interest mortgages and practically free land. She added that reliable sources noted the existence in the West Bank of a growing campaign to break up families, and, as a result of Israeli-imposed restrictions, tens of thousands of Palestinians who had returned to the occupied territory after the 1967 war with limited-residence permits and who remained in the territory were regarded as foreigners by the occupation authorities, who expelled several hundred Palestinians in 1989, for the most part women and children. Senegal supported the right of each individual to emigrate to the country of his choice, but could not agree that the exercise of that right could be imposed by a third Power, to the detriment of the host populations. As for the Committee, it joined in the appeals made to the Government of Israel to implement the Fourth Geneva Convention and the relevant resolutions of the Security Council and to refrain from actions likely to alter the demographic composition of the occupied Palestinian territory.¹⁰⁶

The representative of Israel stated that the immigration of Soviet Jews to Israel was the culmination of a long and strenuous international struggle in which the free world had played a leading role. This momentous development was particularly critical when the darker side of democratization was generating a resurgence of virulent anti-semitism. The speaker maintained that at the same time an “ugly campaign” was being waged by Arab States, with the aim of halting the immigration of Jews to Israel, which lay at the foundation of the existence of the State of Israel. He charged that by doing so they were opposing that very existence. The Arab claim that Israel intended

to displace Palestinians by settling Jewish immigrants in their place was a preposterous charge. As a matter of fact, over 99 per cent of the immigrants had settled in Israel’s main urban centres. Moreover, far from displacing Palestinians, Israel had been the only party actively engaged in rehabilitating them through a family reunification plan. The speaker pointed out that it was neither the time nor the place to focus on the contentious issues and mutual grievances that lay at the heart of the Arab-Israeli conflict. Disagreement should and would be addressed when negotiations commenced.¹⁰⁷

At the 2912th meeting, on 27 March 1990, the representative of Egypt said that the question before the Council was whether Israel’s settlement of parts of its population in the occupied Palestinian territories was an exercise of human rights or an attempt to establish an illegal fait accompli under that pretext. Egypt did not take issue with the emigration of the Soviet Jews, or others, to Israel of their own volition, provided that they also had the right to return and that certain criteria be applied to that emigration to ensure that those participating in it were not settled in the occupied Arab territories. However, if enabling emigrants to leave their country of origin resulted in their settling in the occupied Arab lands and contributed to the expulsion of the indigenous population, that presented a paradox in which humanitarian law was violated in the name of human rights. The speaker stated that certain conclusions could be drawn regarding the future intentions of Israel from the practice of altering the demographic composition of the occupied territories. Those intentions, if proved true, would entail actions in blatant violation of a cardinal principle of the Charter of the United Nations, namely, the inadmissibility of the acquisition of territory by force, which was the basis of Security Council resolutions 242 (1967) and 338 (1973). Immigration to Israel, coupled with settlements, constituted a serious threat to the peace process in the Middle East and jeopardized endeavours to build confidence among the Israelis and the Palestinians. The two super-Powers had an instrumental role to play on both counts. He called upon Israel to terminate any settlement activity in the occupied territories and appealed to the Council to

¹⁰⁵ S/PV.2911, pp. 2-20.

¹⁰⁶ *Ibid.*, pp. 20-28.

¹⁰⁷ *Ibid.*, pp. 29-43.

unequivocally reaffirm the illegality of such Israeli practices.¹⁰⁸

The representative of the Syrian Arab Republic stated that his country's position was best reflected in the resolution adopted by the Council of the League of Arab States on 13 March 1990, in which it, inter alia, deplored Israel's settlement policies as constituting an act of aggression against the right of the Palestinian people to their land and as representing a threat to Arab national security. Furthermore, it called upon the international community to put an end to the emigration of Soviet Jews and to guarantee all the national rights of the Palestinian people, including their right to return, as set forth in General Assembly resolution 194 (III) of 11 December 1948. He charged that there was a long-standing intention to forge ahead with the establishment of the greater Zionist State in the Arab region by means of expanding at the expense of the neighbouring States. That was evidenced by the fact that Israel had annexed the Syrian Golan. The Syrian Arab Republic considered the settlement of Jewish immigrants in the Golan as an act of aggression against Syrian sovereignty and territorial integrity. Their settlement in any other part of the occupied Arab territories was an equally grave matter.¹⁰⁹

The representative of China said that Israel's establishment of settlements in the occupied Palestinian territory was illegal and posed a threat to the existence of the Palestinian people and the security of the Arab countries, aggravating the tense situation in the region. He called on Israel to give up its erroneous policy and to demonstrate good faith and flexibility. He also proposed that the Council should take unequivocal steps to stop Israel's settlement of immigrants in the occupied territories, and appealed to the countries directly involved to cooperate.¹¹⁰

At the 2914th meeting, on 28 March 1990, the representative of Yugoslavia, speaking on behalf of the Movement of Non-Aligned Countries, expressed concern about the announced intention of the Government of Israel to settle Jewish immigrants from the Soviet Union in the occupied territories. He stated that the Foreign Ministers of non-aligned countries, in a meeting held on 11 March, had warned that such organized, mass actions undermined the peace process

and were in flagrant violation of the Fourth Geneva Convention and the International Covenant on Civil and Political Rights. They called upon the Security Council to take resolute action to prevent such attempts and declare them illegal, null and void. The Council should consider measures for the protection of the Palestinian civilian population under Israeli occupation and call upon all States not to provide Israel with any assistance to be used specifically in connection with settlements in the occupied territories. The speaker concluded by saying that it was high time that the Council got actively involved in the efforts to find a peaceful and just solution to the Middle East crisis.¹¹¹

The representative of the Ukrainian Soviet Socialist Republic stated his concern regarding the propaganda campaign being waged in certain circles around the growing emigration of Jewish persons from the Soviet Union, in particular the Ukrainian Soviet Socialist Republic, to Israel. He charged that Israel was exploiting the Jewish immigration for its aggressive and expansionist plans, with the intention of sabotaging the peace negotiations. The speaker stated that the main problem was the illegal settling in Palestinian territories, regardless of whether it was by compulsion or voluntary. He appealed to Israel to support the convening of an international conference with the equal participation of the PLO, and called upon the Council to take a decision that would halt Israel's practice of settlements.¹¹²

At the 2915th meeting, on 29 March 1990, the representative of France reaffirmed that his delegation considered illegal the settlements in the occupied territories and called upon Israel to respect its obligations under the Fourth Geneva Convention. He said that the proposals made by Israeli authorities in the past weeks, including their call for increased Jewish settlement, failed to create the climate of confidence essential for any progress towards a peaceful settlement of the Arab-Israeli conflict. An international peace conference, with the participation of all parties concerned, was the most appropriate framework for direct negotiations among the parties.¹¹³

The representative of the United Kingdom stated that Israel had been settling its citizens in the occupied territories for nearly a quarter of a century, in violation

¹⁰⁸ S/PV.2912, pp. 6-14.

¹⁰⁹ Ibid., pp. 36-46.

¹¹⁰ Ibid., pp. 56-58.

¹¹¹ S/PV.2914, pp. 3-9.

¹¹² Ibid., pp. 23-30.

¹¹³ S/PV.2915, pp. 7-10.

of the Fourth Geneva Convention and the resolutions of the Security Council and the General Assembly. The problem was being aggravated by the arrival of Soviet Jews in the occupied territories. Welcoming the liberalization of Soviet emigration controls, the speaker however stated that the freedom of Soviet Jews to emigrate to Israel should not be made at the expense of the rights, homes and land of the Palestinian people. He pointed out that the settling of those Jews was not only illegal but also politically misguided because it threatened the peace process. Noting that the past 18 months had seen some positive developments, he called upon the Government of Israel not to jeopardize the prospects of peace by either allowing or encouraging Jewish immigrants to settle in the occupied territories.¹¹⁴

On 12 April 1990, a draft resolution in provisional form, sponsored by Colombia, Côte d'Ivoire, Cuba, Democratic Yemen, Ethiopia, Malaysia and Zaire, was circulated among the members of the Council.¹¹⁵ In the preambular part of the draft resolution, the Council would have expressed awareness of the immigration of Jews to Israel and concern regarding Israeli statements about settling them in the occupied territories. It would have recalled General Assembly resolution 194 (III), which had stipulated that the Palestinian refugees wishing to return to their homes should be permitted to do so, and that compensation should be paid for the property of those choosing not to return. Under the operative part, the Council would have, *inter alia*, considered that the policies and practices of Israel of settling parts of its civilian population and new immigrants in the occupied territories were violations of the rights of the Palestinian people and the population of the other occupied Arab territories; called upon Israel to desist from such practices or any other action to alter the physical character and demographic composition of those territories; and called upon all States not to provide Israel with any assistance to be used in connection with settlements.

By a letter dated 23 April 1990,¹¹⁶ the observer of Palestine brought to the attention of the Secretary-General that, on 11 April 1990, a group of Israelis had moved into a property belonging to the Greek Orthodox Patriarchate in Jerusalem. Consequently,

Palestinians had demonstrated in protest and the Israeli police had used force to disperse the procession, resulting in the assault on the Patriarch. In a further letter dated 27 April 1990,¹¹⁷ the observer also brought to the attention of the Secretary-General that, on 26 April 1990, the Israeli army had opened fire on Palestinian civilians in the occupied territories, resulting in the killing of five persons and the wounding of hundreds.

At the 2920th meeting, on 3 May 1990, the representative of Greece expressed concern at the events that had taken place in the Christian Quarter of East Jerusalem, where settlers had occupied the St. John Hospice, owned by the Greek Orthodox Patriarchate of Jerusalem and situated in the heart of the Christian Quarter of the Old City. He informed the Council that his Government had asked for the immediate eviction of the settlers. He also shared the Secretary-General's view on the involvement of some Israeli officials in the financial transactions that had led to the move of Jewish settlers to the Christian Quarter.¹¹⁸

The representative of Palestine said that what prompted an immediate request that the Council should continue considering the situation was the alarming news that Israeli troops had confined 120,000 Palestinians to their homes, sealing off half of the West Bank to prevent violence at a so-called religious seminary established by Israeli settlers in Nablus. The speaker also recalled that a number of memorandums had been submitted to the President of the Council about the incidents that took place during the Holy Week against the property of the Patriarchate in Jerusalem. Those last two incidents were an indicator that the illegal occupation was turning into a holy war. The speaker noted that those settlements could not have been established if they had not been provided for financially. In this regard, he warned that the new loan for housing provided by the United States on the guarantee that it would not be used to establish settlements in the occupied territories might still be misused. The Palestinian people demanded the establishment of an effective United Nations presence to monitor events such as those that had occurred in the Jabalya refugee camp, where Palestinians had been killed recently by Israeli soldiers. Reminding the

¹¹⁴ *Ibid.*, pp. 11-12.

¹¹⁵ S/21247; the draft resolution was not put to the vote.

¹¹⁶ S/21267.

¹¹⁷ S/21276.

¹¹⁸ S/PV.2920, pp. 7-11.

Council that it had before it a draft text that had been circulating for weeks, without being put to the vote, he asked what prevented the Council from taking effective action against Israel.¹¹⁹

The representative of Egypt pointed out that the Council had been convened to consider the recent developments, before it had concluded consultations on the draft resolution regarding Israel's settlement of immigrants in the occupied territories. Egypt condemned the acquisition by force of the Greek Orthodox Patriarchate's premises in Jerusalem, the violence employed against the Patriarch, and the role of the Government of Israel in that action. The speaker stressed that the international community had repeatedly emphasized that the status of the Arab city of Al-Quds Al-Sharif must not be violated or unilaterally modified. By the same token, rules of international law should be scrupulously observed, as should United Nations resolutions, particularly Security Council resolutions 242 (1967), 267 (1969) and 465 (1980), which considered East Jerusalem an integral part of the occupied Arab territories. This continued to be the firm position of the Government of Egypt and this policy was unalterable. Finally, the speaker called upon the Council to unanimously adopt an objective and decisive resolution commensurate with the issue.¹²⁰

**Decision of 31 May 1990 (2926th meeting):
rejection of a draft resolution**

By a letter dated 21 May 1990 addressed to the President of the Security Council,¹²¹ the representative of Bahrain, in his capacity as Chairman of the Group of Arab States, requested the convening of an immediate meeting of the Council to consider "the crime of collective murder committed by Israel against the Palestinian people".¹²²

At its 2923rd meeting, held on 25 and 26 May 1990 at Geneva, the Council included the letter in its agenda. The Council considered the item at its 2923rd and 2926th meetings, on 25, 26 and 31 May 1990.

Following the adoption of the agenda, the Council invited the following, at their request, to participate in the discussion without the right to vote: the representatives of Bahrain, Bangladesh, Egypt, Gabon, India, the Islamic Republic of Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Morocco, Qatar, Saudi Arabia, Sri Lanka, the Syrian Arab Republic, Tunisia, Turkey, the United Arab Emirates and Yugoslavia. It also decided to extend an invitation, under rule 39 of its provisional rules of procedure, to the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People; to Mr. Clovis Maksoud, Permanent Observer of the League of Arab States; and to Mr. Nabil T. Maarouf, Assistant Secretary-General for Palestine and Al-Quds of the Organization of the Islamic Conference. At the 2926th meeting, the Council invited the representatives of Japan and Pakistan, at their request, to participate in the discussion without the right to vote.

At the 2923rd meeting, the Council also decided, by 11 votes to 1 (United States), with 3 abstentions (Canada, France, United Kingdom), to invite Mr. Yasser Arafat, Chairman of the Executive Committee of the Palestine Liberation Organization, at the request of the observer of Palestine, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.¹²³

At the 2923rd meeting, the President of the Council (Finland) drew the attention of the members of the Council to several documents.¹²⁴

The representative of Palestine, Mr. Yasser Arafat, stated that the request for the convening of an urgent meeting stemmed from the realization that the situation had reached an extremely dangerous point. The "massacre" perpetrated by the Israeli forces against Palestinian workers had been followed by the killing of more than 25 Palestinians and the injury of 2,000 more in the West Bank, the Gaza Strip and Jerusalem in the past five days. The speaker asserted that it was not the insanity of an individual that was responsible for the "Black Sunday massacre", as Israeli

¹¹⁹ Ibid., pp. 13-30.

¹²⁰ Ibid., pp. 31-37.

¹²¹ S/21300.

¹²² Following consultations with the members of the Security Council concerning the request of the representative of Bahrain to hold an immediate meeting of the Council, the President set the first meeting on the matter at the United Nations Office at Geneva (S/21309).

¹²³ For the statement by the representative of the United States, see S/PV.2923, pp. 3-6. See also chapter III, case 6.

¹²⁴ Letters addressed to the Secretary-General by the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (S/21303); the representative of Saudi Arabia (S/21307); and the observer of Palestine (S/21308).

officials had claimed, but the insanity of a system haunted by illusions of racial superiority and an obsession with expansion for a "Greater Israel". He then gave an account of the sufferings of the Palestinian people over the past 30 months. Pointing out that Israel, although established by a decision of the United Nations, was the only State which ignored and challenged United Nations resolutions and which did not commit itself to implementing them, and warning that through its practices, threats and war, it was leading the Middle East to an unprecedented catastrophe given its stockpile of nuclear, chemical and biological weapons and threatened international peace and security, he urged the Security Council, in particular its permanent members, to shoulder its responsibility and implement United Nations resolutions relating to the Arab-Israeli conflict before it was too late. The speaker regretted what he saw as the unlimited support of the United States for Israel which impeded all peace initiatives in the Middle East, including the United States proposals themselves. He stated that the PLO, whose peace initiative had received the support of the peace-loving forces inside Israeli society and had been positively received among Jewish groups abroad, remained flexible towards international initiatives, including the five-point plan of the United States. He concluded by suggesting the following measures. First, the designation by the Secretary-General of a permanent special envoy to work on the peace process; second, the adoption by the Council of a resolution to provide international protection to Palestinians and to supplement the United Nations observer force stationed in Jerusalem; third, the adoption by the Council of a resolution to stop immigration to the occupied territories; fourth, an immediate meeting of the permanent members of the Council to prepare for the convening of the international peace conference on the Middle East; and fifth, the imposition of sanctions on Israel in accordance with Chapter VII of the Charter of the United Nations. Finally, the Council should form a committee composed of its members to investigate Israel's crimes against humanity.¹²⁵

The representative of Bahrain, speaking on behalf of the Group of Arab States, praised the Council's readiness to hear all views, in particular those of the President of Palestine. Hoping that there would be no other obstacles to working at United Nations

¹²⁵ S/PV.2923, pp. 9-35.

Headquarters, leading to another transfer of the Council's meetings, he appealed to the United States to respect its commitments as a host State. Stating that the situation in the occupied territories had worsened as a result of the practices of the Israeli authorities and the suppression of the intifada, he referred to international reports which confirmed that 700 Palestinians had been killed in the first two years of the intifada, 25,000 wounded since 1987 and 5,000 arrested. He believed that the only way to deal with the current situation was by adopting a strong resolution condemning Israeli's acts and sending international peacekeeping forces to protect the population in the occupied Palestinian Arab territories.¹²⁶

The representative of Jordan appealed to the Council to react favourably to the requests made by the President of Palestine, Yasser Arafat, regarding the measures to be taken to protect Palestinians. He expressed regrets and frustration over the fact that each time the Council met to consider the situation in the occupied Arab territories it was because of grave events taking place in that region, whereas in recent times there had been increasing number of Council meetings devoted to the positive evolution of the situation in other parts of the world. The event that led the Council to meet again was the result of a growing extremism, which was fed by the policies of the Israeli leadership. He held that any responsible body would demand that sanctions be imposed on Israel, which spared no effort to kill any peace initiative. The speaker hoped that the Council would take the necessary measures to ensure international protection of the Palestinian people and send an international fact-finding mission to Israel and the occupied territories to investigate the events in question in order to take the necessary measures to see that Israel abided by the relevant international conventions, including the Fourth Geneva Convention.¹²⁷

The representative of the United Kingdom expressed concern at the murder of Palestinians by an Israeli civilian and at the response of the Government of Israel to the spontaneous demonstrations by Palestinians provoked by that incident. He, however, noted that the due process of law against the civilian had already begun in Israel. He pointed out the bankruptcy of the policy of the status quo, and

¹²⁶ *Ibid.*, pp. 36-51.

¹²⁷ *Ibid.*, pp. 51-62.

regretted that Israel, where a political crisis had frozen all movement since mid-March, was unable to proceed on the basis of the five points proposed by the United States. It was essential that a dialogue start between Israel and a credible and genuinely representative Palestinian delegation, followed by an international conference to reach a settlement on the basis of land for peace, security for Israel, and self-determination for the Palestinians. The United Kingdom was ready to look at proposals for further United Nations involvement in the region. The speaker called upon Israel to exercise the utmost restraint in the occupied territories and to move rapidly towards the creation of a Government able and determined to take the peace process forward.¹²⁸

The representative of Israel objected to the convening of the Council on four grounds. First, it was convened to retard peace and security and to inflame passions and to incite violence, as revealed by the different attitudes of Israel and the Arabs to the attacks on Jews. Where Jews had been killed, Israel had called for restraint whereas the PLO and most Arab capitals had hailed the killers. Second, it was an attempt to violate international law and to encroach on Israel's rights and duties under the Fourth Geneva Convention as the responsible governing Power in the territories. The speaker said that there had never been a call for the convening of the Council when violence had broken out in other countries and put down. It appeared to him that Israel was judged by a unique standard. He maintained that there was no need for additional observers to the most reported and monitored area of the world. He further pointed out that sending observers to protect the civilian population in internal disputes, or in what were termed occupied territories, had no precedent. Third, it was a springboard for total war on Jewish immigration, a war that had begun in 1922, against Israel's very existence and its right, like any other sovereign nation, to accept people. The recent call of the PLO for the right to return meant the flooding of Jaffa, Acre, Tel Aviv and Jerusalem with Palestinians in order to bring about Israel's dissolution. Fourth, it was a prelude to an Arab summit that would meet the following week in Baghdad to discuss war against Israel. The speaker reiterated Israel's commitment to peace and recalled its plan, the components of which were non-belligerency pacts between Israel and the Arab States, free elections, the

¹²⁸ Ibid., pp. 62-66.

rehabilitation of refugee camps and a period of autonomy followed by negotiations over the final status of the territories of Judea, Samaria and Gaza.¹²⁹

The representative of the Union of Soviet Socialist Republics stated that the decision of the Council to hold the meeting at Geneva testified to its desire to hear the representatives of all concerned parties, including the leader of the Palestine Liberation Organization, which he qualified as the sole, legitimate representative of the Palestinian people. He agreed that the Israeli who had opened fire on unarmed workers could be called a madman, but questioned the rightfulness of the orders of Israeli generals to fire on defenceless civilians. Expressing concern at the escalation of violence, he supported the establishment of a team of international observers that could subsequently be converted into a permanent standing body.¹³⁰

Referring to the issue of Israeli settlement of Jewish immigrants under the Council's consideration since March, the representative of China stated that it was unfortunate that, before the Council could wind up its deliberation on a draft resolution on this issue, a tragedy had occurred in which more than a dozen peaceful Palestinian labourers in the occupied territories were killed in a single day. He wanted to put on record the strong condemnation of his Government for the criminal acts of the Israeli authorities who instead of protecting the population slaughtered it. He warned that, if Israel did not change its erroneous policy, the situation would threaten peace and security in the Middle East and the world. The international community should take effective steps to bring pressure on Israel, which had obstinately refused to hold any dialogue with the PLO and had rejected the international peace conference. The speaker expressed disappointment about the failure of the Council to play its expected role with regard to the Middle East issue and stated that the Council should do something "tangible".¹³¹

The representative of France described the meeting of the Council at Geneva with the participation of the PLO leader as exceptional. This meant that its members had realized that the situation had reached a degree of tension demanding urgent

¹²⁹ Ibid., pp. 77-98.

¹³⁰ Ibid., pp. 104-112.

¹³¹ Ibid., pp. 112-117.

action. He observed that at the origin of the latest tragedy lay an Israeli's act of madness, leading to violent demonstrations against which the Israeli army reacted harshly. Drawing attention to the months-long paralysis in the peace process, due to the crisis in the Government of Israel, he appealed to the Council to call upon Israel, in the strongest possible terms, to respect its obligations under the Fourth Geneva Convention. But he added that the Council should do more and consider some of the proposals made by Mr. Yasser Arafat. He supported the sending as soon as possible of a United Nations fact-finding mission to the territories for the emplacement of United Nations observers.¹³²

The representative of Senegal, speaking in her capacity as Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, said that the Committee's view was that the United Nations, and in particular the Security Council, should make Israel guarantee the safety of the Palestinian civilian population and join in the international consensus on the convening of an international peace conference. The Committee also trusted that the Council would adopt decisions in line with general opinion and that observers would be sent promptly to the occupied Palestinian territories to restore peace and security. That was the only position the Committee could take, for the Organization's credibility was at stake.¹³³

During the course of the debate some speakers supported the idea of sending United Nations forces and observers in the occupied territories.¹³⁴ One speaker supported the use of the Secretary-General's good offices.¹³⁵ A few speakers called upon the Council to impose sanctions on Israel.¹³⁶

Following a suspension, the meeting resumed on 26 May 1990. The representative of Egypt stated that the occupied territories were not the property of Israel, but the lands of the Palestinian people whose right to an independent State had been confirmed by General Assembly resolution 181 (II). Israel, which had been created in accordance with that resolution, destroyed

its very basis for existence by denying the same right to Palestinians. He held that the Fourth Geneva Convention did not confer upon Israel competence to govern the occupied territories, but entrusted it with certain powers on a provisional and exceptional basis. The speaker rejected the argument made by Israel that the international control and monitoring of those territories would be a violation of Israel's sovereignty or an interference in its internal affairs, on the grounds that all parties to the Convention were under obligation to ensure respect for it. He further stated that immigration and return were the two sides of the same coin and the establishment of new settlements was incompatible with United Nations decisions on the Palestinian refugees' right to return. He asked the Council to ensure the protection of the Palestinian people and expressed support for the establishment of a permanent United Nations presence in the occupied territories.¹³⁷

Speaking after a further suspension, Mr. Clovis Maksoud, Permanent Observer of the League of Arab States, deplored the attempt by the representative of Israel to pre-empt the results of the meeting and to exercise a "veto power" by rejecting any decision the Council would take. He stressed that the West Bank, Gaza and East Jerusalem were occupied territories and Israel was bound to abide by the Geneva Conventions. Yet Israel made a distinction between *de facto* and *de jure* compliance by maintaining that it chose to be bound only by certain aspects of the Conventions.¹³⁸

The representative of Lebanon feared that the Israeli State's practices were aimed at the total displacement of the Palestinian people. He asserted that it wanted to create "Greater Israel" by displacing the Palestinian people and settling thousands of them in Lebanon. He expected the Council to play its role and secure the implementation of its own resolutions in the Middle East, including Lebanon.¹³⁹

The meeting was suspended briefly to hold informal consultations in a separate room, following which the meeting resumed.

Before adjourning the meeting, the President informed the members of the Council that, as agreed in the consultations, informal consultations would be held

¹³² *Ibid.*, pp. 117-121.

¹³³ *Ibid.*, pp. 168-174.

¹³⁴ *Ibid.*, pp. 67-73 (Kuwait); pp. 98-103 (Malaysia); pp. 285-292 (Tunisia); pp. 306-310 (Turkey); and pp. 315-317 (Finland).

¹³⁵ *Ibid.*, pp. 122-125 (Canada).

¹³⁶ *Ibid.*, pp. 132-142 (Cuba); pp. 161-168 (Syrian Arab Republic); and pp. 202-211 (Iraq).

¹³⁷ *Ibid.*, pp. 216-226.

¹³⁸ *Ibid.*, pp. 246-265.

¹³⁹ *Ibid.*, pp. 296-306.

at United Nations Headquarters in New York on Tuesday, 29 May 1990.

At the 2926th meeting, on 31 May 1990, the President drew the attention of the Council to a draft resolution submitted by Colombia, Côte d'Ivoire, Cuba, Ethiopia, Malaysia, Yemen, and Zaire.¹⁴⁰ Under the preambular part of the draft resolution, the Council would have reaffirmed the applicability of the Fourth Geneva Convention to the territories occupied since 1967. Under the operative part, the Council would have established a commission consisting of three members of the Council, to be dispatched immediately to examine the situation relating to the policies and practices of Israel in the Palestinian territories including Jerusalem; requested the commission to submit its report to the Council by 20 June 1990, containing recommendations on ways and means for ensuring the safety and protection of Palestinians; and also requested the Secretary-General to provide the commission with the necessary facilities to enable it to carry out its mission.

The President also drew the attention of the members of the Council to several other documents.¹⁴¹

The representative of Israel observed that, with the exception of one or two representatives, all the members of the Security Council who had spoken so far had called only on Israel to act with restraint. None of them had called on the Palestinians to cease rioting or on the PLO to cease its acts of terror. By containing such violence, Israel had only exercised its legal obligation to uphold public order. If Israel were to be labelled an "occupying Power", then it was the exclusive legal authority in the territories under the Fourth Geneva Convention, and would therefore not accept the appointment of a commission to examine the situation. The speaker concluded by urging the members of the Council to vote against the draft resolution.¹⁴²

Following a brief suspension of the meeting, the President put the draft resolution to the vote. It received 14 votes in favour and 1 against (United

States), and was not adopted, owing to the negative vote of a permanent member of the Council.

Speaking in explanation of vote, the representative of the United States said his Government would support practical steps that responded to the spiral of troubling events, but such steps should not set back the effort to move forward on the peace process. While the United States continued to support the dispatching of a special envoy of the Secretary-General to look at the situation, it could not support the draft resolution, because it promoted a different vehicle that could be misused to generate more controversy in the region. What was really essential for the peace process was an endeavour to be undertaken by the parties themselves.¹⁴³

The representative of Palestine regretted that one permanent member invoked its arbitrary powers to deny the Council its responsibilities and the ability to carry out its tasks in response to an alarming situation. By casting a negative vote, the United States made clear that it was against the Council's commissioning of a delegation to examine the situation and report to it; a practical step that would ensure the safety and protection of the Palestinian civilians. He hoped that the Government of the United States would eventually realize that it was obligated by the Charter of the United Nations to permit the Council to discharge its duties in an equitable way. Despite the rejection of the draft resolution, the speaker assured the Council that the Palestinian people would still recognize it as their last resort.¹⁴⁴

The representative of the Union of Soviet Socialist Republics regretted that the members of the Council had been unable to convince the representative of the United States not to block the totally non-confrontational, balanced, moderate and logical draft resolution. In his opinion, the occupied Palestinian territories were territories in which innocent people were dying. It was the duty of the Council to clarify why that was taking place and to decide on what had to be done. It was therefore totally incomprehensible why the Council should be deprived of studying the state of affairs on site.¹⁴⁵

The representative of Cuba stressed that the Council, which once again was prevented from

¹⁴⁰ S/21326. The draft resolution was not adopted, owing to the negative vote of a permanent member.

¹⁴¹ Letters addressed to the Secretary-General by the observer of Palestine (S/21321); and the representatives of Madagascar (S/21322); Saudi Arabia (S/21327); and the Soviet Union (S/21335).

¹⁴² S/PV.2926, pp. 8-18.

¹⁴³ *Ibid.*, pp. 36-38.

¹⁴⁴ *Ibid.*, pp. 38-45.

¹⁴⁵ *Ibid.*, p. 46.

performing its functions under the Charter, still had the obligation to put an end to the situation. The Council was not created to impose anyone's view, but to make it possible for the United Nations to respond swiftly and effectively on everyone's behalf.¹⁴⁶

The representative of Yemen interpreted the negative vote cast by the United States as a vote of no confidence in the Council. Maintaining that the item was not closed, he called upon the United States to change its attitude and to respond to the wishes of the other 14 members.¹⁴⁷

Decision of 19 June 1990: statement by the President

On 19 June 1990, following consultations, the President of the Security Council issued the following statement on behalf of the members of the Council:¹⁴⁸

The members of the Council strongly deplore the incident which occurred on 12 June 1990 in a clinic belonging to the United Nations Relief and Works Agency for Palestine Refugees in the Near East, located near Shati' camp in Gaza, in which several innocent Palestinian women and children were wounded by a tear-gas grenade thrown by an Israeli officer.

They are dismayed to find that the penalty imposed on that officer has been commuted.

They reaffirm that the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, is applicable to the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, and request the High Contracting Parties to ensure respect for the Convention.

The members of the Council call upon Israel to abide by its obligations under that Convention.

Decision of 13 October 1990 (2948th meeting): resolution 672 (1990)

By a letter dated 26 September 1990 addressed to the President of the Security Council,¹⁴⁹ the representative of Yemen requested an urgent meeting of the Council to consider the situation in the occupied Palestinian territory.

At its 2945th meeting, on 5 October 1990, the Council included the letter in its agenda. The Council

considered the item at its 2945th, 2946th, 2947th and 2948th meetings, on 5, 8, 9 and 12 October 1990.

Following the adoption of the agenda, the Council invited the representatives of Israel and the Libyan Arab Jamahiriya, at their request, to participate in the discussion without the right to vote. It also extended an invitation, under rule 39 of its provisional rules of procedure, to the delegation of the Committee on the Exercise of the Inalienable Rights of the Palestinian People. At the same meeting, the Council decided further, by 11 votes to 1 (United States), with 3 abstentions (Canada, France, United Kingdom), to invite the Permanent Observer of Palestine, at his request, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.¹⁵⁰ At its subsequent meetings, the Council invited the following to participate: at the 2946th meeting, the representatives of Algeria, Jordan, Tunisia and Yugoslavia; at the 2947th meeting, the representatives of Bangladesh, Egypt, the Islamic Republic of Iran, Iraq, Kuwait, Mauritania, Morocco, Pakistan, Qatar, Saudi Arabia, the Syrian Arab Republic and the United Arab Emirates, and, under rule 39 of its provisional rules of procedure, Mr. Abdulmalek Ismail Mohamed, Office of the Permanent Observer of the League of Arab States; and, at the 2948th meeting, the representatives of India and Turkey.

At the 2945th meeting, the President (United Kingdom) drew the attention of the Council to a letter dated 19 September 1990 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the Secretary-General¹⁵¹ and to two letters, dated 21 and 24 September 1990, from the Permanent Observer of Palestine addressed to the Secretary-General.¹⁵²

The representative of Palestine recalled that the question of Palestine had existed since the establishment of the United Nations, which had adopted the resolution on partition in 1947. He pointed out that the Organization had committed itself to the implementation of the said resolution to establish Israel, but had not done so with respect to the Arab

¹⁴⁶ Ibid., pp. 46-50.

¹⁴⁷ Ibid., pp. 51-52.

¹⁴⁸ S/21363.

¹⁴⁹ S/21830.

¹⁵⁰ For the statement by the representative of the United States, see S/PV.2945, pp. 3-7. See also chapter III, case 6.

¹⁵¹ S/21802.

¹⁵² S/21809 and S/21813.

State of Palestine. As a matter of fact the Security Council had failed to protect the Palestinian people and to safeguard their national rights of independence and sovereignty. The United States by its veto had stopped the Council from deterring Israel's policies and had prevented the imposition of any sanctions on Israel. Meanwhile the tension had continued to escalate in the occupied territories. What had happened a few days ago was another massacre to add to the list. The speaker made it clear that, unless the question of Palestine was addressed in a serious and responsible manner, there would be no way to find a solution that would restore security and stability to the Middle East region. The speaker appealed to the members of the Council to have a single, universal standard for implementation that would be relevant to all resolutions. He also called on the Council to make every effort to implement its previous resolutions on the question of Palestine, to take the necessary measures to protect the Palestinian people and to put an end to the Israeli occupation.¹⁵³

The representative of Yemen acknowledged that the meeting was taking place at a time when the events in Gaza might not seem important in comparison with the crisis in the Gulf. Yet the events in question would test whether the Council could implement all its resolutions with the same diligence, enthusiasm and commitment. He cautioned that, if the Council did not act cohesively and consistently on all questions, it would be thought that there was a double standard. His delegation would, at a later time, submit a draft resolution on Israel's recent practices calling upon Israel to abide by the Geneva Convention and upon the Secretary-General to make an effort to protect the Palestinians.¹⁵⁴

The meeting was suspended.

Following the suspension, the representative of Israel praised the Council's decisive action against Iraqi aggression, but regretted that two dissenting members, one of whom had requested the current meeting at the urging of the PLO, had not taken part in the united response. In his view, the PLO had many motives for the convening of the emergency meeting. The first motive was to divert attention from the open alliance of the PLO with Iraq. The second was to convene the Council as a "primer" for the General

Assembly's debates on the Middle East to be held in November. The third was to sow division and disunity among the members of the international coalition mustered against the Iraqi aggression against Kuwait by pointing at Israel in order to make everyone, including the Arab States, forget the instantaneous support of the PLO for Iraq. The speaker maintained that the situation in the territories was more peaceful than at any other time since December 1987, and asserted that the calm was thanks to Israel's policy of restraint. Israel was doing everything in its power to create an atmosphere conducive to democratic elections and coexistence. He then gave his account of the events of 20 September 1990. He said that an Israeli civilian, called up for his reserve duty, was driving in a civilian car, dressed in civilian clothes when he took a wrong turn into El-Bureij refugee camp in Gaza and was killed by a lynch mob. In order to ensure that such lynchings did not occur again, the Israel Defense Forces had decided to expedite existing plans to broaden the road on which the incident occurred. Contrary to the PLO claim, that decision had not been an act of collective punishment. Also false were the PLO allegations that 200 houses were to be demolished. On the contrary, 26 stores and 7 residential buildings had been demolished, and their owners would receive full financial compensation for any loss. The speaker concluded by saying that the grave threat to international peace and security was Iraq and its weapons of mass destruction, not the situation in El-Bureij.¹⁵⁵

Mrs. Absa Claude Diallo, Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, noted that, since the beginning of the intifada, the Security Council had fallen short of ensuring protection for the Palestinians. She emphasized once again the primary responsibility of the Council and, in that regard, urged the Council to consider the question of Palestine with the same sense of urgency and determination as shown in the Gulf crisis and to set up an appropriate system for effective protection of the population in the occupied territories.¹⁵⁶ She also welcomed the statement of the Ministers for Foreign Affairs of the five permanent members of the Security Council¹⁵⁷ and hoped it would motivate the Council.

¹⁵³ S/PV.2945, pp. 8-16.

¹⁵⁴ *Ibid.*, pp. 16-25.

¹⁵⁵ *Ibid.*, pp. 26-41.

¹⁵⁶ *Ibid.*, pp. 42-50.

¹⁵⁷ S/21835, annex.

During the course of the debate, most of the speakers emphasized the need for a just and lasting negotiated solution based on Security Council resolutions 242 (1967) and 338 (1973) and called upon the Council to promote the convening of an international conference on the Middle East.¹⁵⁸ Many of them called upon the Council to take action to protect the Palestinians. In that regard, some supported the dispatching of a fact-finding mission made up of the members of the Council,¹⁵⁹ while others were in favour of the Secretary-General sending a mission to examine the situation in Jerusalem.¹⁶⁰ A few were in favour of the adoption by the Council of deterrent measures against Israel making implicit or explicit reference to Chapter VII of the Charter.¹⁶¹

At the 2946th meeting, on 8 October 1990, the President drew the attention of the Council members to a letter of the same date from the Permanent Observer of Palestine addressed to the President of the Security Council.¹⁶² The representative stated that the members of the Israeli Army had opened fire on Palestinians who were trying to prevent the aggression by a group of Israelis against Haram al-Sharif (Al-Aqsa Mosque) in Jerusalem, and called upon the Security Council to invoke the powers invested in it by the Charter to put an end to such criminal acts by the occupying Power, Israel. The President said that, as the resumption of the consideration of the item took place against the background of a profoundly shocking outbreak of violence in Jerusalem, he had agreed to the request of the Permanent Observer of Palestine and of Israel to speak again in the debate.¹⁶³

The representative of Palestine welcomed the Secretary-General's immediate expression of his concern over the eruption of violence in Jerusalem. He transmitted to the Council a message from the Palestinians in the occupied territory that Israel, using

the cover of the Gulf crisis, was, by building more settlements, beginning to implement its plan to take over Jerusalem. Regretting that the Council was ignoring the Palestinian people's plea for protection at a time when it was prepared to send troops to the Gulf region, the letter appealed for international intervention. Recalling that the United States had vetoed a draft resolution, submitted on 31 May 1990, calling for a fact-finding commission composed of the members of the Council, he stated that the Palestinian people would like to see the Council react as resolutely as in other cases with respect to the carrying out of its decisions. He called once again for the immediate dispatch by the Council of a commission to investigate the events in Jerusalem.¹⁶⁴

The representative of Israel stated that the attack perpetrated against Jewish worshippers who were converging on the Western Wall on the occasion of the holy Day of Tabernacles was premeditated. The discovery of stores of rocks and flammable material at the scene and the fact that thousands of Arabs assembled on the Temple Mount on a Monday, which was not a day of Moslem mass worship, had left no doubt about it. He reminded the Council that the session had been convened prior to this latest development, during a long period of calm in the territories. Arguing that this incident would profit only the PLO and Saddam Hussein, he warned against the exploitation of the Council as a forum for incitement.¹⁶⁵

The representative of the Union of Soviet Socialist Republics stated that the Council should express its unconditional condemnation of the situation and take swift and firm measures in connection with it. Drawing the attention of the Council to the joint statement made on 28 September 1990 by the Ministers for Foreign Affairs of the five permanent members,¹⁶⁶ he said that his Government regarded the immediate achievement of a comprehensive, just and lasting peace as the final objective of a settlement.¹⁶⁷

The representative of China appealed to the Security Council to take immediate action to protect, in a practical manner, the life and property of the Palestinian residents in the occupied territory. He

¹⁵⁸ S/PV.2946, pp. 48-50 (Canada); pp. 66-73 (Jordan); S/PV.2947, pp. 11-13 (Zaire); pp. 17-23 (Tunisia); pp. 41-43 (Bangladesh); and pp. 51-56 (Pakistan); and S/PV.2948 (India), pp. 16-23.

¹⁵⁹ S/PV.2947, pp. 11-13 (Zaire); pp. 33-37 (Syrian Arab Republic); and pp. 51-56 (Pakistan).

¹⁶⁰ *Ibid.*, pp. 13-17 (Egypt); S/PV.2948, pp. 7-12 (Qatar); and pp. 13-17 (Morocco).

¹⁶¹ S/PV.2946, pp. 37-42 (Malaysia); S/PV.2947, pp. 43-46 (Islamic Republic of Iran); and S/PV.2948, pp. 4-7 (United Arab Emirates).

¹⁶² S/21850.

¹⁶³ S/PV.2946, p. 6.

¹⁶⁴ *Ibid.*, pp. 6-10.

¹⁶⁵ *Ibid.*, pp. 12-17.

¹⁶⁶ S/21835, annex.

¹⁶⁷ S/PV.2946, pp. 29-33.

hoped that the Council's recent unanimity and effectiveness would provide new opportunities for the peace process in the Middle East. Asserting that a political settlement should provide for Israel's withdrawal from all occupied territories, mutual recognition of the State of Palestine and the State of Israel, and peaceful coexistence between the Arab and Jewish peoples, he supported the convening of an international conference.¹⁶⁸

The representative of France said that the Council could not remain passive, given the seriousness of the situation in Jerusalem. It was important that the Council had urgent access to on-the-spot information in order to enable the international community to take a position on the ways and means of ensuring effective protection for the Palestinian people. The French delegation was prepared to consider any proposal along those lines. The Council should also urge Israel to respect fully the Fourth Geneva Convention. The proposed international conference continued to be the best approach for a comprehensive settlement.¹⁶⁹

The representative of Romania shared the view that the Council should assume its responsibility in promoting and defending world peace by ensuring the implementation of pertinent resolutions of the General Assembly and the Council itself. He supported the exercise of the good offices of the Secretary-General and hoped that the Council would identify constructive consensus solutions that could receive the full cooperation of all the parties to the conflict.¹⁷⁰

The representative of Algeria, speaking on behalf of the States of the Arab Maghreb Union,¹⁷¹ said that the convening of the Council was necessary in order to show that the crisis in the Gulf could not be used as a pretext to give Israel a free hand. It was now up to the Council, in its new-found unanimity, to demonstrate that its diligence and firmness was not selective and would be evident in every situation where universally accepted principles should be defended or legitimate rights restored. Having inaugurated a new attitude by resorting for the first time to the provisions of Chapter VII of the Charter of the United Nations, the Council could no longer do less for the Palestinian people. A

draft resolution that would soon be presented to the Council advocated simple and non-controversial action by the United Nations to protect Palestinians. The Council's attitude towards that draft was at stake.¹⁷²

The representative of Yugoslavia, speaking also in his capacity as the Chairman of the Movement of Non-Aligned Countries, drew the attention of the Council to a statement adopted on 4 October 1990 by the Foreign Ministers of the Non-Aligned Countries. The statement emphasized that the prompt solution of the Gulf crisis should contribute to approaching the Arab-Israeli conflict with equal determination and urgency, and that it was the right time for the Council to take concrete and effective action to reactivate the peace process. A solution was only possible on the basis of the Palestinian people's right to self-determination, including the establishment of its own State; Israel's withdrawal from occupied territories; the right of all States in the region to live in peace and security within internationally recognized boundaries; and the Palestinian refugees' right to return. The Council should urgently proceed to prepare the convening of the international peace conference under the auspices of the United Nations, with the equal participation of all directly concerned parties, including the PLO, and the permanent members of the Council. Pending progress towards a political settlement, all necessary measures should immediately be taken to protect the Palestinian people in the occupied territories. The Council should take a resolute stand on the implementation of its resolutions and the provisions of the Fourth Geneva Convention.¹⁷³

At the 2947th meeting, on 9 October 1990, the representative of Kuwait, speaking on behalf of the Group of Arab States, said that the world should not stand powerless while Israel suppressed the unarmed Palestinian people and desecrated one of the holiest sites of Islam. He asked the Council to call upon Israel to desist forthwith from such practices and to provide full protection for all the Islamic Holy Places in Jerusalem, to send a fact-finding mission to the occupied Palestinian lands and report on them; and to provide international protection to the Palestinian people under occupation.¹⁷⁴

¹⁶⁸ Ibid., pp. 42-45.

¹⁶⁹ Ibid., pp. 46-47.

¹⁷⁰ Ibid., pp. 52-56.

¹⁷¹ Algeria, the Libyan Arab Jamahiriya, Mauritania, Morocco and Tunisia.

¹⁷² S/PV.2946, pp. 56-62.

¹⁷³ Ibid., pp. 62-66.

¹⁷⁴ S/PV.2947, pp. 6-10.

The representative of Iraq recalled that the United States and its allies, advocating international legitimacy and compliance with Security Council resolutions, had taken unprecedented measures against Iraq by enforcing sanctions under Chapter VII of the Charter of the United Nations and mobilizing military forces in the region. He contrasted that with the case of Israel.¹⁷⁵

On the same day, the representatives of Colombia, Côte d'Ivoire, Cuba, Ethiopia, Malaysia, Yemen and Zaire submitted a draft resolution sponsored by their delegations.¹⁷⁶ Under the preambular part of the draft resolution, the Council would have reaffirmed the applicability of the Geneva Convention to the occupied Arab territories including Jerusalem. Under the operative part, the Council would have decided to establish a commission consisting of three of its members to be dispatched immediately to examine the situation in Jerusalem; requested the commission to submit its report to the Council by 20 October 1990, containing recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation; and asked the Secretary-General to provide the commission with the necessary facilities for carrying out its mission.

At the 2948th meeting, on 12 October 1990, the President drew the attention of the members to a draft resolution submitted by Canada and the United Kingdom of Great Britain and Northern Ireland, and sponsored also by Côte d'Ivoire, Finland, France, the Union of Soviet Socialist Republics and Zaire.¹⁷⁷ He also drew the attention of the members to several other documents.¹⁷⁸

The representative of Palestine expressed discontent at the way the United States had acted in attempting to block a rapid agreement in the Council and in exerting pressure to prevent the adoption of the kind of resolution warranted by the situation. Palestine was dissatisfied with the inadequate draft resolution under consideration because it did not reflect the position expected from the Council in keeping with its

traditions and the Charter, and because the draft would not have the necessary positive impact required by the realities. This in spite of the fact that it was expected to be adopted unanimously, which in itself was a positive phenomenon if taken separately from the draft resolution. Palestine did not expect Israel to feel bound by the draft resolution, which would inevitably lead the Council to convene a further meeting to address the problem anew.¹⁷⁹

Before putting the draft resolution to the vote, as agreed in the Council's prior informal consultations, the President stated that he had been asked to clarify the meaning of the reference in the text to "the territories occupied by Israel since 1967". He said that it was his understanding that those words included Jerusalem.¹⁸⁰ In connection with the draft resolution, he made the following statement:¹⁸¹

In the informal consultations of members of the Council which led up to the consideration of this draft resolution, the Secretary-General explained that the purpose of the mission which he would be sending to the region would be to look into the circumstances surrounding the recent tragic events in Jerusalem and other similar developments in the occupied territories, and to submit by 24 October 1990 a report containing findings and recommendations to the Council on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation. He recalled, however, that under the Fourth Geneva Convention the principal responsibility for ensuring the protection of the Palestinians rested with the occupying Power, namely Israel.

The draft resolution was then put to the vote and was adopted unanimously as resolution 672 (1990), which reads:

The Security Council,

Recalling its resolutions 476 (1980) of 30 June 1980 and 478 (1980) of 20 August 1980,

Reaffirming that a just and lasting solution to the Arab-Israeli conflict must be based on its resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973 through an active negotiating process which takes into account the right to security for all States in the region, including Israel, as well as the legitimate political rights of the Palestinian people,

Taking into consideration the statement of the Secretary-General relative to the purpose of the mission he is sending to the region and conveyed to the Council by the President on 12 October 1990,

¹⁷⁵ Ibid., pp. 37-41.

¹⁷⁶ S/21851. The draft resolution was not put to the vote.

¹⁷⁷ S/21859.

¹⁷⁸ Letters addressed to the Secretary-General by the representatives of Japan (S/21855); Yugoslavia (S/21858); Qatar (S/21864); Kuwait (S/21867); the Soviet Union (S/21868); and Tunisia (S/21870).

¹⁷⁹ S/PV.2948, pp. 23-26.

¹⁸⁰ Ibid., pp. 26-27.

¹⁸¹ Ibid., p. 27.

1. *Expresses alarm* at the violence which took place on 8 October at the Haram al-Sharif and other Holy Places of Jerusalem resulting in over twenty Palestinian deaths and the injury of more than one hundred and fifty people, including Palestinian civilians and innocent worshippers;

2. *Condemns* especially the acts of violence committed by the Israeli security forces resulting in injuries and loss of human life;

3. *Calls upon* Israel, the occupying Power, to abide scrupulously by its legal obligations and responsibilities under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to all the territories occupied by Israel since 1967;

4. *Requests*, in connection with the decision of the Secretary-General to send a mission to the region, which the Council welcomes, that he submit a report to the Security Council, before the end of October 1990, containing his findings and conclusions and that he use as appropriate all of the resources of the United Nations in the region in carrying out the mission.

Following the vote, the representative of Cuba stated that he had voted in favour of the resolution for three reasons. First, to express solidarity with the PLO and the Palestinian people; second, because the Council had, after overcoming countless obstacles, been able to join its voice to the others; third, because there was really no other possibility. The Council could not fail to adopt such a text, despite the fact that it left much to be desired.¹⁸²

The representative of Malaysia stated that a number of important concessions had been made, especially by the non-aligned caucus, in order to arrive at a general agreement. However, Malaysia had supported the resolution to maintain the recent spirit of cooperation within the Council, and, above all, to enable the Council to move forward in a practical fashion in support of the effort of the Secretary-General to send a mission to the region. Malaysia's position on the resolution was that paragraph 3 included Jerusalem. It also understood that the Council would take seriously the findings and recommendations of the Secretary-General and act upon them immediately after the submission of the mission's report. The adoption of the resolution was a historic event for the Council, with the United States joining the other members of the Council for the first

¹⁸² Ibid., pp. 36-41.

time to condemn in clear terms the actions of the Israeli security forces.¹⁸³

The representative of Canada, referring to the compromises made by all members, said that there were no winners or losers in the Council after its adoption of a very significant resolution. The members of the Council would be put to test again when the Secretary-General submitted his report at the end of the month.¹⁸⁴

The representative of Zaire said he expected that report to contain recommendations about the measures the Council would take to protect the Palestinian people.¹⁸⁵

The representative of Colombia qualified the unanimous adoption of the resolution as a very important step which, he hoped, would be the beginning of a new phase in which a permanent member of the Council would commit itself to changing its traditional position. He pointed out that no link should be established between the situation created by the invasion of Kuwait and that experienced by the Palestinian people, since the two had different origins and developments. Yet, both were the result of violent occupation and a refusal to comply with Security Council resolutions. Any formula that solved the Iraq-Kuwait problem should take into account the problems of the Middle East, and of Palestine in particular.¹⁸⁶

The representative of the Union of Soviet Socialist Republics expressed the hope that the Council's consideration of the Secretary-General's report would enable it to adopt effective measures to protect the civilian population living in the occupied territories and to discuss ways and means to give immediate impetus to the process of a settlement in the Middle East.¹⁸⁷

The representative of the United States supported the resolution, which condemned both the provocative and reactive acts of violence, reaffirmed the obligations and responsibilities of the occupying Power under the Fourth Geneva Convention, and reaffirmed that a just and lasting solution to the Arab-Israeli conflict should be based on resolutions 242 (1967) and

¹⁸³ Ibid., pp. 41-43.

¹⁸⁴ Ibid., pp. 43-45.

¹⁸⁵ Ibid., pp. 46-47.

¹⁸⁶ Ibid., pp. 47-50.

¹⁸⁷ Ibid., pp. 51-52.

338 (1973). The resolution should not be misinterpreted, however. It did not empower the Council to address any subject beyond the matters directly contained in the resolution, which neither addressed the status of the Middle East peace process nor changed the role of the United Nations in that regard.¹⁸⁸

The President, speaking in his capacity as the representative of the United Kingdom, expressed satisfaction at the unanimous adoption of the resolution, a factor that would compensate for whatever imperfections might be found in the text. The resolution sent two strong signals. The first was a clear condemnation of the events of 8 October. The second was the request by the members of the Council that the Secretary-General help them find ways to improve the situation of the Palestinian people. The members would certainly not find it easy to deal with the recommendations of the Secretary-General, but they had made a good start with the resolution and would take the matter up promptly once they received the report.¹⁸⁹

The representative of Israel regretted that the resolution failed to condemn the unprovoked attack on Jewish worshippers, which was the cause of the tragic event in Jerusalem. It was also regrettable that the Security Council had fallen into the trap laid by Saddam Hussein and his PLO supporters who had incited the riots in order to divert attention from Iraq's aggression in the Gulf. Asserting that such a resolution could not contribute to the efforts to restore tranquillity, normalcy and peace, he hoped that the Arab extremists would not view it as an internationally sanctioned licence to further violence.¹⁹⁰

**Decision of 24 October 1990 (2949th meeting):
resolution 673 (1990)**

At its 2949th meeting, held on 24 October 1990 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation in the occupied Arab territories and the letter dated 26 September 1990 from the representative of Yemen to the President of the Security Council.¹⁹¹

In accordance with the decisions taken at the previous meetings on the item, the President renewed the previously issued invitations to participate. He also invited the representative of the Sudan, at his request, to participate in the discussion without the right to vote.

The President drew the attention of the members of the Council to a draft resolution submitted by Colombia, Cuba, Malaysia and Yemen.¹⁹² He also drew their attention to a letter dated 23 October 1990 from the sponsors of the draft resolution addressed to the President of the Council,¹⁹³ requesting the holding of a formal meeting of the Council to put the draft resolution to the vote.

The President also drew attention to several other documents,¹⁹⁴ including a letter dated 19 October 1990 addressed to the Secretary-General,¹⁹⁵ in which the observer of Palestine brought to his attention that the situation in the occupied Palestinian territory continued to deteriorate at an alarming pace. He requested immediate action by the Council, given the situation, Israel's rejection of Security Council resolution 672 (1990), and its refusal to receive the Secretary-General's mission.

In regard to the events which took place on 8 October at Haram al-Sharif, the representative of Israel told the Council that an independent commission of enquiry had been appointed to investigate the incident. Despite the fact that Israel regretted both the content and the tone of resolution 672 (1990), it had expressed its readiness to assist the Secretary-General in preparing the report requested by the Council. Yet, even according to the terms of reference of resolution 672 (1990), which referred to the Fourth Geneva Convention, Israel was the exclusive authority in the territory under its control, which included its capital, Jerusalem. The speaker contrasted the Council's condemnation of Israel with its inaction in the face of the actions by Syrian troops in Lebanon. He rejected the contention that Iraq's aggression against Kuwait

¹⁹² S/21893.

¹⁹³ S/21896.

¹⁹⁴ Letters addressed to the Secretary-General by the representatives of Greece (S/21873); Pakistan (S/21876); Italy (S/21877); Egypt (S/21881); Indonesia (S/21886); Kuwait (S/21897); and note verbale addressed to the Secretary-General by the representative of Morocco (S/21890).

¹⁹⁵ S/21888.

¹⁸⁸ *Ibid.*, pp. 53-55.

¹⁸⁹ *Ibid.*, pp. 57-58.

¹⁹⁰ *Ibid.*, pp. 58-59.

¹⁹¹ S/21830; included in the agenda at the 2945th meeting.

was comparable to the Arab-Israeli war of June 1967. Iraq had committed an unprovoked act of aggression expressly prohibited under Article 2 (4) of the Charter, while Israel had resorted to the use of force in lawful exercise of its inherent right to self-defence under Article 51. Iraq had invaded the territory of a recognized sovereign State, while Israel administered the territories of Judea, Samaria and the Gaza district, which were under no defined sovereignty. Security Council resolution 660 (1990), determining clearly and unequivocally that Iraq's invasion of Kuwait constituted a breach of international peace and security, applied Chapter VII of the Charter. By contrast, resolution 242 (1967) did not condemn Israel's use of force, but rather affirmed the right of every State in the area to "live in peace within secure and recognized boundaries". The resolution called for withdrawal from "territories", not from "the territories". Resolution 660 (1990), on the other hand, demanded that Iraq withdraw immediately and unconditionally from all the territory of Kuwait. While Israel had accepted resolutions 242 (1967) and 338 (1973), Iraq rejected every Security Council resolution relating to it. Moreover, resolution 242 (1967) set forth the guiding principles for all sides to follow. Israel was under no obligation to do anything unilaterally prior to the completion of negotiations.¹⁹⁶

The representative of Palestine noted the slow pace of the Council in dealing with the rejection by the Government of Israel of Council resolution 672 (1990) and its refusal to receive the mission of the Secretary-General. He drew certain conclusions from the situation. First, Israel was in flagrant violation of the Charter of the United Nations. The speaker hoped that the draft resolution would send a clear signal of the Council's intent. Second, the Council should not shirk its responsibilities by laying them at the door of any other party, even the Secretary-General. Third, when the Council considered the report containing the Secretary-General's recommendations and conclusions on the protection of the Palestinian people, it would have to adopt concrete measures. Tangible, physical measures, such as deploying a peace force in the occupied territories to observe the situation and report to the Council and the Secretary-General, were needed.¹⁹⁷

¹⁹⁶ S/PV.2949, pp. 6-25.

¹⁹⁷ *Ibid.*, pp. 26-35.

The representative of the Sudan stated that certain principles of justice and norms of international law should be kept in mind when dealing with the Israeli-Arab conflict. First, the city of Jerusalem was an integral part of the occupied Palestinian territories and the capital of the State of Palestine. Resolutions 476 (1980) and 478 (1980) had declared null and void the "basic law" of Israel designating Jerusalem as its capital. Second, the Fourth Geneva Convention applied to the occupied Arab territories. Third, the United Nations, represented by the Security Council, should support the Palestinian people in regaining its inalienable national rights, including the right to return, to self-determination, and to an independent State on its land under the leadership of PLO. Fourth, the Middle East would never know peace until Israel withdrew from all occupied territories and a comprehensive solution to the question of Palestine was reached through the convening of an international peace conference. Fifth, the Council should discharge its responsibilities in order to strengthen the principles of the United Nations and reinforce its credibility. In the light of Israel's defiance of resolution 672 (1990) and refusal to accept the Secretary-General's mission, he called upon the Council to impose sanctions on Israel under Chapter VII of the Charter.¹⁹⁸

The representative of the Syrian Arab Republic, responding to the representative of Israel, characterized the Israeli representative's accusations against the Syrian Arab Republic as paradoxical, and maintained that his country was doing its best to restore Lebanese legitimacy. Israel should immediately and unconditionally withdraw from southern Lebanon in accordance with United Nations resolutions, so that Lebanon could regain its sovereignty.¹⁹⁹

Speaking before the vote, the representative of Yemen said that Israel rejected Security Council resolution 672 (1990) despite the fact that the resolution, to a certain degree, took account of Israel's sensitivities and did not call for the establishment of a Security Council mission. In the resolution, the Council did not even make a direct request to the Secretary-General to send a mission, because Israel refused to have anything to do with Security Council resolutions. Instead, the Council discreetly welcomed

¹⁹⁸ *Ibid.*, pp. 35-40.

¹⁹⁹ *Ibid.*, pp. 41-43.

the Secretary-General's decision to send a mission and called upon him to submit a report.²⁰⁰

Quoting Article 24 (1) of the Charter of the United Nations, the representative of Zaire stated that the logical consequence of the responsibility that the Member States had conferred upon the Council under that Article could be seen in Article 25 of the Charter, which committed all Members of the United Nations to accept and carry out the decisions of the Council in accordance with the Charter. In this regard he deplored Israel's refusal to accept the Secretary-General's mission and called it an obstruction to the Council's due exercise of its functions of maintaining peace and security. Faced here with a question of principle in terms of the spirit and the provisions of the Charter, his delegation would vote in favour of the draft resolution and appealed to Israel not to continue to flout the most elementary rights of the Palestinian people and to accept the United Nations mission.²⁰¹

The representative of Malaysia said that the draft resolution on which the Council was about to vote would not be necessary but for Israel's rejection of resolution 672 (1990) and its refusal to receive the mission of the Secretary-General. The draft resolution underlined firmly the Council's insistence that all aspects of resolution 672 (1990) be fully complied with, and that Israel had to permit the mission of the Secretary-General to proceed. It was unacceptable that the unanimity of the Council should be made an issue, to the extent that it became an obstacle to correct action. Malaysia was convinced that the Council's position regarding Palestine and the occupied territories enjoyed the full support of the overwhelming majority of the States Members of the United Nations. The responsibility to address the problem of the safety and protection of the Palestinians lay entirely with the Council.²⁰²

The draft resolution was then put to the vote and adopted unanimously as resolution 673 (1990), which reads:

The Security Council,

Reaffirming the obligations of Member States under the Charter of the United Nations,

Reaffirming also its resolution 672 (1990) of 12 October 1990,

Having been briefed by the Secretary-General on 19 October 1990,

Expressing alarm at the rejection of resolution 672 (1990) by the Israeli Government, and its refusal to accept the mission of the Secretary-General,

Taking into consideration the statement of the Secretary-General relative to the purpose of the mission he is sending to the region and conveyed to the Council by the President on 12 October 1990,

Gravely concerned at the continued deterioration of the situation in the occupied territories,

1. *Deplores* the refusal of the Israeli Government to receive the mission of the Secretary-General to the region;
2. *Urges* the Israeli Government to reconsider its decision and insists that it comply fully with resolution 672 (1990) and permit the mission to proceed in keeping with its purpose;
3. *Requests* the Secretary-General to submit to the Security Council the report requested in resolution 672 (1990);
4. *Affirms* its determination to give full and expeditious consideration to the report.

Decisions of 20 December 1990 (2970th meeting): statement by the President and resolution 681 (1990)

On 1 November 1990, pursuant to paragraph 4 of resolution 672 (1990), the Secretary-General submitted to the Security Council a report,²⁰³ containing his findings about the events which took place in Jerusalem on 8 October 1990 and conclusions on the question of the protection of civilians in the occupied territories. The Secretary-General informed the Council that, owing to Israel's refusal to receive the mission, he had been unable to secure independent information, on the spot, about the circumstances surrounding the recent events in Jerusalem and similar developments in the West Bank and Gaza Strip. However, widespread coverage had been given by the international press, a number of inquiries conducted and a number of Israeli and Palestinian individuals and groups had expressed willingness to provide information to the Secretary-General's mission, had it been sent to the area. While there were conflicting opinions as to what had provoked the clashes, observers on the spot had stated that live ammunition was used against Palestinian

²⁰⁰ Ibid., pp. 43-48.

²⁰¹ Ibid., pp. 48-52.

²⁰² Ibid., pp. 52-53.

²⁰³ S/21919 and Corr.1 and Add.1-3.

civilians. On the issue of the protection of the Palestinian civilian population in the occupied territories, the message that was repeatedly conveyed to the Secretary-General by the Palestinians was that far more was required on the part of the international community. The overall feeling among the Palestinians was that only an impartial presence mandated by the United Nations would be able to protect them. In this regard attention had been drawn to the military observers stationed in Jerusalem, the United Nations Truce Supervision Organization (UNTSO). The Secretary-General recalled that he had sent a Personal Representative during June 1990 to the area to look into the question of protection in the occupied territories and to report back to him personally. On 13 July, in a statement to the Council, he had said that he intended to pursue his initiative with the Israeli authorities to persuade them to comply fully with their obligations under the Fourth Geneva Convention. The Israeli authorities had indicated at that time that they would be implementing new measures in the territories. Unfortunately he had not been able to follow up on the discussions. In his concluding observations, the Secretary-General pointed out that the cooperation of Israel was essential to the implementation of any measures of protection. He nevertheless suggested that the Council call for a meeting of the High Contracting Parties to the Fourth Geneva Convention to discuss possible measures under the Convention. With regard to the Palestinian appeals for a United Nations presence, he stressed that he did not have the competence to act on his own. This was a matter on which the Council would have to decide.

At its 2953rd meeting, on 7 November 1990, the Council included the report of the Secretary-General in its agenda. The Council considered the item at its 2953rd, 2954th, 2957th, 2965th to 2968th and 2970th meetings.

At the 2953rd meeting, the President (United States) drew the attention of the members of the Council to three letters addressed to the Secretary-General: letters dated 2 and 5 November 1990 from the observer of Palestine²⁰⁴ and a letter dated 30 October 1990 from the representative of Italy.²⁰⁵

The representative of Palestine, recalling that his delegation had previously objected to the Security

Council's shifting the burden of its responsibilities on to the shoulders of others, stated that it was inevitable that the Secretary-General would transfer the responsibility back to the Council without any direct recommendations. It was now up to the Council to make a full decision by choosing from the options available. The speaker derived four major conclusions from the Secretary-General's report. The first point was Israel's handling of Council resolutions 672 (1990) and 673 (1990) which was in blatant violation of the Charter of the United Nations, in particular Article 25, and of the requirements for membership in the Organization. He believed that the Council should take real action by using the enforcement measures under the Charter to oblige Israel to implement those resolutions. The second point concerned the situation in the occupied Palestinian territories and the suffering of the Palestinian people under Israeli occupation. The description in the report of the Israeli practices clearly demonstrated the need for the Council to act immediately to protect the Palestinian people. The third point concerned the applicability of the Fourth Geneva Convention to the occupied territories. On the one hand Israel rejected the de jure applicability of the Fourth Geneva Convention to the occupied territories, but on the other hand it presented itself as the Power responsible for the maintenance of law and order under the same Convention. The speaker called for the Council to instruct Israel to accept the de jure applicability of the Convention and supported the designation of an alternative protecting Power and the holding of a meeting of the High Contracting Parties to the Geneva Convention. The fourth point concerned the concrete and practical measures the Council should adopt to protect the Palestinian civilians. The speaker believed that the Council should deploy a United Nations observer force in the occupied Palestinian territory in order to secure the protection of civilians. But what the Palestinian delegation really wanted was for the Council to deploy an armed international emergency force to replace the Israeli forces in the occupied territories. Such action would permit the United Nations to supervise the transition period until a final settlement was reached, enabling the Palestinian people to exercise its right to self-determination and sovereignty. The fundamental task before the Council was to achieve a political settlement to the Middle East conflict by convening an international peace conference, under the auspices of the United Nations with the equal participation of the PLO. The Security

²⁰⁴ S/21926 and S/21928.

²⁰⁵ S/21920.

Council, particularly its permanent members, should undertake the necessary preparations. The Palestinian delegation was ready to cooperate fully to reach an agreement.²⁰⁶

The representative of Lebanon, speaking on behalf of the Arab Group, contrasted the immediate levying of sanctions against Iraq under Chapter VII of the Charter with the continuing impunity of Israel, despite the existence of over 100 resolutions and condemnations against it. Referring to the Secretary-General's report he welcomed his suggestion that the Council invoke the Fourth Geneva Convention against a State Member of the United Nations by calling a meeting of the Convention's signatories for the first time since the Convention came into force. He pointed out that the Secretary-General had made it clear that the Council had the authority to establish a protecting Power for the Palestinians. The Secretary-General's assessment was that only an impartial presence properly mandated by the United Nations could provide a credible sense of protection. He added that the Council was urged to consider the possibility of expanding the mandate of UNTSO, stationed in Jerusalem, or dispatching a new United Nations observer force to the occupied territories.²⁰⁷

The representative of Israel accused the Arab States of having continuously breached the Charter of the United Nations and the basic principles of international law vis-à-vis his country. More specifically he accused the Syrian Arab Republic, Lebanon, Jordan, Iraq and Saudi Arabia, among others, of breaching Article 2 (3 and 4) of the Charter. Turning to the report of the Secretary-General, he had to view with deep regret the suggestions made therein. He claimed that the provisions of the Fourth Geneva Convention regarding its application vis-à-vis a High Contracting Party dealt with the seizure by one Power of territory under the sovereignty of another Power. This could not be said to apply to the territories of Judea, Samaria and the Gaza district since they had been illegally occupied by Jordan. Therefore the attempt to impose the de jure application of the Convention was aimed at prejudicing unilaterally the political status of the territories in question. Israel could not accept the unprecedented idea of calling for a meeting of the High Contracting Parties. It had the sole

responsibility for the administration of the territories and it would not accommodate demands for deploying a United Nations observer force, expanding the mandates of the United Nations personnel, and all other attempts to infringe on its sovereignty and authority. Stating that in the case of the incident on the Temple Mount the Council had rushed to judgement without taking into account facts such as incitements by the muezzins through loudspeakers to attack Jewish worshippers at the Western Wall, the speaker informed the Council that the independent commission of inquiry appointed by his authorities had completed its investigations and that its conclusions were conveyed to the Secretary-General.²⁰⁸

The representative of Palestine rejected the allegation that appeals had been made by the muezzins to incite Palestinians to violence. He called upon the President to arrange for the showing of a videotape so that the Council would learn the real nature of those appeals.²⁰⁹

During the course of the debate, most of the speakers endorsed the Secretary-General's proposals contained in his report to call a meeting of the High Contracting Parties to the Fourth Geneva Convention and for a United Nations presence in the occupied territories to ensure effective protection for Palestinians, in ways ranging from establishing a monitoring mechanism to deploying international military observers, including the possibility of expanding the mandate of UNTSO in Jerusalem.²¹⁰ One speaker stated that Israel's withdrawal from the occupied territories should be brought about even through resort to Chapter VII of the Charter.²¹¹ Another called upon Israel to fulfil its obligations in accordance with Article 25 of the Charter.²¹²

At the 2954th meeting, on 9 November 1990, the representative of Yugoslavia, speaking also on behalf of the Movement of Non-Aligned Countries, stated that there was an urgent need to take specific action to ensure the safety and protection of Palestinian civilians

²⁰⁸ Ibid., pp. 46-56.

²⁰⁹ Ibid., pp. 56-57.

²¹⁰ S/PV.2953, pp. 32-45 (Jordan); S/PV.2954, pp. 36-48 (Algeria); S/PV.2957, pp. 3-10 (Tunisia); pp. 11-17 (Malaysia); pp. 17-21 (Colombia); pp. 21-27 (Libyan Arab Jamahiriya); pp. 28-32 (Organization of the Islamic Conference); and S/PV.2965, pp. 9-12 (China).

²¹¹ S/PV.2954, Algeria, pp. 36-48.

²¹² S/PV.2965, China, pp. 9-12.

²⁰⁶ S/PV.2953, pp. 6-22.

²⁰⁷ Ibid., pp. 22-32.

under Israeli occupation. The non-aligned countries expected the Council to take action in that regard. In their opinion a United Nations presence in the occupied territories would be the most effective to provide such protection and would be conducive to a lasting solution in the longer run.²¹³

The representative of Palestine said that the videotape he was about to show to the Council proved three things. First, the repression of Palestinians had no relation to the Israelis' claims that the lives of the praying Jewish faithful had been threatened. Second, the degree of brutality of the occupation forces could not be construed as mere self-defence or an attempt to control the situation. Third, what the muezzins and clerics had said through the loudspeakers were the exact opposite of what the Israeli representative had claimed.²¹⁴

Upon the request of the representative of Palestine, a videotape was displayed in the Council Chamber.²¹⁵

At the 2965th meeting, on 5 December 1990, the representative of the United Kingdom stated that the Fourth Geneva Convention applied to the occupied territories and that Israel should abide by its obligations under it, as had been reiterated in the declaration on the Middle East adopted by the European Council on 27 and 28 October 1990. Emphasizing the need to protect the Palestinian civilians, he said that the suggestion in the Secretary-General's report for a meeting of the High Contracting Parties to the Convention merited careful study. He felt that the prospect of such a meeting would send a strong signal to Israel. The Palestinian appeals for an impartial presence properly mandated by the United Nations needed to be given greater clarity before any decision could be taken. The speaker believed that whatever the steps the Council would take, they should be realistic. However, these measures could only be a temporary palliative. The Security Council must never lose sight of the need to find a solution to the Arab-Israeli problem as a whole. His Government reiterated its support for the principle of convening, at an appropriate time, an international peace conference.²¹⁶

²¹³ S/PV.2954, pp. 21-22.

²¹⁴ *Ibid.*, pp. 22-30.

²¹⁵ See S/PV.2954, pp. 31-40, for the audio portion of the tape.

²¹⁶ S/PV.2965, pp. 6-9.

The representative of Palestine called upon the Council to establish a permanent presence of the United Nations and its personnel in the occupied Palestinian territories to monitor the situation and submit periodic reports to the Council. That was the bare minimum the Council should undertake to provide international protection to the people of Palestine, so that they were not left with the only option available, namely the legitimate response of self-defence with all the means approved by international norms and instruments.²¹⁷

At the 2966th meeting, on 8 December 1990, the representative of the Union of Soviet Socialist Republics officially requested that the meeting be adjourned, in the interest of the Security Council reaching a decision. Following a procedural discussion, the proposal was put to vote and adopted by 9 votes in favour to 4 against (Colombia, Cuba, Malaysia, Yemen), with 2 abstentions (China, France).

The President, speaking in his capacity as the representative of Yemen, recalled that the first version of the draft resolution had been put before the Council on 8 November 1990²¹⁸ and the first amended version on 26 November 1990.²¹⁹ The Council now had before it the second amended version.²²⁰ The great difference between the first and the final version was a result of the spirit of cooperation and concession the sponsors of the draft resolution had displayed. He said that his delegation had insisted on mentioning Council resolutions 242 (1967) and 338 (1973), the occupation, and the entire crisis in all its aspects because the Council could not limit its consideration to the protection and safety of the Palestinians. He also stressed that he had no wish to link the crisis in the Gulf to the one in the Middle East. He called upon the big Powers, especially the United States and the Soviet Union, to work towards a solution.²²¹ After resuming his functions as President, and following three statements by representatives, of a largely procedural nature, the President adjourned the meeting.

At the 2967th meeting, on 10 December 1990, the President proposed suspending the meeting in order to

²¹⁷ *Ibid.*, pp. 17-25.

²¹⁸ S/21933. The draft resolution was not put to the vote.

²¹⁹ S/21933/Rev.1. The draft resolution was not put to the vote.

²²⁰ S/21933/Rev.2. The draft resolution was not put to the vote.

²²¹ S/PV.2966, pp. 21-22.

continue the informal consultations. The proposal was agreed to by consensus.

Upon the resumption of the meeting, the representative of the Union of Soviet Socialist Republics requested that the meeting be adjourned. The representative of Malaysia opposed the motion on the grounds that the new text submitted to the Council was a package agreement that went even further than the second revision, which, in the sponsors' opinion, could well have found agreement. The representative of the United States supported the motion on the grounds that further progress could be made in the Council's deliberations. The representative of the United Kingdom also supported the proposal. The proposal was put to the vote and adopted by 9 votes in favour to 4 against (Colombia, Cuba, Malaysia, Yemen), with 2 abstentions (China, France). The meeting was adjourned.

At the 2968th meeting, on 12 December 1990, the representative of the Union of Soviet Socialist Republics requested the adjournment of the meeting. Without debate, the request was put to the vote and adopted by 9 votes in favour to 4 against (Colombia, Cuba, Malaysia, Yemen), with 2 abstentions (China, France). The meeting was adjourned.

At the 2970th meeting, on 19 December 1990, the representative of Finland, in response to a request made by the representative of the United Kingdom, reported, in accordance with the agreement reached in informal consultations, that his delegation had tried to work towards a text that could be adopted unanimously by the Council. His delegation had been working on an arrangement that would include the adoption of both a resolution and a presidential statement. In that connection, it had circulated to the members of the Council a working paper, the contents of which were almost agreed, despite some remaining problems. One of the difficulties related to what wording should be used to describe the reference to the presidential statement in a preambular paragraph of the draft resolution. Other difficulties related to the last two paragraphs of the draft presidential statement and concerned the reference to an international conference and whether the word "parties" to such a conference should be used, as well as the inclusion or exclusion of a paragraph emphasizing that the Arab-Israeli conflict

and the Iraq-Kuwait situation should be addressed independently.²²²

The representative of the United Kingdom proposed that the meeting be suspended and that the Council immediately consider the report of the representative of Finland in informal consultations of the whole, without further delay. Following a procedural discussion, the request was put to the vote and adopted by 9 votes in favour to 6 against (China, Colombia, Cuba, France, Malaysia, Yemen). The meeting was suspended to a later date to be decided by the President.

At the resumed 2970th meeting, on 20 December 1990, the President drew the attention of the members to a draft resolution prepared in the course of the Council's consultations.²²³ He also drew attention to several other documents.²²⁴

The President then made the following statement on behalf of the members of the Security Council:²²⁵

The members of the Council reaffirm their determination to support an active negotiation process in which all relevant parties would participate leading to a comprehensive, just and lasting peace to the Arab-Israeli conflict through negotiations which should be based on Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973 and should take into account the right to security of all States in the region, including Israel, and the legitimate political rights of the Palestinian people.

In this context they agree that an international conference, at an appropriate time, properly structured, should facilitate efforts to achieve a negotiated settlement and lasting peace in the Arab-Israeli conflict.

However, they are of the view that there is not unanimity as to when would be the appropriate time for such a conference.

In the view of the members of the Council, the question of the Arab-Israeli conflict is important and unique and must be addressed independently, on its own merits.

Speaking before the vote on the draft resolution, the representative of Ethiopia said that he would vote in favour of the draft resolution because he believed

²²² S/PV.2970 (Part I), pp. 2-6.

²²³ S/22022.

²²⁴ Letters addressed to the Secretary-General by the representatives of Algeria (S/21995); Jordan (S/21999); and Egypt (S/22017); from the observer of Palestine (S/22003); and from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (S/22012).

²²⁵ S/22027.

that its adoption would contribute to the ultimate solution of the problem.²²⁶

The representative of France expressed regret at the persistent refusal of the Israeli authorities to receive the Secretary-General's mission. The draft resolution contained very reasonable provisions such as the reaffirmation of the de jure applicability of the Fourth Geneva Convention to all territories, including Jerusalem, the convening of a meeting of the High Contracting Parties to the Convention and the request to the Secretary-General to monitor the situation with the help of United Nations personnel and report to the Council. The speaker also welcomed the Council's recognition in the presidential statement of the need for an international conference to settle the Arab-Israeli conflict.²²⁷

The draft resolution was then put to the vote and adopted unanimously as resolution 681 (1990), which reads:

The Security Council,

Reaffirming the obligations of Member States under the Charter of the United Nations,

Reaffirming also the principle of the inadmissibility of the acquisition of territory by war, set forth in resolution 242 (1967) of 22 November 1967,

Having received the report of the Secretary-General submitted in accordance with resolution 672 (1990) of 12 October 1990 on ways and means of ensuring the safety and protection of the Palestinian civilians under Israeli occupation, and taking note in particular of paragraphs 20 to 26 thereof,

Taking note of the interest of the Secretary-General to visit and to send his envoy to pursue his initiative with the Israeli authorities, as indicated in paragraph 22 of his report, and of their recent invitation extended to him,

Gravely concerned at the dangerous deterioration of the situation in all the Palestinian territories occupied by Israel since 1967, including Jerusalem, and at the violence and rising tension in Israel,

Taking into consideration the statement made by the President of the Security Council on 20 December 1990 concerning the method and approach for a comprehensive, just and lasting peace in the Arab-Israeli conflict,

Recalling its resolutions 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989 and 641 (1989) of 30 August 1989, and alarmed by the decision of the Government of Israel to deport four Palestinians from the

occupied territories in contravention of its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

1. *Expresses its appreciation* to the Secretary-General for his report;

2. *Expresses its grave concern* over the rejection by Israel of its resolutions 672 (1990) of 12 October 1990 and 673 (1990) of 24 October 1990;

3. *Deplores* the decision by the Government of Israel, the occupying Power, to resume the deportation of Palestinian civilians in the occupied territories;

4. *Urges* the Government of Israel to accept the de jure applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to all the territories occupied by Israel since 1967 and to abide scrupulously by the provisions of the Convention;

5. *Calls upon* the High Contracting Parties to the said Convention to ensure respect by Israel, the occupying Power, for its obligations under the Convention in accordance with article 1 thereof;

6. *Requests* the Secretary-General, in cooperation with the International Committee of the Red Cross, to develop further the idea, expressed in his report, of convening a meeting of the High Contracting Parties to the said Convention and to discuss possible measures that might be taken by them under the Convention and, for this purpose, to invite the Parties to submit their views on how the idea could contribute to the goals of the Convention, as well as on other relevant matters, and to report thereon to the Council;

7. *Also requests* the Secretary-General to monitor and observe the situation regarding Palestinian civilians under Israeli occupation, making new efforts in this regard on an urgent basis, and to utilize and designate or draw upon the United Nations and other personnel and resources present there, in the area and elsewhere, needed to accomplish this task and to keep the Security Council regularly informed;

8. *Further requests* the Secretary-General to submit a first progress report to the Security Council by the first week of March 1991 and to report every four months thereafter, and decides to remain seized of the matter as necessary.

Speaking after the vote, the representative of Zaire said he considered the essence of resolution 681 (1990) to be its request to the Secretary-General to continue examining the situation in the occupied Palestinian territories and to report to the Council on any human rights violations by the security forces. He supported the convening of a meeting of the High Contracting Parties to the Fourth Geneva Convention

²²⁶ S/PV.2970 (Part II), pp. 4-7.

²²⁷ Ibid., pp. 7-10.

and the convening of an international peace conference.²²⁸

The representative of Finland supported a meeting of the High Contracting Parties which could produce an authoritative interpretation regarding the scope and applicability of the Fourth Geneva Convention.²²⁹

The representative of Malaysia noted what he saw as three important elements in the resolution. The first was the convening of a meeting of High Contracting Parties to the Fourth Geneva Convention. The second was the request that the Secretary-General monitor and observe the situation in the occupied territories. In his view, that was the core of the resolution and should serve as the centrepiece of all future efforts by the Council to protect Palestinians. The third was the Council's acceptance of the convening at an appropriate time of the international peace conference on the Middle East, which was by necessity in the form of a presidential statement. This was a major event. For the first time what had been urged by the General Assembly year after year had been accepted by all members of the Council. The resolution also restored the proper reference to Jerusalem as part of the occupied Palestinian territories. Future action by the Council should be free of the tendencies to set barriers, including procedural devices, deliberately used to delay the proper and early consideration of the issue.²³⁰

The representative of the United Kingdom explained that his Government had pursued three objectives in the negotiations. First, to endorse proposals which might improve the well-being of the Palestinians. Second, to address the wider issue of the Arab-Israeli peace process. The British Government accordingly supported the convening of an international conference at an appropriate time. Third, to ensure that any reference to the conference did not lend itself to an interpretation that a link was made between the question of Palestine and the crisis in the Gulf. The British Government, in line with the Council's stand in the presidential statement, firmly rejected the linkage that the Government of Iraq was promoting.²³¹

²²⁸ *Ibid.*, pp. 11-12.

²²⁹ *Ibid.*, pp. 13-15.

²³⁰ *Ibid.*, pp. 16-19.

²³¹ *Ibid.*, p. 26.

The representative of the United States stated that his Government supported the resolution, but believed that there were other elements that should have been included in the text, such as a reference to the use of violence by the Palestinians. The United States vote for the resolution in no way indicated a change in its policy on any issue related to the Arab-Israeli conflict. First, the United States did not support a resolution that would seek to convene an international conference. Although a properly structured conference might be useful, the timing was not appropriate, because the Gulf crisis and the Arab-Israeli dispute should not be linked. Secondly, the United States maintained that the Fourth Geneva Convention applied to all occupied territories and regarded the phrase "Palestinian territories occupied by Israel since 1967" as being merely demographically and geographically descriptive, not indicative of sovereignty. Finally, it deplored the decision of the Government of Israel to resume deportations. Clarifying his Government's views on several elements of the resolution, the speaker said that a premature decision to convene a meeting of the High Contracting Parties to the Geneva Convention could undermine the safety and protection of the Palestinians and have adverse impacts on the future implementation of the Convention. Furthermore, the United States, while strongly supporting the efforts of the Secretary-General to monitor and report on the situation, believed that no activity should be undertaken that would alter the separate and well-defined mandates of the various United Nations organizations in the region and elsewhere.²³²

The representative of Yemen stated that his delegation would have liked a much stronger resolution with regard to three points: Israel's resumption of deportations, the protection of the Palestinians, and the international conference on the Middle East.²³³

The representative of Israel stated that the Council's call upon the States parties to the Fourth Geneva Convention to ensure that Israel respect the Convention, and the request that the Secretary-General develop the idea of convening a meeting of the High Contracting Parties were unprecedented. As for the Council's request to the Secretary-General to make renewed efforts to monitor and observe, the speaker recalled that the tasks and powers of the United

²³² *Ibid.*, pp. 48-55.

²³³ *Ibid.*, pp. 55-58.

Nations personnel in the area had been agreed upon with Israel. Therefore altering such an agreement would be highly inappropriate and impractical. He also described the reference in the presidential statement to an international peace conference as a tool to impose a predetermined outcome, and suggested instead the holding of bilateral and direct negotiations between Israel and its neighbours. Regarding the Council's expression of alarm at Israel's exercise of its legal right to issue expulsion orders against four leaders of Hamas, he found it regrettable that the Council was not alarmed by, and did not even mention, the murders Hamas had committed against Jews. He contended that the practice of singling out one country undermined the inviolable principles of universality and sovereign equality, and that peace and security would never be achieved by discriminating against the Jewish State.²³⁴

The representative of Palestine noted the substantial progress the Council had made towards protecting the Palestinian people by unanimously adopting a resolution and authorizing a presidential statement. The Palestinian delegation did differ with certain parts of the resolution and the presidential statement but the political realities of the international situation, as well as the balance within the Council, required constant compromise. Regretting that the Council had not adopted a resolution at an earlier stage, the speaker hoped that a permanent member, which in the past had used its veto repeatedly in relation to the Middle East, would not prevent the adoption of any resolution in the future.²³⁵

**Decision of 4 January 1991 (2973rd meeting):
statement by the President**

At its 2973rd meeting, held on 4 January 1991 in accordance with the understanding reached in its prior consultations, the Security Council resumed its consideration of the situation in the occupied Arab territories.

Following the adoption of the agenda, the Council decided, by 11 votes to 1 (United States), with 3 abstentions (Belgium, France, United Kingdom), to invite the Permanent Observer of Palestine, at his request, to participate in the debate, not under rule 37

²³⁴ Ibid., pp. 58-62.

²³⁵ Ibid., pp. 62-68.

or rule 39 but with the same rights of participation as under rule 37.²³⁶

The President (Zaire) drew the attention of members of the Council to a letter dated 31 December 1990 from the observer of Palestine addressed to the Secretary-General,²³⁷ in which he called upon the international community to act immediately to protect the Palestinian people and to implement relevant Security Council resolutions, the most recent of which was resolution 681 (1990). The President also drew the attention of the members of the Council to a letter dated 31 December 1990 from the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People²³⁸ addressed to the Secretary-General.

The President stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:²³⁹

The members of the Security Council are deeply concerned about recent acts of violence in Gaza, especially actions by Israeli security forces against Palestinians, which led to scores of casualties among those civilians.

The members of the Council deplore those actions, particularly the shooting of civilians. They reaffirm the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to all the Palestinian territories occupied by Israel since 1967, including Jerusalem, and request that Israel, the occupying Power, fully comply with the provisions of the Convention.

The members of the Council reaffirm their positions, most recently expressed in Council resolution 681 (1990) of 20 December 1990, and support the work of the Secretary-General in implementing that resolution. The members of the Council further urge intensified efforts by all who can contribute to reducing conflict and tension in order to achieve peace in the area.

**Decision of 27 March 1991 (2980th meeting):
statement by the President**

At its 2980th meeting, held on 27 March 1991 in accordance with the understanding reached in its prior consultations, the Security Council resumed its

²³⁶ For the statement by the representative of the United States, see S/PV.2973, pp. 3-7. See also chapter III, case 6.

²³⁷ S/22037.

²³⁸ S/22040.

²³⁹ S/22046.

consideration of the situation in the occupied Arab territories. Following the adoption of the agenda, the Council decided, by 11 votes to 1 (United States), with 3 abstentions (Belgium, France, United Kingdom), to invite the observer of Palestine, at his request, to participate in the debate, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.²⁴⁰

The President (Austria) drew the attention of the members of the Council to a letter dated 25 March 1991 from the observer of Palestine addressed to the Secretary-General,²⁴¹ in which he stated that, on 24 March 1990, Israel had decided to expel four Palestinians from the occupied Palestinian territory, in violation of the Fourth Geneva Convention and Security Council resolutions. He urged that the Council take immediate action. The President also drew the attention of the Council members to a letter dated 26 March 1991 from the Acting Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People addressed to the Secretary-General.²⁴²

The President stated that, following consultations among members of the Council, he had been authorized to make the following statement on behalf of the Council:²⁴³

The members of the Security Council are gravely concerned by the continued deterioration of the situation in the Palestinian and other Arab territories occupied by Israel since 1967, including Jerusalem, and especially by the current serious situation resulting from the imposition of curfews by Israel.

The members of the Security Council deplore the decision of 24 March 1991 by the Government of Israel to expel four Palestinian civilians in violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to the above-mentioned territories, and in contravention of relevant resolutions of the Security Council.

The members of the Security Council also call upon Israel to desist from deporting Palestinians and to ensure the safe return of those deported.

Recalling Security Council resolution 681 (1990) and other Security Council resolutions, the members of the Security

Council will keep the situation described in the first paragraph under review.

**Decision of 24 May 1991 (2989th meeting):
resolution 694 (1991)**

By a letter dated 22 May 1991 addressed to the President of the Security Council,²⁴⁴ the representatives of Côte d'Ivoire, Cuba, Ecuador, India, Yemen, Zaire and Zimbabwe requested the urgent convening of a meeting of the Council to examine the situation created by Israel's recent deportation of four Palestinians from the occupied territories.

At its 2989th meeting, on 24 May 1991, the Council included the letter in its agenda, and invited the representatives of Algeria, Egypt, Israel, Jordan, Lebanon, Malaysia and the United Arab Emirates, at their request, to participate in the discussion without the right to vote. The Council also decided, by 11 votes to 1 (United States), with 3 abstentions (Belgium, France, United Kingdom), to invite the observer of Palestine, at his request, to participate in the debate, not under rule 37 or 39 but with the same rights of participation as under rule 37.²⁴⁵ The Council considered the item at its 2989th meeting.

The President (China) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council's prior consultations.²⁴⁶ He also drew their attention to several other documents.²⁴⁷

The representative of Palestine stated that the Council was meeting to consider the situation following Israel's deportation of four Palestinians from Gaza on 18 May 1991, in violation of the Fourth Geneva Convention and repeated Security Council resolutions and several presidential statements. The deportations went hand in hand with an escalation in the building of new settlements and the expansion of the older ones, increasing the need for international protection of Palestinians, until the Israeli occupation was brought to an end. The speaker contended that

²⁴⁰ For the statement by the representative of the United States, see S/PV.2980, pp. 2-5. See also chapter III, case 6.

²⁴¹ S/22383.

²⁴² S/22388.

²⁴³ S/22408.

²⁴⁴ S/22634.

²⁴⁵ For the statement by the representative of the United States, see S/PV.2989, pp. 6-8. See also chapter III, case 6.

²⁴⁶ S/22633.

²⁴⁷ Letters addressed to the Secretary-General by the representative of Lebanon (S/22621) and the observer of Palestine (S/22626).

Israel would not have been able to act as it had, had it not been backed by some States that had great weight in the Council. The State that had endorsed “peace for land” as one of the basic requirements for a peaceful solution and had declared settlements to be the main obstacle towards its achievement should compel Israel to withdraw from the occupied territories. Recalling that all members of the Council had agreed in a presidential statement to the idea of an international conference, the speaker stated that the appropriate time for holding it had arrived and that preparations to that end should begin. Concluding, he rejected the idea of any conference not based on international legitimacy and not held under United Nations auspices.²⁴⁸

The representative of Israel asserted that the four men expelled by Israel were convicted criminals who had continued terrorist activities under orders from abroad, despite their conditional release from prison in 1985. Following appeal, the Supreme Court had decided to uphold the expulsion orders. The speaker stressed that Israel did not have a general policy of expulsions, but resorted to the removal of instigators of violence as a measure of last resort in line with its international responsibility to preserve public safety in Judea, Samaria and the Gaza district. He maintained that the people of Israel yearned for peace, which could be achieved not by convening the Council to win points against Israel but only through face-to-face negotiations.²⁴⁹

The representative of Lebanon reminded the Council that Israel had thrown Palestinians into his country. He reiterated his Government’s objection to Israel’s violation of Lebanese sovereignty and territory by its practices, which ran counter to the Charter and the relevant Security Council resolutions, and his condemnation of the expulsion and deportation of the four Palestinians in contravention of article 49 of the Fourth Geneva Convention. He urged the Council to take on the task of repatriating the four Palestinians.²⁵⁰

The draft resolution was then put to the vote and adopted unanimously as resolution 694 (1991), which reads:

²⁴⁸ S/PV.2989, pp. 9-17.

²⁴⁹ Ibid., pp. 21-26.

²⁵⁰ Ibid., pp. 27-31.

The Security Council,

Reaffirming its resolution 681 (1990) of 20 December 1990,

Having learned with deep concern and consternation that Israel has, in violation of its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and acting in opposition to relevant Security Council resolutions, and to the detriment of efforts to achieve a comprehensive, just and lasting peace in the Middle East, deported four Palestinian civilians on 18 May 1991,

1. *Declares* that the action of the Israeli authorities of deporting four Palestinians on 18 May is in violation of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, which is applicable to all the Palestinian territories occupied by Israel since 1967, including Jerusalem;

2. *Deplores* this action and reiterates that Israel, the occupying Power, must refrain from deporting any Palestinian civilian from the occupied territories and ensure the safe and immediate return of all those deported;

3. *Decides* to keep the situation under review.

Following the vote, the representative of the United States restated the consistent opposition of his Government to Israel’s policy of deporting Palestinians and called once again on Israel to cease deportations. He noted that intensive efforts were under way to bring about negotiations to reach a comprehensive settlement based on Security Council resolutions 242 (1967) and 338 (1973). He informed the Council that the parties in the region agreed to hold two parallel tracks of direct negotiations between Israel and the Arab States, and Israel and the Palestinians.²⁵¹

The representative of France said that the deportation of four Palestinians was doubly regrettable both for its illegality and for its occurrence at a moment when efforts were under way to strike up a dialogue for holding a peace conference. Emphasizing the importance of Security Council resolution 681 (1990), he felt particularly strongly that this text should be implemented and expressed full support for the Secretary-General’s efforts towards that end.²⁵²

The representative of the United Kingdom stated, as the preamble to the resolution made it clear, that the action of deporting Palestinians was even more reprehensible because it occurred at a time when a

²⁵¹ Ibid., pp. 51-52.

²⁵² Ibid., pp. 61-62.

major effort was being made to set up a peace process. The Government of the United Kingdom strongly supported the efforts being made by the Secretary of State of the United States to bring the parties to the negotiating table, and appealed to all concerned to work to get the peace process under way.²⁵³

**Decision of 6 January 1992 (3026th meeting):
resolution 726 (1992)**

In accordance with the understanding reached in its prior consultations, the Security Council held its 3026th meeting on 6 January 1992. Following the adoption of the agenda, the Council invited the representatives of Egypt, Israel and the Syrian Arab Republic, at their request, to participate in the discussion without the right to vote. The Council also decided, by 11 votes to 1 (United States), with 4 abstentions (Belgium, France, Hungary, United Kingdom), to invite the Permanent Observer of Palestine, at his request, to participate in the debate not under rule 37 or 39 but with the same rights of participation as under rule 37.²⁵⁴

The President drew the attention of the members of the Council to a draft resolution that had been prepared in the Council's consultations.²⁵⁵ He also drew to the attention of the members of the Council several other documents.²⁵⁶

The representative of Palestine stated that, on 2 January 1992, the Israeli Minister of Defence had issued an order for the deportation of 12 Palestinian citizens, which had been reaffirmed by the Government of Israel despite all international reactions, including those of the permanent members of the Security Council. He noted that Israel had been carrying out the aforementioned activities during the ongoing peace process, to which all Arab parties concerned had committed themselves. As a matter of fact Israel had intensified military aggression against southern Lebanon, reaffirmed its rejection of the principle of

land for peace, and refused to arrive at the first round of the Washington talks at the appointed time. Maintaining that Israel was systematically derailing the peace process, he appealed to the international community and, in particular, to the sponsors of the peace conference, to face the true Israeli position. The Council was responsible for resuscitating the peace process. The latest Israeli decision had compelled the members of the Palestinian delegation to the peace conference to suspend their journey to Washington while they awaited the decision of the leadership of the PLO in this regard. The taking of an appropriate action by the Council would undoubtedly reflect positively on the course of events.²⁵⁷

The representative of Israel asserted that the Palestinians who were to be expelled were active members of terrorist organizations and that their expulsion would help create the security and calm essential for serious peace talks. Maintaining that Israelis were being systematically attacked before each stage of the negotiations, the speaker said that his Government could not allow what might become an extended peace process to be used as a smokescreen for terrorism. Pending the achievement of a political solution to the problem as a whole, Israel was responsible for the administration of the territories. Whereas terrorist attack would be countered by military measures, political problems would be solved in the peace negotiations around the negotiating table. He said that a one-sided and unbalanced view of the situation by the organs of the United Nations, which was reflected in the draft resolution before the Council, would not contribute to the peace process, and could not but encourage more terrorist activities.²⁵⁸

The representative of the Syrian Arab Republic called Israel's decision to deport 12 Palestinian citizens a provocative action that could jeopardize the ongoing peace process and subject the Palestinian civilians to grave dangers and suffering. He considered Israel's occupation a continued act of aggression in violation of the Charter of the United Nations, aimed at expelling the Arab inhabitants and replacing them with settlers. Maintaining that it was the responsibility of the Security Council, which had adopted numerous resolutions regarding deportations, to put an end to Israel's practices, the speaker said that the application

²⁵³ *Ibid.*, pp. 63-65.

²⁵⁴ For the statement by the representative of the United States, see S/PV.3026, pp. 4-5 (a). See also chapter III, case 6.

²⁵⁵ S/23372.

²⁵⁶ Letters addressed to the Secretary-General by the observer of Palestine (S/23369); and to the President of the Security Council by the Acting Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (S/23374).

²⁵⁷ S/PV.3026, pp. 6-16.

²⁵⁸ *Ibid.*, pp. 17-22.

of Chapter VII of the Charter would be the best solution. Until it was applied, the explosive situation could only lead to further threats to international peace and security.²⁵⁹

The draft resolution was then put to the vote and adopted unanimously as resolution 726 (1992), which reads:

The Security Council,

Recalling the obligations of Member States under the Charter of the United Nations,

Recalling its resolutions 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, and 694 (1991) of 24 May 1991,

Having been apprised of the decision of Israel, the occupying Power, to deport twelve Palestinian civilians from the occupied Palestinian territories,

1. *Strongly condemns* the decision of Israel, the occupying Power, to resume deportations of Palestinian civilians;

2. *Reaffirms* the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to all the Palestinian territories occupied by Israel since 1967, including Jerusalem;

3. *Requests* Israel, the occupying Power, to refrain from deporting any Palestinian civilian from the occupied territories;

4. *Also requests* Israel, the occupying Power, to ensure the safe and immediate return to the occupied territories of all those deported;

5. *Decides* to keep the matter under review.

Following the vote, the representative of the United States stated that the deportation of individuals was a violation of article 49 of the Fourth Geneva Convention as it pertained to the treatment of inhabitants of the occupied territories. Any persons charged with wrongdoing should be given a fair trial based on evidence and, if found guilty, be imprisoned. Condemning the increasing attacks on Israelis and Palestinians, the speaker reminded the Council that bilateral talks were scheduled to resume the following week, and appealed to the parties to avoid unilateral actions.²⁶⁰

The representative of the Russian Federation stated that, as one of the sponsors of the Middle East

peace process, his country would continue to promote negotiations between Israel and the Arabs, to cooperate closely with the United States and the parties directly involved in the conflict, as well as all States which had an interest in achieving an early settlement. The Russian leadership approached the Palestinian problem with an equal degree of attention as that of the former leaders of the Soviet Union and held the view that the bilateral negotiations which had taken place in December in Washington were one more step towards a radical improvement of the situation. What was therefore required of all participants in the peace process was a maximum of restraint and a constructive spirit to maintain the favourable climate surrounding the negotiations and to prevent unnecessary difficulties. Taking into consideration the urgency of preventing the deportation of more Palestinians and the negative consequences such deportation might have for the negotiations, the resolution was a balanced text that would promote the creation of a favourable climate.²⁶¹

**Decision of 4 April 1992 (3065th meeting):
statement by the President**

At its 3065th meeting, held on 4 April 1992 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the situation in the occupied Arab territories.

Following the adoption of the agenda, the Council decided, by 11 votes to 1 (United States), with 4 abstentions (Belgium, France, Hungary, United Kingdom), to invite the Permanent Observer of Palestine, at his request, to participate in the discussion, not under rule 37 or rule 39 but with the same rights of participation as under rule 37.²⁶²

The President (Zimbabwe) drew the attention of the members of the Council to letters dated 16 March 1992, 20 March 1992 and 1 April 1992 from the observer of Palestine addressed to the Secretary-General.²⁶³

The President stated that, following consultations among members of the Council, he had been

²⁶¹ Ibid., pp. 36-38.

²⁶² For the statement by the representative of the United States, see S/PV.3065, pp. 2-5. See also chapter III, case 6.

²⁶³ S/23721, S/23740 and S/23770, respectively.

²⁵⁹ Ibid., pp. 26-31.

²⁶⁰ Ibid., pp. 35-36.

authorized to make the following statement on behalf of the Council:²⁶⁴

The members of the Council are gravely concerned by the continued deterioration of the situation in the Gaza Strip, especially by the current serious situation in Rafah in which several Palestinians have been killed and many more injured.

The members of the Council condemn all these acts of violence at Rafah. They urge maximum restraint in order to bring the violence to an end.

The members of the Council urge Israel to abide at all times by its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and to respect and to act in accordance with the relevant resolutions of the Security Council. The members of the Council are concerned that any escalation of violence would have serious implications for the peace process, especially at a time when negotiations to achieve a comprehensive, just and lasting peace are under way.

The members of the Council request the Secretary-General to use his good offices, in accordance with resolution 681 (1990) of 20 December 1990, regarding this situation concerning Palestinian civilians under Israeli occupation.

**Decision of 18 December 1992 (3151st meeting):
resolution 799 (1992)**

By a letter dated 18 December 1992 addressed to the President of the Security Council,²⁶⁵ the representative of Lebanon requested the convening of an urgent meeting of the Council to discuss the grave situation which had occurred as a result of the deportation of more than 400 Palestinians into Lebanese territory, in violation of the Charter of the United Nations, rules and norms of international law, and the principle of State sovereignty. The Government of Lebanon urged the Security Council to take all necessary measures, as provided in Chapter VII of the Charter, to compel Israel to reverse its action and allow the safe return of the Palestinians to their homes.

At its 3151st meeting, held on 18 December 1992 in accordance with the understanding reached in its prior consultations, the Council included that letter in its agenda.

Following the adoption of the agenda, the Council decided, by 11 votes to 1 (United States), with 4 abstentions (Belgium, France, Hungary, United Kingdom), to invite the Permanent Observer of

Palestine, at his request, to participate in the debate, not under rule 37 or 39 but with the same rights of participation as under rule 37.²⁶⁶

The President (India) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of its prior consultations.²⁶⁷ He also drew their attention to several other documents.²⁶⁸

The representative of Palestine stated that, on 16 December 1992, the Government of Israel had ordered the deportation of 418 civilians, and that on 17 December, under a court order, the authorities had deported 383 Palestinians to Lebanon. This action represented an unprecedented qualitative escalation which not only violated the Fourth Geneva Convention and Security Council resolutions but also the sovereignty of Lebanon. At the political level, the deportation had the potential to sabotage and even destroy the ongoing peace process launched in Madrid. Reminding the Council that the Palestinian delegation had been forced to boycott the meeting the day before, pending the final decision by the PLO leadership on the principle of continuing with the process as a whole, he called upon the international community and the sponsors of the Peace Conference to make serious efforts to salvage the peace process. He also appealed to the Council to take proper action to ensure the immediate return of the deportees and to ensure that Israel would not take similar actions in the future. He hoped that the Council would unanimously adopt the draft resolution and implement its provisions promptly and rigorously.²⁶⁹

The representative of Lebanon stated that the deportation of almost 400 Palestinians into Lebanese territory, despite the opposition of its Government, constituted a serious breach of the principle of sovereignty of States and of article 49 of the Fourth Geneva Convention. It was an act in defiance of the United Nations and its Charter, and a challenge to the

²⁶⁶ For the statement by the representative of the United States, see S/PV.3151, pp. 2-5. See also chapter III, case 6.

²⁶⁷ S/24987.

²⁶⁸ Letters addressed to the Secretary-General by the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (S/24974); and to the President of the Security Council by the representative of Lebanon (S/24980).

²⁶⁹ S/PV.3151, pp. 6-11.

²⁶⁴ S/23783.

²⁶⁵ S/24980.

Security Council, its resolutions and authority. At the political level, it would have serious consequences with respect to the internal situation in Lebanon, frustrating the Government's endeavours to restore a normal situation. It also posed an obstacle to the liberation of the southern part of the country occupied by Israel. The speaker noted with surprise that the United Nations, and the Security Council in particular, had been excluded from the efforts to achieve a settlement of the Arab-Israeli conflict, at a time when the Council was involved in the search for solutions to all other regional and local problems. Reminding the Security Council that Israel had defied all its resolutions on deportations, he called on the Council to use its authority, including the authority conferred by Chapter VII of the Charter, to adopt the draft resolution and to ensure the implementation of all other previous resolutions. He also requested the Council to enforce its resolution 425 (1978) to bring about Israel's total withdrawal from southern Lebanon, which would remove one of the major obstacles to the peace process and help to lessen the friction in the Middle East.²⁷⁰

The representative of Israel stated that his Government had issued temporary removal orders against members of the terrorist organizations Hamas and Islamic Jihad who, discouraged by bilateral negotiations between Israel and its Arab neighbours, had been mounting a campaign of intimidation and bloodshed. He noted that the measures, which would be effective for a period of time not extending beyond two years, had been approved by the Supreme Court of Israel. Faced with extremist groups that threatened to endanger the stability and prospects for peace in the Middle East, Israel was exercising its natural right of self-defence, and it was regrettable that some members of the Council wanted to condemn it for doing so. The speaker assured the Council that Israel was fully committed to the quest for peace and would not withdraw from the talks in Washington. He warned that the Palestinians, who had rejected the partition plan in 1948 and the Camp David accords later, would make yet another great mistake by choosing to desert the negotiations and giving in to Hamas and Islamic Jihad.²⁷¹

The representative of Jordan noted that, over the past quarter century, the Council had examined the

question of deportations and adopted several resolutions, the most recent of which was resolution 726 (1992). Yet it was meeting again to examine a deportation by Israel, in disregard of the Charter of the United Nations, the Fourth Geneva Convention and the Council's resolutions. The speaker contended that, contrary to Israel's statement that the deportations aimed to punish those responsible for killing the Israeli soldier and to safeguard the peace process, the real reason was the rivalry in Israeli domestic politics. He hoped that the Council would adopt a resolution to ensure the prompt return of the deportees, another to follow up on the implementation of the first, and a third affirming the applicability of the Geneva Conventions to the occupied territories and compelling Israel to respect them.²⁷²

The draft resolution was then put to the vote and adopted unanimously as resolution 799 (1992), which reads:

The Security Council,

Recalling the obligations of Member States under the Charter of the United Nations,

Reaffirming its resolutions 607 (1988) of 5 January 1988, 608 (1988) of 14 January 1988, 636 (1989) of 6 July 1989, 641 (1989) of 30 August 1989, 681 (1990) of 20 December 1990, 694 (1991) of 24 May 1991 and 726 (1992) of 6 January 1992,

Having learned with deep concern that Israel, the occupying Power, in contravention of its obligations under the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, deported to Lebanon on 17 December 1992 hundreds of Palestinian civilians from the territories occupied by Israel since 1967, including Jerusalem,

1. *Strongly condemns* the action taken by Israel, the occupying Power, to deport hundreds of Palestinian civilians, and expresses its firm opposition to any such deportation by Israel;

2. *Reaffirms* the applicability of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, to all the Palestinian territories occupied by Israel since 1967, including Jerusalem, and affirms that deportation of civilians constitutes a contravention of its obligations under the Convention;

3. *Reaffirms* also the independence, sovereignty and territorial integrity of Lebanon;

²⁷⁰ Ibid., pp. 12-20.

²⁷¹ Ibid., pp. 21-28.

²⁷² Ibid., pp. 28-33.

4. *Demands* that Israel, the occupying Power, ensure the safe and immediate return to the occupied territories of all those deported;

5. *Requests* the Secretary-General to consider dispatching a representative to the area to follow up with the Israeli Government with regard to this serious situation and to report to the Security Council;

6. *Decides* to keep the matter actively under review.

Speaking after the vote, the representative of the United States recalled that his Government had repeatedly urged Israel to cease deportations as a method of punishment and to comply fully with the Fourth Geneva Convention in all occupied territories. He regretted that Israel had gone ahead with the deportations, playing into the hands of those whose goal was to scuttle the peace process, and in the process imposing an unfair burden on Lebanon. Equally condemning Hamas for murdering Israelis as part of a deliberate strategy to undermine the peace process, he appealed to all parties to avoid unilateral actions that raised tensions. He reiterated that the United States regarded the phrase “all the Palestinian territories occupied by Israel since 1967, including Jerusalem” as being merely demographically and

geographically descriptive and not indicative of sovereignty.²⁷³

The representative of the United Kingdom said that his delegation had supported the resolution because the vital interests of all the concerned parties should be to preserve and pursue the peace process. Condemning both the acts of violence — the recent murder of an Israeli military official — and the deportation of Palestinians, he called on all parties to devote themselves to the bilateral and multilateral negotiations.²⁷⁴

The representative of France condemned the acts of violence and opposed the procedure of deportation, which constituted a violation of the Fourth Geneva Convention and was contrary to several Security Council resolutions. The current deportations were even more deplorable, because they were on a very large scale, constituted collective punishment and a violation of Lebanon’s sovereignty, to which the Government of France attached particular importance, and impeded the peace process.²⁷⁵

²⁷³ Ibid., pp. 48-51.

²⁷⁴ Ibid., pp. 52-53.

²⁷⁵ Ibid., pp. 53-55.

General issues

25. Marking of plastic or sheet explosives for the purpose of detection

Initial proceedings

Decision of 14 June 1989 (2869th meeting): resolution 635 (1989)

At its 2869th meeting, held on 14 June 1989 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the item entitled “Marking of plastic or sheet explosives for the purpose of detection” and considered the question at the same meeting.

Following the adoption of the agenda, the President (United States) drew the attention of the members of the Council to a draft resolution that had been prepared in the course of the Council’s prior

consultations.¹ The draft resolution was voted upon and adopted unanimously as resolution 635 (1989), which reads:

The Security Council,

Conscious of the implications of acts of terrorism for international security,

Deeply concerned by all acts of unlawful interference against international civil aviation,

Mindful of the important role of the United Nations in supporting and encouraging efforts by all States and intergovernmental organizations in preventing and eliminating

¹ S/20690.

all acts of terrorism, including those involving the use of explosives,

Determined to encourage the promotion of effective measures to prevent acts of terrorism,

Concerned about the ease with which plastic or sheet explosives can be used in acts of terrorism with little risk of detection,

Taking note of the International Civil Aviation Organization Council resolution of 16 February 1989, in which it urged its member States to expedite current research and development on detection of explosives and on security equipment,

1. *Condemns* all acts of unlawful interference against the security of civil aviation;

2. *Calls upon* all States to cooperate in devising and implementing measures to prevent all acts of terrorism, including those involving explosives;

3. *Welcomes* the work already undertaken by the International Civil Aviation Organization, and by other international organizations, aimed at preventing and eliminating all acts of terrorism, in particular in the field of aviation security;

4. *Urges* the International Civil Aviation Organization to intensify its work aimed at preventing all acts of terrorism against international civil aviation, and in particular its work on devising an international regime for the marking of plastic or sheet explosives for the purpose of detection;

5. *Urges* all States, and in particular the producers of plastic or sheet explosives, to intensify research into means of making such explosives more easily detectable, and to cooperate in this endeavour;

6. *Calls upon* all States to share the results of such research and cooperation with a view to devising, in the International Civil Aviation Organization and other competent international organizations, an international regime for the marking of plastic or sheet explosives for the purpose of detection.

26. The question of hostage-taking and abduction

Initial proceedings

Decisions of 31 July 1989 (2872nd meeting): statement by the President and resolution 638 (1989)

At its 2872nd meeting, held on 31 July 1989, in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the item entitled "The question of hostage-taking and abduction".

Following the adoption of the agenda, the President (Yugoslavia) drew the attention of the members of the Council to a draft resolution submitted by Canada and Finland.¹ In accordance with the agreement reached in the Council's prior consultations, the President then made the following statement:²

As we consider the adoption of the draft resolution on hostage-taking and abduction, we meet under the shadow of recent events and the cruel reports that Lieutenant-Colonel Higgins, who served the United Nations on a peacekeeping mission in Lebanon, may have been murdered today. I wish to express the full support of the Security Council for the statement

made by the Secretary-General yesterday, 30 July, in this connection.

The Council will seek further facts on the developments of today, and urges those involved to act with reason, restraint and a proper respect for human life and dignity. The Council feels that it should proceed without delay to the adoption of the draft resolution that we have been discussing in private on the subject of hostage-taking and abduction.

There is a most tragic irony that our efforts to adopt a text on this matter should have coincided with the grave events of recent days.

This illustrates, with utmost clarity, that we need to underline the necessity for effective international action on the subject of hostage-taking and abduction. Indeed, the expression of the unanimous view of the Security Council will, I am sure, serve to deter such unlawful, criminal and cruel acts in the future.

Following his statement, the President put the draft resolution to the vote. It was adopted unanimously as resolution 638 (1989), which reads:

¹ S/20757.

² See *Resolutions and Decisions of the Security Council, 1989*, p. 22.

The Security Council,

Deeply disturbed by the prevalence of incidents of hostage-taking and abduction, and the continued protracted incarceration of many of those held hostage,

Considering that the taking of hostages and abductions are offences of grave concern to all States and serious violations of international humanitarian law, having severe adverse consequences for the human rights of the victims and their families and for the promotion of friendly relations and cooperation among States,

Recalling its resolutions 579 (1985) of 18 December 1985 and 618 (1988) of 29 July 1988 condemning all acts of hostage-taking and abduction,

Bearing in mind the International Convention against the Taking of Hostages, adopted on 17 December 1979, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted on 14 December 1973, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed on 23 September 1971, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed on 16 December 1970, and other relevant conventions,

1. *Condemns unequivocally* all acts of hostage-taking and abduction;

2. *Demands* the immediate safe release of all hostages and abducted persons, wherever and by whomever they are being held;

3. *Calls upon* all States to use their political influence in accordance with the Charter of the United Nations and the principles of international law to secure the safe release of all hostages and abducted persons and to prevent the commission of acts of hostage-taking and abduction;

4. *Expresses appreciation* for the efforts of the Secretary-General in seeking the release of all hostages and abducted persons and invites him to continue such efforts whenever so requested by a State;

5. *Appeals* to all States that have not yet done so to consider becoming parties to the International Convention against the Taking of Hostages, the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, the Convention for the Suppression of Unlawful Seizure of Aircraft and other relevant conventions;

6. *Urges* the further development of international cooperation among States in devising and adopting effective measures which are in accordance with the rules of international law to facilitate the prevention, prosecution and punishment of all acts of hostage-taking and abduction as manifestations of terrorism.

27. United Nations peacekeeping operations

Initial proceedings

Decision of 30 May 1990 (2924th meeting): statement by the President

At its 2924th meeting, held on 30 May 1990 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the item entitled “United Nations peacekeeping operations”.

After the adoption of the agenda, the President (Finland) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹

The members of the Council note with satisfaction that the United Nations has in recent years played an increasingly important and active role in restoring and maintaining international peace and security. The peacekeeping operations of the United Nations have become a valuable instrument

facilitating the settlement of international disputes. Recent successful peacekeeping operations have, for their part, contributed to the enhanced standing and effectiveness of the United Nations.

The members of the Council express their deep satisfaction with the growing support of the international community for United Nations peacekeeping and, in particular, with the participation of a growing number of Member States in the operations. They pay tribute to the Secretary-General and his staff for their tireless efforts in the conduct of those operations. They also commend States which have provided resources for such operations. Furthermore, they commend the peacekeeping forces for their exemplary and dedicated service in the cause of international peace and security.

The members of the Council consider it of vital importance that adequate resources are available for the preparation, deployment and maintenance of the United Nations peacekeeping operations. This must be underlined all the more in view of the new challenges in prospect. They urge Member States to respond positively and rapidly to requests from the Secretary-General for contributions of financial, human and

¹ S/21323.

material resources for the operations. They emphasize that the operations must be launched and maintained on a sound and secure financial basis and stress the importance of full and timely payments of assessed contributions. At the same time, they underscore that the operations must be planned and conducted with maximum efficiency and cost-effectiveness.

The members of the Council also emphasize the importance of political support by all Member States, and in particular by the parties concerned, for United Nations peacekeeping and for the action of the Secretary-General in conducting the operations. They stress that a peacekeeping operation is essentially a temporary measure, intended to facilitate the resolution of conflicts and disputes. Its mandate is not automatically renewable. Peacekeeping should never be construed as a substitute for the ultimate goal: an early negotiated settlement. In the light of this, the members of the Council will continue to examine carefully the mandate of each operation and, when necessary, vary it in response to prevailing circumstances.

The members of the Council, while recognizing the principle that peacekeeping should only be undertaken with the consent of the host countries and the parties concerned, urge the host countries and all parties involved to assist and facilitate in every way the successful and safe deployment and functioning of the United Nations peacekeeping operations in order to enable the fulfilment of their mandates, including the early conclusion of status-of-forces agreements with the United Nations and the provision of appropriate infrastructure support.

The members of the Council are encouraged by recent achievements of United Nations peacekeeping. Bearing in mind the primary responsibility of the Council under the Charter of the United Nations, they express their determination to continue to work jointly and in cooperation with the Secretary-General for the prevention and resolution of international conflicts. The members of the Council remain ready to consider launching new peacekeeping operations as and when necessary in the interest of international peace and security, in accordance with the principles and purposes of the Charter.

28. The responsibility of the Security Council in the maintenance of international peace and security

Decision of 31 January 1992 (3046th meeting): statement by the President

On 31 January 1992, at its 3046th meeting, the Security Council met for the first time at the level of Heads of State and Government. The Council included in its agenda the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”.

After the adoption of the agenda, the President of the Council (United Kingdom) made an introductory statement, in which he stated that the Council faced new challenges and should set a new course in tackling them. He observed that the presence of so many Heads of State or Government reflected the importance they all attached to the United Nations and their commitment to its ideals. He outlined four purposes for the meeting. First, the meeting marked a turning-point in the world and at the United Nations. On the international scene, they had witnessed the end of the cold war, presenting immense opportunities but also new risks. At the United Nations, there was an opportunity for Council members to give their full backing to the new Secretary-General in carrying out his mandate. Second, Council members should reaffirm their commitment to the principle of collective security, and to the resolution of disputes in accordance with the principles of the Charter of the United

Nations. In that regard, they should send a clear signal that they intended to deal with threats to international peace and security through the United Nations and its Security Council. Third, Council members should consider anew the means by which collective security was upheld through the United Nations and consider how best to update and develop them. All the instruments at their disposal should be reviewed: preventive action, to avert crises; peacemaking, to restore peace through diplomacy; and peacekeeping, to reduce tensions and consolidate efforts to restore peace. In all of those endeavours, the role of the Secretary-General was, in his view, vital. Fourth, Council members should commit themselves anew to upholding international peace and security through reinforced measures of arms control. He considered that, in that sphere, the role of the United Nations — not just the Security Council, but the whole of the Organization — was an increasingly important one. He stressed further that, as they met to consider the specific responsibilities of the Security Council, the wider concerns of the international community were also in their minds. He observed that, without economic development and prosperity, lasting peace and stability would not be achieved. Equally, however, only when conditions of security and peace were

assured could sustained economic development take place.¹

Commencing the discussion, the Secretary-General welcomed the historic meeting and suggested that the Council should meet at the summit level periodically, to take stock of the state of the world. He observed that, while the contours of the post-cold-war global order were still taking shape, several lessons had already been driven home. Democratization at the national level dictated a corresponding process at the global level; at both levels it aimed at the rule of law. New ways of preventing internal disputes and inter-State confrontations would need to be developed. State sovereignty was taking on a new meaning; added to its dimension of right was the dimension of responsibility. Collective security could be based only on collective confidence and good faith — confidence in the principles by which it was governed and good faith in the means by which it was sought to be ensured. With the end of the cold war, it was important to avoid the outbreak or resurgence of new conflicts, involving irredentist claims, ethnic strife, tribal wars and border disputes. He emphasized the importance of engaging in preventive diplomacy to identify potential areas of conflict and resolve crises before they degenerated into armed confrontation.²

The President of France observed that it was a time of crisis characterized by war, exodus, the break-up of States and terrorism. In his view, the following were required in response: instruments for comprehensive, universal action; a guarantee of collective security; and new forms of solidarity. With regard to instruments for universal action, it was necessary, he believed, to expand the means available to the Security Council for intervention. He called for the creation of a zone free of weapons of mass destruction in the Middle East; universal adherence to the Treaty on the Non-Proliferation of Nuclear Weapons; and the adoption of a convention banning chemical weapons. With regard to collective security, he thought it would be jeopardized very quickly unless up-to-date conditions were created for it. France, for its part, wished to ensure the greater effectiveness of peacekeeping operations. To that end, it proposed to make available to the Secretary-General a 1,000-man contingent which could be deployed at any time, on

48 hours' notice. Such deployments would, he noted, involve activity by the Military Staff Committee, as provided for in the Charter. He also emphasized the need to develop preventive diplomacy, adding that Council members should systematically provide the Secretary-General with information on international security and give him the mandate to maintain regular contacts with the leaders of regional organizations, in accordance with Chapter VIII of the Charter. Lastly, he observed that security could not be conceived solely in military terms: it had an economic aspect. He recommended, accordingly, holding a world summit on social development that would rejuvenate thinking on development itself and highlight the human dimension of things.³

The President of Ecuador commended the announcement made a few hours before by the Presidents of the United States and the Russian Federation of their readiness to eliminate certain types of nuclear missiles and reduce their arsenals of other types of strategic weapons, as a major step on the road to disarmament. He considered, however, that the non-military risks to security had increased, and supported, in that regard, the proposal by the President of France to convene a summit on social development.⁴

The King of Morocco observed that the Council had not always been able to carry out its functions in the field of the maintenance of international peace and security, in particular under Chapter VI of the Charter. The Council had, for much of the time, been paralysed because of the cold war, which had been reflected in the Council by the exercise of the right of veto by the great Powers of one or other bloc. For the same reason, the Council had found itself incapable of finding satisfactory solutions to regional conflicts, which had harmful consequences in the international arena. He stressed the importance of dialogue and mediation to achieve the peaceful settlement of disputes, and urged that the Secretary-General be given all the means of preventive diplomacy to prevent the degeneration of disputes into armed conflicts. He doubted, on the other hand, that the provisions of the Charter concerning collective security could become operational unless all countries fully respected international law and unless the principle of equality of States was made a reality. In his view, the strengthening of the organs of the

¹ S/PV.3046, pp. 2-7.

² *Ibid.*, pp. 8-12.

³ *Ibid.*, pp. 13-22.

⁴ *Ibid.*, pp. 23-31.

United Nations and of their role in the maintenance of international peace and security required that serious consideration be given to disarmament questions. At the same time, he identified underdevelopment as the greatest threat to world peace and security.⁵

The President of the Russian Federation stressed the need and opportunity that existed to implement deep cuts in strategic offensive arms and tactical nuclear weapons; to limit and even cease nuclear testing; to reduce conventional armaments and armed forces; to implement international agreements on the prohibition of chemical and bacteriological weapons; and to enhance the reliability of barriers to the proliferation of weapons of mass destruction. He said that the Russian Federation was fully aware of its responsibility for making the Commonwealth of Independent States a factor of stability in the world, particularly with regard to nuclear weapons. To that end, the participating States of the Commonwealth shared the view that nuclear weapons were an integral part of the strategic forces of the Commonwealth, under a single command and unified control. He welcomed the Organization's increased efforts to strengthen global and regional stability and to build a new democratic world order based on the equality of all States. He added that the Russian Federation was prepared to continue partnership among the permanent members of the Security Council, noting that the climate in the activities of that body was conducive to cooperative and constructive work. He shared the view that there was a need for a special rapid-response mechanism to ensure peace and stability. As he saw it, upon decision of the Security Council, such a force could be expeditiously activated in areas of crisis. He also expressed his country's willingness to play a practical role in United Nations peacekeeping operations and contribute to their logistical support. In addition, he affirmed that his country supported steps to consolidate the rule of law throughout the world.⁶

The President of the United States of America noted that the end of the cold war had breathed new life into the Organization, as evidenced by the previous year's events: the world had seen a newly invigorated United Nations in action as the Council had stood firm against aggression, and for the principles enshrined in the Charter. He affirmed that the Organization could count on his country's full support in the task of

accelerating the revitalization and building of a vigorous and effective United Nations. The United States looked, he said, to the Secretary-General to present to the Security Council his recommendations for ensuring effective and efficient peacekeeping, peacemaking and preventive diplomacy, and looked forward to exploring those ideas together. He shared the view of others regarding the importance of banning the use of chemical weapons, and addressing the proliferation of weapons of mass destruction. On the latter, he recalled the unilateral steps he had announced to reduce his country's nuclear arsenal, and added that the United States was prepared to move forward on mutual arms reductions. He observed that, although the threat of global nuclear war was more distant than at any time in the nuclear era, the spectre of mass destruction remained all too real, especially as some nations continued to push to acquire weapons of mass destruction and the means to deliver them. He pointed to their triumph in the Gulf as testament to the United Nations mission: namely, that security was a shared responsibility. He stressed that, as on all the urgent issues facing them, progress came from acting in concert. He urged Council members, in that regard, to deal resolutely with renegade regimes, if necessary by sanctions or stronger measures, to compel them to observe international standards of behaviour. He stressed that terrorists and their State sponsors must know that there would be serious consequences if they violated international law. He emphasized that democracy, human rights and the rule of law were the building blocks of peace and freedom. In conclusion, he observed that, perhaps for the first time since its inception in San Francisco, one could look at the Charter as a living, breathing document. Their mission, as Member States, was to make it strong and sturdy through increased dedication and cooperation.⁷

The President of Venezuela stated that, in order to organize the peace, the United Nations had been compelled, owing to the circumstances of its foundation, to sacrifice sovereign equality in the fulfilment of its mandate. The right of veto had, in his view, been an extraordinary power, which had been highly useful in ensuring the survival of the Organization; without that power, the United Nations might perhaps have met the same fate as the League of Nations. Now that those risks were gone, however, he believed that the Organization should restore the basic principle underlying its validity: that of equality of

⁵ Ibid., pp. 32-41.

⁶ Ibid., pp. 41-48.

⁷ Ibid., pp. 49-55.

rights and obligations. He added, in that regard, that the Security Council itself reflected political realities as they existed at the end of the Second World War, and not current realities. He identified several other priorities of the United Nations in maintaining peace. These included the need to strengthen regional organizations in an operational relationship with the Organization. Another priority was to meet the challenge of disarmament. He saw that task not as the exclusive responsibility of those who had confronted each other during the cold war, but as a collective responsibility, which included the development of guarantees and controls by the international community. He shared the view of others, moreover, regarding the need for a summit on social development, to address the issue of underdevelopment.⁸

The Federal Chancellor of Austria noted the new partnership in global responsibility shared by members of the Security Council — permanent and non-permanent members alike — which had enabled the Council to take a number of unanimous positions on some of the most complex and critical issues. He said that the Organization, its Secretary-General and the Security Council must act as catalysts for peaceful and constructive change. He saw four major issues in that context: the strengthening of the United Nations in peacemaking and peacekeeping; the need for further progress in disarmament and arms control, including the dismantling of weapons of mass destruction; the significance of human rights, minority rights and democratic processes for development, prosperity and peace; and the need for effective measures against poverty to create a long-term basis for stability and security in international relations. He observed that some of the recent crises had made clear the urgent need for an early reaction to potential conflicts. In his view, preventive diplomacy both by the Secretary-General and, where appropriate, by the Security Council, would have to be developed further. He suggested, in that regard, that an early deployment of peacekeeping personnel, possibly at the request of only one party to the conflict, might help to contain a dispute and facilitate a process of negotiation and compromise before the outbreak of hostilities. He strongly believed that the Security Council would have to consider the possibility of such preventive measures. He also recalled the Charter's goal of multilateral

peace enforcement and the creation of an effective system of global collective security. He considered that the Council had taken a significant step in that direction when it authorized a coalition of States to use all necessary means to implement its mandatory resolutions. He suggested that another step would be to have a fresh look at Article 43 of the Charter. On the issue of arms control, non-proliferation and disarmament, which he considered as one of the most important future tasks of the Security Council, he thought that Article 26 of the Charter provided an excellent programme for future action. He stressed that the protection of human rights, especially the rights of ethnic minorities, had an important impact on the development of peaceful relations between States, and noted that the Secretary-General had rightly identified those issues as priority areas for the future work of the Organization.⁹

The Prime Minister of Belgium observed that, among the most important tasks facing the Organization, he saw three that could be implemented through the means of action at their disposal: cooperation and coordination between the United Nations and regional organizations; extension of the powers of initiative and inquiry of the Secretary-General and the Security Council; and strengthening the efficiency of United Nations peacekeeping operations. With regard to regional organizations, he thought they should be involved systematically in the Security Council's actions. He considered it promising that, in its resolutions concerning the Yugoslav crisis, the Council had constantly referred to the intervention of the European Community, as well as to the efforts made within the framework of the Conference on Security and Cooperation in Europe. On conflict prevention, he stressed the importance of the Secretary-General exercising fully his right to take initiatives. He said that the Secretary-General must invent new kinds of diplomacy; that he must take new risks to face such challenges as terrorism, the recurrence of civil wars, and the emergence of international conflicts linked to the violation of human rights. With regard to peacekeeping operations, he stressed the need to ensure the immediate availability of funds from the moment the Council decided on the launching of a peacekeeping operation. In that regard, his country proposed the creation of budgetary reserves, and would give favourable consideration to

⁸ Ibid., pp. 55-60.

⁹ Ibid., pp. 61-67.

the secondment of troops and observers to the United Nations for possible deployment within such peacekeeping operations.¹⁰

The Prime Minister of Cape Verde welcomed the fact that, with the end of the cold war, the Council had developed a new approach to its work, based on cooperation, especially between its permanent members. That cooperation had enabled the Council to assist, through negotiations, in the settlement of long-standing conflicts in many parts of the world, and to take swift and decisive action to reverse aggression and restore the independence and sovereignty of Kuwait. He believed that the new era of positive cooperation in the Council should be further strengthened, in order to allow for full and regular implementation of the Charter's collective security system. In his view, the United Nations, through its Security Council, must act — as envisaged in the Charter — as the guardian of the security of nations, especially the small countries, and as a catalyst for promotion of the primacy of the rule of law in international relations. The actions and decisions of the Council in the past two years had, he thought, raised new hopes in that regard. Emphasizing that the Council should act in such a way as to strengthen its international credibility and its moral authority, he stressed that it should seek to reach decisions by consensus and avoid selective implementation of its resolutions. Highlighting the important role the Secretary-General had under the Charter in assisting the Security Council in its peacemaking efforts, by bringing to its attention any matter that might, in his judgement, threaten international peace and security, he encouraged the Secretary-General to use that prerogative. Ultimately, however, he noted, Council measures alone would not secure the permanent stability of nations or quell regional rivalries. Its role would be facilitated only when the root causes of instability and conflicts were properly addressed. He thought, therefore, that Member States should be prepared to couple the efforts of the Council with those of the United Nations system and the international community, in general, to help in finding solutions to poverty, underdevelopment and social problems: he firmly supported the initiative to convene a world summit on development.¹¹

¹⁰ *Ibid.*, pp. 68-75.

¹¹ *Ibid.*, pp. 76-85.

The Premier of the State Council of China expressed his Government's views on what kind of new international order should be established that would be conducive to world peace and development. The new international order should, he stated, include the following elements. It should be based on the principles of mutual respect for the sovereign equality of Member States and non-interference in their internal affairs, as enshrined in the Charter. The human rights and fundamental freedoms of all mankind should be universally respected, but it should be recognized that they fell within the sovereignty of each country. It was neither appropriate nor feasible to demand that all countries measure up to the human rights criteria of a few countries. Nor should human rights issues be used as an excuse to interfere in the internal affairs of other countries. Effective disarmament and arms control should be achieved in a fair, reasonable, comprehensive and balanced manner. Countries with the largest arsenals of nuclear and conventional weapons should take the lead in discharging their special responsibilities for disarmament. Lastly, the United Nations should play a more active role in maintaining world peace and promoting development, as well as in helping to establish a new international order. He concluded by expressing China's readiness to cooperate with other Council members, so as to expand areas of consensus, and its support for the work of the Secretary-General.¹²

The Prime Minister of India welcomed the newly effective role of the Security Council which he attributed to cohesion among the permanent members of the Council. He stressed, however, that the interpretation of the Charter, upon which the role of the United Nations rested, and the actions of the Security Council must flow from the collective will, not from the views or predilections of a few. He considered wider representation in the Security Council to be essential, to ensure its moral sanction and political effectiveness. He stressed that the Council should anticipate the consequences of its decisions, and take speedy action to address problems arising in a third country from their implementation. He noted, for example, that economic sanctions against one country could have a major impact on its trading partners. While acknowledging the obligations of the State to protect human rights, he suggested that there was a need to delineate the parameters that harmonized the

¹² *Ibid.*, pp. 86-94.

defence of national integrity with respect for human rights. He fully shared the concerns expressed by several leaders on the threat posed to international peace and security by the proliferation of nuclear weapons. He added that the proliferation issue had assumed a new dimension. One was no longer faced with the possible acquisition of such weapons by a handful of threshold States, but with the possible loss of control over nuclear arsenals and the spread of nuclear weapons across the globe by a variety of means and methods. He stressed, however, that measures of preventive or punitive action on a selective basis would not achieve the results aimed at. A global approach was necessary, based on a new international consensus on non-proliferation. To be effective, that global non-proliferation regime must be universal, comprehensive and non-discriminatory and linked to the goal of complete nuclear disarmament.¹³

The Prime Minister of Japan remarked that there were three major issues confronting the United Nations as it responded to expectations for the future role it was to play in the attainment and maintenance of peace. These issues were, in his view, how the Organization would adjust to the epochal changes that had occurred; how its effectiveness in peacekeeping and peacemaking efforts could be improved; and how it could secure a sound financial base that would enable it to carry out those efforts. With regard to the first issue, he underlined the need for the United Nations itself to evolve while adapting to a changing world. Moreover, since the Security Council was at the centre of the Organization's efforts to maintain international peace and security, consideration should be given to ways of adjusting its functions, composition and other aspects so as to make it more reflective of the new era. He shared the views of others regarding the importance of peacekeeping activities. He emphasized, moreover, the need to strengthen the functions of the United Nations in the area of conflict prevention. It was essential, in his view, that the Secretary-General, who played a crucial role in United Nations mediation efforts and good offices, be given sufficient information concerning tensions that could escalate into international conflicts. He drew attention in that regard to the adoption by the General Assembly in December 1991 of the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security. With regard to the

¹³ Ibid., pp. 95-102.

need for a sound financial base, he stressed that the availability of funds necessary for the start-up phase of a peacekeeping operation was essential to its safe deployment. He also underlined the importance of the States concerned — including those that would extend considerable financial support to the peacekeeping operation — becoming involved in consultations on its establishment from the earliest steps. He added that, in securing peace, the United Nations also had an important role to play in the field of arms control and disarmament. He emphasized in that context the need to prevent the proliferation of weapons of mass destruction; to conclude a convention on chemical weapons; and to work together for the smooth implementation of the recently established United Nations Register of Conventional Arms Transfers. The Security Council ought, in his view, to be seized of the developments in those areas.¹⁴

The Prime Minister of Hungary remarked that his country's dramatic past experience should encourage Member States to urge the United Nations not to leave peoples alone in their struggle for self-determination but to do its utmost to assist free and democratic development and the exercise of human rights in every country. As a Council member, Hungary wished to ensure that the new philosophy of preventive diplomacy, peacemaking and peacekeeping was translated into concrete and effective measures. He lauded, in that regard, the action taken the year before, under the authority of the Security Council, to liberate Kuwait: that had provided evidence of the capacity of the international community, through the Security Council, to undertake peacemaking actions and to deal with local conflicts in the interest of collective security, as set forth in the Charter. He also highlighted the Council's launching of a large-scale humanitarian operation to save the Kurds of Iraq: Hungary viewed that action taken by the Council as a manifestation of peacebuilding activity to safeguard human rights and the rights of minorities. For Hungary, respect for human rights and the rights of national minorities was not merely a legal and humanitarian question: it was also an integral part of international collective security. It was indispensable, therefore, for the Security Council to take resolute action to defend and protect those rights. He also considered that the recent decisions of the Security Council regarding the military arsenal of a Member State having committed

¹⁴ Ibid., pp. 102-111.

aggression were a precedent deserving unreserved support. The limitation of the armaments and number of troops of an aggressor State, or of an aggressor army out of political control, as well as their disarmament under an international verification system, should, in his view, be a new, important dimension of the activities of the Security Council. At that historic moment, he added, the world also had to face the challenge of dismantling enormous war machines and related manpower and converting war industries to civilian uses. He noted that the future of the newly independent States in the Balkans and in the former Soviet Union hinged largely on the success or failure of that endeavour. Parallel with that process, he suggested that there should be some new creations as well. In Hungary's view, consideration should be given to the idea of the United Nations instituting a force that could be mobilized and deployed on short notice, in accordance with the purposes and principles of the Charter, to any conflict-stricken region.¹⁵

The Minister for Foreign Affairs and Personal Emissary of the President of Zimbabwe observed that, as the principles of the Charter must govern the global order that Member States wished to construct, and since their efforts should result in a stronger and more effective Organization, the process must begin with a re-examination of the Charter itself in the context of the changing international circumstances. A new world order, in his view, could best be constructed by re-examining the Charter, rectifying the flaws and closing the gaps that had been revealed by recent developments, and updating those provisions that had been rendered obsolete by the new international circumstances. He noted, for instance, that there had been major modifications in the application of Article 42 (Chapter VII), with respect to carrying out combined international enforcement action during the Gulf crisis. In addition, the United Nations had developed peacekeeping and peacemaking operations which were not provided for in the Charter; yet those were among the most effective and successful activities of the Organization. In that context, he sought to make some preliminary suggestions as to the changes to the Charter that his country had in mind. He called for more frequent use of Article 41 (Chapter VII), relating to collective measures not involving the use of armed force, such as economic sanctions to ensure compliance with Security Council resolutions. He

pointed, however, to the inadequacy of Article 50, designed to give some protection to third countries adversely affected by such sanctions. He stressed the need to establish clear criteria to determine who deserved assistance, and standing arrangements for the mobilization of the resources needed to assist affected States. He also suggested that future collective enforcement operations must be fully accountable to the Security Council and should be representative. He believed that that could be achieved by strengthening Article 46, which gave a role to the Military Staff Committee; if it were to have such a role, however, its composition should be broadened to include non-permanent members. Consideration should also be given to extending Article 27 (3) to apply to decisions taken under Chapter VII, so that those who wielded the veto power could not block the imposition of sanctions or any other collective enforcement action where they were a party to a conflict. On the question of disarmament, he felt that it could best be dealt with in the Organization's multilateral forum and could be enhanced by the use of Article 26 and Article 47 (1), which empowered the Council to put in place a system for the regulation of armaments.

Continuing, the Foreign Minister of Zimbabwe expressed the view that, since the Security Council took decisions of major importance on behalf of the entire membership of the United Nations, that body should be made more representative of the will of the general membership. He pointed out that the Council currently represented less than 10 per cent of the United Nations membership, and that the question of equitable geographical representation also had to be addressed. On the question of human rights, he considered that established principles governing inter-State relations — such as non-interference in the internal affairs of other States — would have to accommodate efforts by the United Nations and by regional organizations to protect the basic human rights of individuals and social groups that were threatened in particular States. Citing, for example, the approach taken to the doctrine of apartheid in South Africa, he stated that massive and deliberate violations of human rights or the existence of situations of oppression and repression could no longer be tolerated anywhere in the world. He added that the Council would undoubtedly be called upon increasingly to deal with conflicts and humanitarian situations of an internal nature that could pose a threat to international peace and security. That should not, however, be used as a pretext for the

¹⁵ *Ibid.*, pp. 112-120.

intervention of big Powers in the legitimate domestic affairs of small States. There was, therefore, a need to strike a delicate balance between the rights of States, as enshrined in the Charter, and the rights of individuals, as enshrined in the Universal Declaration of Human Rights. In conclusion, he underlined the primacy of preventive diplomacy, which he said called for an activist role on the part of the Secretary-General in terms of Article 99 of the Charter, in bringing before the Council any matter which, in his opinion, threatened international peace and security.¹⁶

The President of the Council, speaking in his capacity as Prime Minister of the United Kingdom of Great Britain and Northern Ireland, citing recent Council decisions, observed that the world already had an effective instrument to uphold collective security. It was not yet a perfect instrument, however, and he hoped the meeting would set in hand work to strengthen the United Nations. He stressed the need to be more active in preventive diplomacy and crisis prevention. In that context, he said that the Secretary-General should boldly take the initiative to draw potential conflict to the Council's attention, adding that, in future, the Council must itself be prepared to act before tension became conflict. He considered that peacemaking and peacekeeping should run in parallel and that the Organization's ability to respond to the demand for both should be enhanced. He looked to the Secretary-General to give his ideas on how that might be done: he suggested that his report might look at the United Nations role in identifying, and dealing with, the causes of instability and potential crises, as well as the contribution to be made by regional bodies in helping the work of the Council. He stressed, moreover, that, if international peace and security were to be safeguarded, all States Members of the United Nations must be active in arms control. He recommended several concrete measures aimed at disarmament and non-proliferation, and announced that his Government was acting to strengthen controls on the export of specific biological materials and organisms which could be misused for weapons purposes. He added that the United Kingdom believed that all States must respect human rights and fundamental freedoms: good government was the bedrock of a stable and prosperous society. He noted, with approval, that peacekeeping operations tended now to include provision for human rights verification

¹⁶ Ibid., pp. 121-134.

and free and fair elections as vital components of a peaceful settlement, and hoped that would continue to be the case. In conclusion, he pledged the full support of his Government to strengthen and enhance the United Nations capacity to respond to crisis, and incipient crisis, wherever it might threaten.¹⁷

Resuming his functions as President of the Security Council, he read out the following statement on behalf of the Council:¹⁸

The members of the Council have authorized me to make the following statement on their behalf.

The Security Council met at United Nations Headquarters in New York on 31 January 1992, for the first time at the level of heads of State and Government. The members of the Council considered, within the framework of their commitment to the Charter of the United Nations, "The responsibility of the Security Council in the maintenance of international peace and security".

The members of the Council consider that their meeting is a timely recognition of the fact that there are new favourable international circumstances under which the Security Council has begun to fulfil more effectively its primary responsibility for the maintenance of international peace and security.

A time of change

This meeting of the Council takes place at a time of momentous change. The ending of the cold war has raised hopes for a safer, more equitable and more humane world. Rapid progress has been made, in many regions of the world, towards democracy and responsive forms of government, as well as towards achieving the purposes set out in the Charter of the United Nations. The completion of the dismantling of apartheid in South Africa would constitute a major contribution to these purposes and positive trends, including to the encouragement of respect for human rights and fundamental freedoms.

Last year, under the authority of the United Nations, the international community succeeded in enabling Kuwait to regain its sovereignty and territorial integrity, which it had lost as a result of Iraqi aggression. The resolutions adopted by the Council remain essential to the restoration of peace and stability in the region and must be fully implemented. At the same time the members of the Council are concerned by the humanitarian situation of the innocent civilian population of Iraq.

The members of the Council support the Middle East peace process, facilitated by the Russian Federation and the United States of America, and hope that it will be brought to a successful conclusion on the basis of Council resolutions 242 (1967) of 22 November 1967 and 338 (1973) of 22 October 1973.

¹⁷ Ibid., pp. 135-140.

¹⁸ S/23500.

The members of the Council welcome the role the United Nations has been able to play under the Charter in progress towards settling long-standing regional disputes, and will work for further progress towards their resolution. They applaud the valuable contribution being made by United Nations peacekeeping forces now operating in Asia, Africa, Latin America and Europe.

The members of the Council note that United Nations peacekeeping tasks have increased and broadened considerably in recent years. Election monitoring, human rights verification and the repatriation of refugees have in the settlement of some regional conflicts, at the request or with the agreement of the parties concerned, been integral parts of the Security Council's effort to maintain international peace and security. The members of the Council welcome these developments.

The members of the Council also recognize that change, however welcome, has brought new risks for stability and security. Some of the most acute problems result from changes to State structures. The members of the Council will encourage all efforts to help achieve peace, stability and cooperation during these changes.

The international community therefore faces new challenges in the search for peace. All Member States expect the United Nations to play a central role at this crucial stage. The members of the Council stress the importance of strengthening and improving the United Nations to increase its effectiveness. They are determined to assume fully their responsibilities within the United Nations in the framework of the Charter.

The absence of war and military conflicts among States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security. The United Nations membership as a whole, working through the appropriate bodies, needs to give the highest priority to the solution of these matters.

Commitment to collective security

The members of the Council pledge their commitment to international law and to the Charter of the United Nations. All disputes between States should be peacefully resolved in accordance with the provisions of the Charter.

The members of the Council reaffirm their commitment to the collective security system of the Charter to deal with threats to peace and to reverse acts of aggression.

The members of the Council express their deep concern over acts of international terrorism and emphasize the need for the international community to deal effectively with all such acts.

Peacemaking and peacekeeping

To strengthen the effectiveness of these commitments, and in order that the Security Council should have the means to

discharge its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, the members of the Council have decided on the following approach.

They invite the Secretary-General to prepare, for circulation to the Members of the United Nations by 1 July 1992, his analysis and recommendations on ways of strengthening and making more efficient within the framework and provisions of the Charter the capacity of the United Nations for preventive diplomacy, for peacemaking and for peacekeeping.

The Secretary-General's analysis and recommendations could cover the role of the United Nations in identifying potential crises and areas of instability as well as the contribution to be made by regional organizations in accordance with Chapter VIII of the Charter in helping the work of the Council. They could also cover the need for adequate resources, both material and financial. The Secretary-General might draw on lessons learned in recent United Nations peacekeeping missions to recommend ways of making more effective Secretariat planning and operations. He could also consider how greater use might be made of his good offices, and of his other functions under the Charter.

Disarmament, arms control and weapons of mass destruction

The members of the Council, while fully conscious of the responsibilities of other organs of the United Nations in the fields of disarmament, arms control and non-proliferation, reaffirm the crucial contribution which progress in these areas can make to the maintenance of international peace and security. They express their commitment to take concrete steps to enhance the effectiveness of the United Nations in these areas.

The members of the Council underline the need for all Member States to fulfil their obligations in relation to arms control and disarmament; to prevent the proliferation in all its aspects of all weapons of mass destruction; to avoid excessive and destabilizing accumulations and transfers of arms; and to resolve peacefully in accordance with the Charter any problems concerning these matters threatening or disrupting the maintenance of regional and global stability. They emphasize the importance of the early ratification and implementation by the States concerned of all international and regional arms control arrangements, especially the Strategic Arms Reduction Talks and the Treaty on Conventional Armed Forces in Europe.

The proliferation of all weapons of mass destruction constitutes a threat to international peace and security. The members of the Council commit themselves to working to prevent the spread of technology related to the research for or production of such weapons and to take appropriate action to that end.

On nuclear arms proliferation, the members of the Council note the importance of the decision of many countries to adhere to the Treaty on the Non-Proliferation of Nuclear

Weapons of 1 July 1968 and emphasize the integral role in the implementation of that Treaty of fully effective International Atomic Energy Agency safeguards, as well as the importance of effective export controls. They will take appropriate measures in the case of any violations notified to them by the Agency.

On chemical weapons, the members of the Council support the efforts of the Third Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, held at Geneva from 9 to 27 September 1991, with a view to reaching agreement on the conclusion, by the end of 1992, of a universal convention, including a verification regime, to prohibit chemical weapons.

On conventional armaments, they note the General Assembly's vote in favour of a United Nations register of arms transfers as a first step, and in this connection recognize the importance of all States providing all the information called for in the General Assembly's resolution.

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In conclusion, the members of the Council affirm their determination to build on the initiative of their meeting in order

to secure positive advances in promoting international peace and security. They agree that the Secretary-General has a crucial role to play. The members of the Council express their deep appreciation to the outgoing Secretary-General, Mr. Javier Pérez de Cuéllar, for his outstanding contribution to the work of the United Nations, culminating in the signing of the El Salvador peace agreements. They welcome the new Secretary-General, Mr. Boutros Boutros-Ghali, and note with satisfaction his intention to strengthen and improve the functioning of the United Nations. They pledge their full support to him, and undertake to work closely with him and his staff in fulfilment of their shared objectives, including a more efficient and effective United Nations system.

The members of the Council agree that the world now has the best chance of achieving international peace and security since the founding of the United Nations. They undertake to work in close cooperation with other United Nations Member States in their own efforts to achieve this, as well as to address urgently all the other problems, in particular those of economic and social development, requiring the collective response of the international community. They recognize that peace and prosperity are indivisible and that lasting peace and stability require effective international cooperation for the eradication of poverty and the promotion of a better life for all in larger freedom.

29. An agenda for peace: preventive diplomacy, peacemaking and peacekeeping

Initial proceedings

On 17 June 1992, pursuant to the presidential statement adopted by the Security Council at its summit meeting on 31 January 1992,¹ the Secretary-General submitted to the Council a report entitled "An Agenda for Peace: preventive diplomacy, peacemaking and peacekeeping".² The report contained, as requested, his analysis and recommendations on ways of strengthening and making more efficient, within the framework and provisions of the Charter, the capacity of the United Nations for preventive diplomacy, peacemaking and peacekeeping — to which he had added the closely related concept of peacebuilding.

The Secretary-General remarked on the changing context within which those issues had to be addressed. The ideological barrier that for decades had given rise to distrust and hostility had collapsed; and even though North-South issues had grown more acute, the improvement in East-West relations afforded new

possibilities for successfully meeting threats to common security. It was a time of global transition, marked by contradictory trends. Regional associations of States were evolving ways to deepen cooperation and ease sovereign and nationalistic rivalries. At the same time, however, new assertions of nationalism and sovereignty had sprung up, and the cohesion of States was threatened by ethnic, religious, social, cultural or linguistic strife. Social peace was challenged, moreover, by discrimination and acts of terrorism seeking to undermine change through democratic means. While the concept of peace was easy to grasp, that of international security was more complex, for a pattern of contradictions had arisen there as well: as major nuclear Powers had begun to negotiate arms reduction agreements, the proliferation of weapons of mass destruction threatened to increase and conventional arms continued to be amassed in many parts of the world. Since the creation of the United Nations in 1945, more than 100 major conflicts around the world had left some 20 million dead. The

¹ S/23500. See section 28 of the present chapter.

² S/24111.

Organization had been powerless to deal with many of those crises because of the numerous vetoes cast in the Security Council, which were a vivid expression of the divisions of that period.

The Secretary-General observed, however, that with the end of the cold war there had been no such vetoes since 31 May 1990, and demands on the United Nations had surged. Its security arm had emerged as a central instrument for the prevention and resolution of conflicts and for the preservation of peace. He thought that, in the light of those changed circumstances, the Organization's aims should be the following: to seek to identify at the earliest possible stage situations that could produce conflict, and to try through diplomacy to remove the sources of danger before violence resulted; where conflict had erupted, to engage in peacemaking aimed at resolving the issues that had led to conflict; through peacekeeping, to work to preserve peace where fighting had been halted, and to assist in implementing agreements achieved by the peacemakers; to stand ready to assist in peacebuilding in its differing contexts; and to address the deepest causes of conflict: economic despair, social injustice and political oppression. The Secretary-General stressed that this wider mission for the Organization would demand the concerted attention and effort of individual States — which remained the foundation stone of this work — regional and non-governmental organizations, and the entire United Nations system.

The Secretary-General provided the following definitions for the key terms used in his report: (a) preventive diplomacy was action taken to prevent disputes from arising between parties, to prevent existing disputes from escalating into conflicts and to limit the spread of the latter when they occurred; (b) peacemaking was action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations; (c) peacekeeping was the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well — it was a technique that expanded the possibilities for both the prevention of conflict and the making of peace; (d) post-conflict peacebuilding was action to identify and support structures which would tend to strengthen and solidify peace in order to avoid a relapse into conflict. These four areas of action, taken together and

carried out with the backing of all Members, offered, he maintained, a coherent contribution towards securing peace in the spirit of the Charter.

Commencing with preventive diplomacy, the Secretary-General observed that it could be performed by the Secretary-General personally or through senior staff or specialized agencies or programmes, by the Security Council or by the General Assembly, as well as by regional organizations in cooperation with the United Nations. It required confidence-building measures; it needed early warning based on information-gathering and fact-finding; and it could involve preventive deployment and, in some situations, demilitarized zones. He stressed the need for an increased resort to fact-finding, in accordance with the Charter — initiated either by the Secretary-General, to enable him to meet his responsibilities under the Charter, including Article 99, or by the Security Council or the General Assembly.³ Various forms of fact-finding mission could be employed according to the requirements of the situation. A request by a State for the sending of a United Nations fact-finding mission to its territory should be considered without undue delay. In addition to collecting information on which a decision for further action could be taken, such a mission could in some instances help to defuse a dispute by its presence, indicating to the parties that the Organization, and in particular the Security Council, was actively seized of the matter as a present or potential threat to international security. The Secretary-General added that, in exceptional circumstances, the Council might itself meet away from Headquarters, in order not only to inform itself directly, but also to bring the authority of the Organization to bear on a given situation. In connection with early warning, he pointed to the need for close cooperation between the various specialized agencies and functional offices of the United Nations. He recommended, moreover, that the Security Council invite a reinvigorated and restructured Economic and Social Council to provide reports, in accordance with Article 65 of the Charter, on those economic and social developments that might, unless mitigated, threaten international peace and security. As for preventive deployment, the Secretary-General suggested that the time had come to consider such action in various circumstances, with the consent of the parties concerned: for example, in conditions of internal

³ *Ibid.*, para. 25.

conflict; in an inter-State dispute; or where one nation feared a cross-border attack.

Turning to peacemaking, the Secretary-General noted that Chapter VI of the Charter set forth a comprehensive list of peaceful means for the resolution of conflict. He also called attention to the power of the Security Council, under Articles 36 and 37 of the Charter, to recommend to Member States the submission of a dispute to the International Court of Justice, arbitration or other dispute-settlement mechanisms. He recommended that he be authorized, pursuant to Article 96 (2), to take advantage of the advisory competence of the Court and that other United Nations organs that already enjoyed such authorization turn to the Court more frequently for advisory opinions. He stressed that when peacemaking required the imposition of sanctions under Article 41, States confronted with special economic problems should not only have the right to consult the Security Council, as provided by Article 50, but should also have the “realistic possibility” of having their difficulties addressed.⁴ In that context, he recommended that the Council devise a set of measures involving the financial institutions and other components of the United Nations system that could be put in place to insulate States from such difficulties.

On the use of military force, the Secretary-General observed that it was the essence of the concept of collective security that, if peaceful means failed, the measures provided in Chapter VII should be used, on the decision of the Security Council, to maintain or restore international peace and security. Under Article 42 of the Charter, the Council itself had the authority to take military action for that purpose. Such action would, in his view, require bringing into being, through negotiations, the special agreements foreseen in Article 43 of the Charter, whereby Member States undertook to make available to the Security Council armed forces, assistance and facilities. He felt that, under the political circumstances that then existed for the first time since the Charter was adopted, the long-standing obstacles to the conclusion of such special agreements should no longer prevail. The ready availability of armed forces on call could serve, in itself, as a deterrent since a potential aggressor would know that the Council had at its disposal a means of response. In that context, the Secretary-General recommended that the Council

⁴ Ibid., para. 41.

initiate negotiations, in accordance with Article 43, supported by the Military Staff Committee, whose composition might be augmented if necessary, in accordance with Article 47 (2) of the Charter. He added that, in his view, the role of the Military Staff Committee should be seen in the context of Chapter VII, and not in the planning or conduct of peacekeeping operations. The Secretary-General acknowledged, however, that, in practice, Article 43 forces were not likely to be available for some time to come. In the meantime, the United Nations was on occasion called upon to accomplish tasks that exceeded the mission of peacekeeping operations and the expectations of troop-contributing countries. The Secretary-General therefore recommended that the Council consider the utilization of peace-enforcement units in clearly defined circumstances and with their terms of reference specified in advance, as a provisional measure under Article 40.

As for peacekeeping, the Secretary-General observed that the nature of peacekeeping operations had evolved rapidly in recent years and that a new array of demands and problems had emerged regarding logistics, equipment, personnel and finance. In terms of personnel, he recalled that Member States had been asked in 1990 to indicate what military personnel they were prepared to make available, but that few had replied. He reiterated that request, and asked for standby arrangements to be confirmed, as appropriate.⁵ He also recommended that arrangements be reviewed and improved for training peacekeeping personnel — civilian, police or military. As for the United Nations itself, he suggested that special personnel procedures be instituted to permit the rapid transfer of Secretariat staff members to serve with peacekeeping operations; and that the strength and capability of military staff serving in the Secretariat be augmented to meet new and heavier responsibilities.⁶

With regard to post-conflict peacebuilding, the Secretary-General stressed that for peacemaking and peacekeeping operations to be truly successful, they must include efforts to identify and support structures that would tend to consolidate peace and advance a sense of confidence among people. After civil strife, measures might include, for instance, disarming the previously warring parties and the restoration of order,

⁵ Ibid., para. 51.

⁶ Ibid., para. 52.

the custody and possible destruction of weapons, repatriating refugees, advisory and training support for security personnel, monitoring elections, advancing efforts to protect human rights, reforming or strengthening governmental institutions and promoting processes of political participation. In the aftermath of international conflict, peacebuilding might take the form of concrete cooperative projects that linked two or more countries in a mutually beneficial undertaking that could both contribute to economic and social development and enhance the confidence so fundamental to peace. The concept of peacebuilding as the construction of a new environment should be viewed as the counterpart of preventive diplomacy, which sought to avoid the breakdown of peaceful conditions. Preventive diplomacy was to avoid a crisis; post-conflict peacebuilding was to prevent a recurrence.

Turning to cooperation with regional arrangements and organizations, the Secretary-General stated that, in many cases, they possessed a potential that should be utilized in the four areas covered in his report. He thought they could render great service if their activities were undertaken in a manner consistent with the purposes and principles of the United Nations, and if their relationship with the United Nations, and particularly the Security Council, were governed by Chapter VIII. Under the Charter, the Security Council had, and would continue to have, primary responsibility for maintaining international peace and security. Regional action, however, could lighten the burden of the Council and contribute to a deeper sense of participation, consensus and democratization in international affairs.⁷ Consultations between the United Nations and regional arrangements or agencies could do much to build international consensus on the nature of a problem and the measures required to address it. Regional organizations participating in complementary efforts with the United Nations in joint undertakings would encourage States outside the region to act supportively. Moreover, should the Council choose specifically to authorize a regional arrangement or organization to take the lead in addressing a crisis within its region, that could serve to lend the weight of the United Nations to the validity of the regional effort.⁸

⁷ *Ibid.*, para. 64.

⁸ *Ibid.*, para. 65.

On the question of the safety of personnel, the Secretary-General stressed the need to devise innovative measures to deal with the dangers facing the Organization's staff. He recommended that the Security Council seriously consider what action should be taken towards those who put United Nations personnel in danger. Before deployment, the Council should keep open the option of collective measures, including those under Chapter VII, to come into effect should the purpose of the United Nations operation systematically be frustrated and hostilities occur.

As to financing, the Secretary-General proposed a set of measures to enable the Organization both to function over the longer term and to respond to crises. These included the establishment of a temporary peacekeeping reserve fund to meet the initial expenses of peacekeeping operations, pending receipt of assessed contributions.

In conclusion, the Secretary-General stressed that the Council should never again lose the collegiality essential to its proper functioning, adding that "a genuine sense of consensus deriving from shared interests must govern its work, not the threat of the veto or the power of any group of nations". He recommended that the Heads of State and Government of the members of the Council meet in alternate years, just before the general debate in the General Assembly. Such meetings would permit exchanges on the challenges of the moment and how to address them. In addition, the Council should continue to meet at the Foreign Minister level whenever warranted.

**Decision of 30 June 1992 (3089th meeting):
statement by the President**

At its 3089th meeting, held on 30 June 1992 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. After the adoption of the agenda, the President (Belgium) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:⁹

The Council has noted with interest and appreciation the report of the Secretary-General of 17 June 1992 entitled "An agenda for peace" on ways of strengthening and making more efficient within the framework and provisions of the Charter of the United Nations the capacity of the United Nations for

⁹ S/24210.

preventive diplomacy, for peacemaking and for peacekeeping, prepared pursuant to the statement adopted on 31 January 1992 at the conclusion of the meeting held for the first time by the Security Council at the level of Heads of State and Government. It is grateful to the Secretary-General for his report, which is a comprehensive reflection on the ongoing process of strengthening the Organization. In this connection, the Council welcomes the efforts made by the Secretary-General.

In reading the report, the Council has noted a set of interesting proposals addressed to the various organs of the United Nations and to Member States and regional organizations. The Council therefore trusts that all organs and entities, in particular the General Assembly, will devote particular attention to the report and will study and evaluate the elements of the report that concern them.

Within the scope of its competence, the Security Council will, for its part, examine in depth and with due priority the recommendations of the Secretary-General.

The Council also takes this opportunity to reiterate its readiness to cooperate fully with the Secretary-General in the strengthening of the Organization in accordance with the provisions of the Charter.

Decision of 29 October 1992 (3128th meeting): statement by the President

At its 3128th meeting, held on 29 October 1992 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (France) stated that, following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹⁰

Pursuant to the President's statement of 30 June 1992, the Council has begun to examine the Secretary-General's report entitled "An agenda for peace".

This consideration of the report of the Secretary-General of 17 June 1992 entitled "An agenda for peace" by the Council will be coordinated with the discussions carried out in the General Assembly. The Council welcomes in this regard the contact already established between the Presidents of the two organs and invites the President of the Council to continue and intensify such contacts.

The Council intends to examine the proposals of the Secretary-General which concern it or are addressed to it. For this purpose, the members of the Council have decided to hold a meeting at least once a month on the report, such meetings being prepared for, as necessary, by a working group.

One objective of this examination is to arrive at conclusions which would be considered during a special meeting of the Council, which will determine the date of this meeting, bearing in mind the progress of the work at the present session of the General Assembly, but it hopes to hold the meeting by next spring at the latest.

The Council has followed with close interest the views expressed by Member States in the General Assembly during the general debate as well as during the discussion on item 10 of the agenda of the General Assembly. It has also noted the report of the special session of the Special Committee on Peacekeeping Operations. It has now identified the Secretary-General's proposals which concern it or are addressed to it.

Without prejudice to the further examination of other proposals of the Secretary-General, and taking into account the greatly increased number and complexity of peacekeeping operations authorized by the Council during recent months, the Council believes that two suggestions contained in "An agenda for peace" should be considered at this moment:

- The Council, in accordance with the recommendations contained in paragraph 51 of the Secretary-General's report, encourages Member States to inform the Secretary-General of their willingness to provide forces or capabilities to the United Nations for peacekeeping operations and the type of units or capabilities that might be available at short notice, subject to overriding national defence requirements and the approval of the Governments providing them. It further encourages the Secretariat and those Member States which have indicated such willingness to enter into direct dialogue so as to enable the Secretary-General to know with greater precision what forces or capabilities might be made available to the United Nations for particular peacekeeping operations, and on what time-scale;
- The Council shares the view of the Secretary-General in paragraph 52 of his report concerning the need for an augmentation of the strength and capability of military staff serving in the Secretariat and of civilian staff dealing more generally with peacekeeping matters in the Secretariat. The Council suggests to the Secretary-General that he report to it, as well as to the General Assembly, on this subject as soon as possible. The Secretary-General might consider in his report the establishment in the Secretariat of an enhanced peacekeeping planning staff and an operations centre in order to deal with the growing complexity of initial planning and control of peacekeeping operations in the field. The Council further suggests to Member States that they consider making available to the Secretariat appropriately experienced military or civilian staff, for a fixed period of time, to help with work on peacekeeping operations.

Moreover, the Council intends to study those paragraphs which are addressed to it, including paragraph 41 concerning the special economic problems which may concern other States

¹⁰ S/24728.

when sanctions are imposed on a State, paragraphs 64 and 65 concerning the role of regional organizations, and paragraph 25 concerning resort by the United Nations to fact-finding.

**Decision of 30 November 1992: statement by
the President**

On 30 November 1992, following consultations among the members of the Council, the President (Hungary) made the following statement on behalf of the Council:¹¹

The members of the Council continued the examination of the report of the Secretary-General of 17 June 1992 entitled “An agenda for peace”.

The members of the Council welcome and support the proposals in paragraph 25 of the report of the Secretary-General on fact-finding. They are of the view that an increased resort to fact-finding as a tool of preventive diplomacy, in accordance with the Charter of the United Nations and the United Nations Declaration on Fact-finding for International Security and Peacemaking, particularly its guidelines, can result in the best possible understanding of the objective facts of a situation which will enable the Secretary-General to meet his responsibilities under Article 99 of the Charter and facilitate Security Council deliberations. They agree that various forms of fact-finding can be employed according to the requirements of a situation, and that a request by a State for the dispatch of a fact-finding mission to its territory should be considered without undue delay. They encourage all Member States in a position to do so to provide the Secretary-General with the detailed information needed on issues of concern, so as to facilitate effective preventive diplomacy.

The members of the Council, being aware of the increased responsibilities of the United Nations in the area of preventive diplomacy, invite the Secretary-General to consider the appropriate measures necessary to strengthen the capacity of the Secretariat for information-gathering and in-depth analysis. They also invite Member States and the Secretary-General to consider the secondment of experts to help in this regard. They urge the Secretary-General to take appropriate measures to ensure the availability at short notice of eminent persons who might share, with senior officials of the Secretariat, the burden of fact-finding missions. They note the positive role of regional organizations and arrangements in fact-finding within their areas of competence and welcome its intensification and close coordination with fact-finding efforts by the United Nations.

Bearing in mind the above-mentioned Declaration and the Secretary-General’s recommendations in his report, the members of the Council for their part will facilitate and encourage every appropriate use of fact-finding missions on a case-by-case basis and in accordance with the purposes and principles of the Charter.

In this context, the members of the Council note and endorse the Secretary-General’s view that in some cases a fact-finding mission can help defuse a dispute or situation, indicating to those concerned that the United Nations and in particular the Security Council is actively seized of the matter as a present or potential threat to international peace and security. Such action in the early stages of a potential dispute can be particularly effective. They welcome the Secretary-General’s readiness to make full use of his powers under Article 99 of the Charter to draw the attention of the Security Council to any matter which in his opinion may threaten international peace and security. They note with satisfaction the recent greater use of fact-finding missions, as exemplified by the missions to Moldova, Nagorno-Karabakh, Georgia, Uzbekistan and Tajikistan.

The members of the Council intend to continue their work on the Secretary-General’s report as indicated in the President’s statement of 29 October 1992.

**Decision of 30 December 1992 (3154th meeting):
statement by the President**

At its 3154th meeting, held on 30 December 1992 in accordance with the understanding reached in its prior consultations, the Council included the report of the Secretary-General in its agenda. The President (India) stated that following consultations among the members of the Council, he had been authorized to make the following statement on behalf of the Council:¹²

In pursuance of the President’s statement of 29 October 1992 in connection with the Secretary-General’s report entitled “An agenda for peace”, according to which “the Council intends to study those paragraphs which are addressed to it, including paragraph 41 concerning the special economic problems which may concern other States when sanctions are imposed on a State”, the Security Council examined the question of special economic problems of States as a result of sanctions imposed under Chapter VII of the Charter of the United Nations.

The Council shares the observation made by the Secretary-General in paragraph 41 of his report that when such sanctions are imposed under Chapter VII of the Charter, it is important that States confronted with special economic problems have the right to consult the Council regarding such problems, as provided in Article 50 of the Charter. The Council agrees that appropriate consideration should be given to their situation.

The Council notes the Secretary-General’s recommendation that the Council devise a set of measures, involving the financial institutions and other components of the United Nations system, that can be put in place to insulate States from such difficulties.

¹¹ S/24872.

¹² S/25036.

The Council, while noting that this matter is being considered in other forums of the United Nations, expresses its determination to consider this matter further and invites the Secretary-General to consult the heads of the international financial institutions, other components of the United Nations

system and Member States, and to report to the Security Council as early as possible.

The Council intends to continue its work on the Secretary-General's report as indicated in the President's statement of 29 October 1992.

Chapter IX

Decisions in the exercise by the Security Council of its other functions and powers

Note

During the period under review, the Security Council took several decisions in the exercise of functions and powers other than those relating to the maintenance of international peace and security. The Council's practice relating to these decisions has been addressed elsewhere in this Supplement.

The practice of the Council in connection with (a) the appointment of the Secretary-General; (b) the election of members of the International Court of Justice; and (c) the partial termination of a trusteeship agreement is dealt with in chapter VI, "Relations with other United Nations organs". An exchange of letters in September 1990 between the Secretary-General and the President of the Security Council concerning the establishment under the auspices of the General Assembly of an electoral assistance mission to Haiti is also considered in that chapter.

Decisions of the Security Council on the question of the admission of new Members to the United Nations are dealt with in chapter VII.

Chapter X

Consideration of the provisions of Chapter VI of the Charter

Contents

	<i>Page</i>
Introductory note	833
Part I. Referral of disputes and situations to the Security Council	835
Part II. Investigation of disputes and fact-finding	852
Part III. Decisions of the Security Council concerning the pacific settlement of disputes	857
A. Recommendations relating to terms, methods or procedures of settlement	859
B. Decisions involving the Secretary-General in the Council's efforts at the peaceful settlement of disputes	861
Part IV. Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter	865

Introductory note

This chapter deals with the practice of the Security Council in relation to the pacific settlement of disputes within the framework of Articles 33 to 38 (Chapter VI) and Articles 11 and 99 of the Charter.

The period under review was marked by a considerably expanded scope of Council action in this field,¹ which has been attributed both to the improved opportunities for conflict resolution, and the necessity to take action in relation to acute situations resulting from changes to State structures following the end of the cold war period.²

At the Council's summit meeting on 31 January 1992, on the subject of its responsibility for the maintenance of international peace and security,³ speakers expressed the hope that this new era would present new opportunities for the maintenance of peace and security on a global scale. At the same time, several speakers also highlighted the risks resulting from the break-up and the transformation of several Member States.

In a statement adopted at the conclusion of the summit meeting, the members of the Council reiterated that "all disputes between States should be peacefully resolved in accordance with the provisions of the Charter" and expressed the belief that there were now "new favourable international circumstances" under which the Security Council had begun "to fulfil more effectively its primary responsibility for the maintenance of international peace and security".⁴

In his report entitled "An Agenda for Peace" dated 17 June 1992,⁵ which the Secretary-General had been invited to prepare by the Council in the above-mentioned statement, the Secretary-General observed that the Organization's "security arm, once disabled by circumstances it was not created or equipped to control, ha[d] emerged as a central instrument for the prevention and resolution of conflicts and for the preservation of peace".⁶ The Secretary-General further observed that "the present determination in the Security Council to resolve international disputes in the manner foreseen in the Charter ha[d] opened the way for a more active Council role" and that "with greater unity ha[d] come leverage and persuasive power to lead hostile parties towards negotiations".⁷

Responding to that report, the General Assembly, in a resolution adopted on 18 December 1992, encouraged the Security Council "to utilize fully the provisions of Chapter VI of the Charter on procedures and methods for peaceful settlements of disputes and to

of achieving international peace and security since the founding of the United Nations", but also recognized that change, however welcome, had "brought new risks for stability and security", noting that "some of the most acute problems result[ed] from changes to State structures".

¹ See for example the comments on the expanding activities of the Council in the report of the Secretary-General on the work of the Organization for 1992 (*Official Records of the General Assembly, Forty-seventh Session, Supplement No. 1 (A/47/1)*, para. 16).

² See for example the verbatim record of the debate held on 31 January 1992 at the summit meeting on the responsibility of the Security Council in the maintenance of international peace and security (3046th meeting), an outline of which is also contained in chapter VIII, section 28. See also the statement by the President of the Council adopted at the conclusion of that summit (S/23500), and the report of the Secretary-General entitled "An Agenda for Peace", dated 17 June 1992 (S/24111).

³ The first ever meeting of the Council at the level of Heads of State and Government (see footnote 2).

⁴ S/23500. In that statement, the members of the Council further agreed that the world now had "the best chance

⁵ S/24111. The full title of the report is "An Agenda for Peace: preventive diplomacy, peacemaking and peacekeeping".

⁶ S/24111, para. 15. The Secretary-General also gave definitions of the terms "preventive diplomacy", "peacemaking" and "post-conflict peacebuilding" (*ibid.*, para. 20). "Peacemaking" is defined as "action to bring hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations". In further comments on peacemaking in the report, the following explanation is provided: "Between the tasks of seeking to prevent conflict and keeping the peace lies the responsibility to bring hostile parties to agreement by peaceful means. Chapter VI of the Charter set forth a comprehensive list of such means for the resolution of conflict" (*ibid.*, para. 34).

⁷ S/24111, para. 35.

call upon the parties concerned to settle their disputes peacefully”.⁸

As Chapter VIII of this volume sets out a full account of Council proceedings with regard to the pacific settlement of disputes, the present Chapter does not discuss the practice of the Security Council aimed at the peaceful settlement of disputes in a comprehensive manner. It focuses instead on selected material that may best serve to highlight how the provisions of Chapter VI of the Charter were interpreted in deliberations and applied in the relevant decisions of the Council.

The manner of presenting and classifying the relevant material has been devised to set forth the practices and procedures to which the Council has had recourse in a readily accessible form. In contrast to earlier volumes of the *Repertoire*, the material has been categorized under thematic headings rather than individual Articles of the Charter, so as to avoid ascribing to specific Articles of the Charter Council proceedings or decisions which do not themselves refer to any such Article.

Part I illustrates how, under Article 35, Member States and non-member States have brought new disputes and situations to the attention of the Security Council. Also considered are referrals of such situations by the Secretary-General under Article 99 and the General Assembly under Article 11 (3). Part II sets out investigations and fact-finding missions mandated by the Security Council under Article 34, taking into consideration fact-finding missions by the Secretary-General in regard to which the Council expressed its support or of which it took note. Furthermore, this part will look at several instances, and one in particular, in which Member States demanded or suggested to the Council that an investigation be carried out or a fact-finding mission be dispatched. Part III provides an overview of Council recommendations and decisions, under the relevant

Articles of the Charter, with regard to the pacific settlement of disputes. Specifically, it will illustrate Council recommendations to the parties to a conflict as well as Council decisions requesting the Secretary-General’s good offices in the pacific settlement of disputes. Finally, part IV will reflect constitutional discussions within the Security Council and in its communications with Member States, on the interpretation or application of the provisions of Chapter VI of the Charter.

Article 11, paragraph 3

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

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 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 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.

⁸ Resolution 47/120 A, section I, para. 3; the General Assembly also encouraged the Secretary-General and the Security Council “to engage at an early stage in close and continuous consultation in order to develop, on a case-by-case basis, an appropriate strategy for the peaceful settlement of specific disputes, including the participation of other organs, organizations and agencies of the United Nations system, as well as regional arrangements and organizations as appropriate” (ibid., para. 4).

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 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, paragraph 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.

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.

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.

Part I Referral of disputes and situations to the Security Council

Note

Within the framework of the Charter, Articles 35, 37 (1) and 38 are generally regarded as the provisions on the basis of which States may or, in the case of Article 37 (1), shall refer disputes to the Security Council. During the reporting period, disputes and situations were almost exclusively referred to the Security Council by communications from Member States. While Article 35 was expressly referred to in a small number of communications,⁹ most

communications did not cite any specific Article as the basis on which they were submitted.¹⁰

⁹ See the following communications addressed to the President of the Security Council: letters dated 22 March and 3 April 1989 from the representative of Afghanistan, concerning an alleged military aggression by Pakistan (S/20545 and S/20561); letter dated 28 January 1991 from the representative of Cuba, concerning the situation between Iraq and Kuwait (S/22157); note verbale dated 8 February 1991 from the Permanent Mission of the Libyan Arab Jamahiriya, concerning the situation in the occupied Arab territories (S/22211); letter dated 8 May 1992 from the representative of Cuba, concerning alleged terrorist activities against Cuba (S/23890); letter dated 11 May 1992 from the representative of Armenia,

concerning the situation in Nagorny-Karabakh (S/23896); and letter dated 7 December 1992 from the representative of Bosnia and Herzegovina, concerning the deteriorating situation in Bosnia and Herzegovina (S/24916). See also the verbatim record of the 2861st meeting of the Security Council held on 28 April 1989; at that meeting, the representative of Panama thanked the Council in his opening statement for having agreed to Panama's request for a meeting "to be convened on the basis of Articles 34 and 35" (S/PV.2861, p. 6).

¹⁰ In his report on the work of the Organization for 1990, the Secretary-General expressed the belief that the peacemaking capacity of the United Nations would be considerably strengthened if the Security Council had a peace agenda that was not confined to items formally included in the agenda at the request of Member States, and if it held periodic meetings to survey the political scene and identify points of danger at which preventive and anticipatory diplomacy was required (*Official Records of the General Assembly, Forty-fifth Session, Supplement No. 1 (A/45/1)*, p. 7). Similarly, in his annual report for 1989, the Secretary-General had proposed that the Council could meet periodically to

Under Articles 11 (3) and 99 of the Charter, the General Assembly and the Secretary-General may refer matters to the Security Council.¹¹ While during the period under review the General Assembly did not refer any matters to the Security Council under Article 11 (3),¹² the Secretary-General referred matters to the Security Council as provided for under Article 99 in a limited number of instances.

Referrals by States

No dispute or situation was submitted by a State other than a Member of the United Nations under Article 35 (2). In connection with the situation in Cyprus, an issue was raised, however, by the representative of Cyprus with regard to the submission, by a Member State, namely Turkey, of a communication from a non-State entity, namely the “Turkish Republic of Northern Cyprus”.¹³

consider the state of international peace and security in different regions at the level of foreign ministers and, when appropriate, in closed session, and that, where international friction appeared likely, the Council could act on its own or request the Secretary-General to exercise his good offices (ibid., *Forty-fourth Session, Supplement No. 1 (A/44/1)*, p. 5).

¹¹ In addition, Article 11 (2) provides that the General Assembly shall refer to the Security Council questions relating to the maintenance of international peace and security on which action is necessary.

¹² Numerous communications, relating to the situation in the occupied Arab territories, were, however, submitted to the Security Council by a subsidiary organ of the General Assembly — the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Those communications are listed in chapter VI, part I, “Relations with the General Assembly”. In one such communication, a letter dated 9 February 1989 (S/20455), the Committee supported a request made by Tunisia, on behalf of the Arab Group, for an immediate meeting of the Security Council. The letter was included in the Council’s agenda as a sub-item at the 2845th meeting and further considered at the 2846th, 2847th, 2849th and 2850th meetings.

¹³ At the 2928th meeting, on 15 June 1990, the representative of Cyprus complained about the “unacceptable practice of the representative of Turkey to the United Nations, repeated many times, of requesting circulation and having circulated as United Nations documents letters and statements emanating from and expressing the views of the pseudo-State, which had been strongly and unequivocally condemned by Security Council resolutions 541 (1983) and 550 (1984)” (S/PV.2928, p. 21). See also the letters dated 28 August,

While most disputes and situations were brought to the attention of the Council by one or more of the parties to such dispute or situation, the internal conflicts in the former Yugoslavia, in Liberia and in Tajikistan were referred to the Council by other Member States.¹⁴ However, the States affected by those conflicts expressly confirmed their agreement to an intervention by the Council. In connection with the situation in Yugoslavia, which was brought to the attention of the Council in September 1991 by letters from several Member States,¹⁵ Yugoslavia, by a letter to the President of the Security Council dated 24 September 1991,¹⁶ expressly welcomed the decision to call a meeting of the Council to consider the situation. In connection with the situation in Liberia, which was brought to the attention of the Council by a letter dated 15 January 1991 from Côte d’Ivoire,¹⁷ the representative of Liberia, at the 2974th meeting on 22 January 1991, not only confirmed Liberia’s agreement to an intervention by the Council, but also expressed regret that such intervention had not occurred earlier. He recalled that his country had been trying for several months to have the Council seized of the situation and deplored the fact that the strict application of the Charter provisions relating to non-interference in the internal affairs of Member States had “hampered the effectiveness of the Council and its principal objective of maintaining international peace and security”.¹⁸ In connection with the situation in

14 September and 16 October 1989 from the representative of Turkey to the Secretary-General (S/20821, S/20845 and S/20903).

¹⁴ In connection with the situation in Yugoslavia, see the letter dated 24 September 1991 from the representative of Yugoslavia to the President of the Security Council (S/23069). In connection with the situation in Liberia, see the letter dated 15 January 1991 from the representative of Côte d’Ivoire to the President of the Security Council (S/22076). In connection with the situation in Tajikistan, see the letter dated 19 October 1992 from the representative of Kyrgyzstan to the Secretary-General (S/24692).

¹⁵ Letters dated 19 and 20 September 1991 from the representatives of Austria, Canada and Hungary to the President of the Security Council (S/23052, S/23053 and S/23057).

¹⁶ S/23069.

¹⁷ S/22076.

¹⁸ S/PV.2974, p. 3.

Tajikistan,¹⁹ the Government of Tajikistan, by a letter to the President of the Council dated 21 October 1992,²⁰ acknowledged that the efforts by the country's political leadership to settle the conflict by peaceful means had failed, and *inter alia* expressly requested the dispatch of a "peacemaking mission".

In addition to the above-mentioned internal conflicts, the situation following the intervention by the armed forces of the United States in Panama was also brought to the attention of the Security Council by a third party, namely Nicaragua, which, on 20 December 1989, requested an immediate meeting of the Security Council.²¹ Two communications emanating from different Panamanian authorities on the ground were received by the Secretary-General on the same day.²²

Referrals by the Secretary-General

In connection with the situation in the Middle East, the Secretary-General, by a letter to the President of the Security Council dated 15 August 1989,²³ in which he referred to the exercise of his responsibilities under the Charter, brought to the Council's attention the deterioration of the situation in Lebanon. In response to the Secretary-General's urgent appeal, the Council immediately convened its 2875th meeting to consider the item.

In connection with the situation in Angola, the Secretary-General, by a letter to the President of the Security Council dated 27 October 1992,²⁴ drew the Council's attention to the deteriorating political situation and the rising tension in that country. On the

same day, the Council convened its 3126th meeting to consider the item.

In addition to those communications, the Secretary-General, as part of his general reporting obligations, informed the Security Council of relevant developments in matters of which the Council was seized. In his annual reports on the work of the Organization issued during the period under review, the Secretary-General deplored, however, that, owing to insufficient means of information, he was not always in the best position to assess whether and when an issue needed to be brought to the Council's attention.²⁵ In this regard, the members of the Council, in a statement by the President of the Council dated 30 November 1992, in connection with the item entitled "An agenda for peace: preventive diplomacy, peacemaking and peacekeeping",²⁶ expressed the view that an increased use of fact-finding, in accordance with the Charter and the Declaration adopted by the General Assembly on 9 December 1991,²⁷ would assist the Secretary-General to execute his responsibilities under Article 99 and facilitate the deliberations of the Council.²⁸

Nature of matters referred to the Security Council

According to Article 35, which, in the absence of evidence pointing to other Charter provisions, is commonly regarded as the basis on which matters are referred to the Security Council by States, any Member State may bring to the Council's attention "any

¹⁹ The situation in Tajikistan had been brought to the Council's attention by a letter dated 19 October 1992 from the representative of Kyrgyzstan (S/24692).

²⁰ S/24699.

²¹ See the letter dated 20 December 1989 from the representative of Nicaragua to the President of the Security Council (S/21034).

²² In response to a request made by the President of the Security Council at its 2901st meeting, on 21 December 1989, the Secretary-General, pursuant to rule 15 of the Council's provisional rules of procedure, submitted a report on the credentials of those authorities, but was not in a position to formulate an opinion as to the adequacy of the provisional credentials which had been submitted (see S/21047).

²³ S/20789.

²⁴ The letter was not issued as a document of the Council; see S/PV.3126, p. 2.

²⁵ See *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 1 (A/44/1)*, p. 5; *ibid.*, *Forty-fifth Session, Supplement No. 1 (A/45/1)*, p. 7; and *ibid.*, *Forty-sixth Session, Supplement No. 1 (A/46/1)*, p. 3. The Secretary-General also noted that, even though the Charter mandated prevention, situations were often addressed only after they had taken a clear turn towards the use of force (see for example A/44/1, p. 5).

²⁶ S/24872.

²⁷ Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security (resolution 46/59, annex).

²⁸ The General Assembly, in a resolution adopted on 18 December 1992, also encouraged the Secretary-General "to continue, in accordance with Article 99 of the Charter of the United Nations, to bring to the attention of the Security Council, at his discretion, any matter which in his opinion may threaten the maintenance of international peace and security, together with his recommendation thereon" (resolution 47/120 A, section II, para. 4).

dispute”, or “any situation which might lead to international friction or give rise to a dispute”. During the reporting period, several new matters were brought to the Council’s attention, which were mostly referred to as “situations”,²⁹ and only rarely as “disputes”.³⁰ In other instances, the subject matter of the relevant communications was referred to by a different term, such as “conflict”³¹ or “incident”,³² or described in narrative form.³³

It should also be noted that, while the Charter provisions setting out the basis on which States may bring matters concerning international peace and security to the attention of the Security Council form part of Chapter VI of the Charter, the subject matter of communications submitted to the Council and the type of action requested in relation thereto are not limited by the scope of that Chapter. During the period under review, several communications submitted to the Council explicitly alleged a threat to regional or international peace and security,³⁴ referred to an

“invasion”³⁵ or “aggression”,³⁶ or called for action under Chapter VII of the Charter.³⁷ Situations in which the Council did indeed determine the existence of a threat to the peace, a breach of the peace or an aggression are considered in Chapter XI of this volume.

In some instances, Member States challenged the referral of a matter to the Council by rejecting claims that a dispute, or a situation which might lead to international friction or give rise to a dispute, as required under Article 35, did indeed exist.

In response to Afghanistan’s request in a letter dated 3 April 1989³⁸ that the Council convene a meeting to consider Pakistan’s interference in its

²⁹ See the communications listed in the table below, drawing attention to the situations in Panama, the former Yugoslavia, Haiti, Liberia, Somalia, Nagorny-Karabakh, Georgia and Tajikistan.

³⁰ See for example the letter dated 11 May 1992, from the representative of Armenia to the President of the Security Council (S/23896), which refers to “the dispute between the Nagorno-Karabakh Republic and the Azerbaijani Republic”. In the same letter, however, reference is made to “the situation of armed conflict ... in and around the Nagorno-Karabakh Republic”.

³¹ See the letter dated 21 October 1992 from the representative of Tajikistan to the President of the Security Council (S/24699).

³² See the letter dated 2 April 1992 from the representative of Venezuela to the President of the Security Council (S/23771), and the letter dated 27 April 1992 from the representative of Cuba to the President of the Security Council (S/23850).

³³ See the letter dated 3 January 1990 from the representative of Nicaragua to the President of the Security Council (S/21066).

³⁴ See the following letters addressed to the President of the Security Council: in connection with the situation in Panama, letter dated 25 April 1989 from the representative of Panama (S/20606) and letter dated 23 December 1989 from the representative of Nicaragua (S/21051); in connection with the situation between Iraq and Kuwait, letter dated 2 April 1991 from the representative of Turkey (S/22435), letters dated 7 August 1992 from the representatives of the United Kingdom and the United States (S/24395 and S/24396) and letter dated 28 October 1992 from the representative

of Benin (S/24735), in connection with the situation in the Middle East, letter dated 17 February 1992 from the representative of Lebanon (S/23604); in connection with the situation relating to Nagorny-Karabakh, letter dated 9 May 1992 from the representative of Azerbaijan (S/23894); and, in connection with the situation in Georgia, letter dated 6 October 1992 from the representative of Georgia (S/24619).

³⁵ See the letter dated 2 August 1990 from the representative of Kuwait to the President of the Security Council (S/21423).

³⁶ See the following letters addressed to the President of the Security Council: letters dated 4 January 1989 from the representatives of the Libyan Arab Jamahiriya and Bahrain (S/20364 and S/20367); letter dated 3 April 1989 from the representative of Afghanistan (S/20561); letters dated 27 May and 13 July 1992 from the representative of Bosnia and Herzegovina (S/24024 and S/24266); and letters dated 11, 12 and 13 July 1992 from the representatives of Croatia and Slovenia (S/24264, S/24265 and S/24270).

³⁷ See the following letters addressed to the President of the Security Council: in connection with the situation in Bosnia and Herzegovina, letters dated 27 May, 13 July, 10 August, 4 November and 7 December 1992 from the representative of Bosnia and Herzegovina (S/24024, S/24266, S/24401, S/24761 and S/24916); letters dated 11 and 12 July 1992 from the representative of Croatia (S/24264 and S/24265); letters dated 10 August 1992 from the representatives of Turkey, the Islamic Republic of Iran and Kuwait (S/24409, S/24410 and S/24416); letters dated 11, 12 and 13 August 1992 from the representatives of Malaysia, Pakistan, Egypt, the United Arab Emirates, Bahrain, the Comoros and Qatar (S/24412, S/24419, S/24423, S/24431, S/24433, S/24439 and S/24440); and, in connection with the situation in the occupied Arab territories, letter dated 18 December 1992 from the representative of Lebanon (S/24980).

³⁸ S/20561.

internal affairs, Pakistan, by a letter dated 7 April 1989,³⁹ questioned the appropriateness of such meeting and contended that Article 35 had no bearing on the matter. Pakistan maintained that the situation was a purely internal one, in which the Afghan people were resisting the rule of an illegal and unrepresentative regime, and involved neither a dispute between Afghanistan and another country nor a situation that endangered the maintenance of international peace and security.

In several other instances, the referral of a matter to the Council was challenged for similar reasons, but without an express reference to Article 35 of the Charter.⁴⁰ As the arguments advanced in those

instances were more closely related to the Council's general competences under Chapter VI of the Charter than the right of Member States to refer a dispute under Article 35, the details of those arguments are set out in part IV of the present chapter, which provides an overview of debates relating to various salient issues raised in the Council's deliberations.

Communications

Disputes and situations were generally submitted to the Council by means of a communication to the President of the Council. In several instances, however, matters were brought to the Council's attention through a communication addressed to the Secretary-General.⁴¹ Those communications either enclosed a document addressed to the Security Council,⁴² called for the convening of a Security Council meeting,⁴³ or contained a request to be circulated as a document of

³⁹ S/20577.

⁴⁰ In connection with a letter dated 2 February 1990 from the representative of Cuba to the President of the Security Council, concerning the alleged harassment of a Cuban merchant ship by the United States (S/21120), the representative of the United States, at the 2907th meeting, stated, *inter alia*, that the incident was not "a spat between the United States and Cuba, although the Cuban Government, for reasons that are opaque, trie[d] to make it one" and that "the United States [saw] no reason whatsoever for the Council to consider this routine law-enforcement matter, which in no way threaten[ed] international peace and security" (S/PV.2907, pp. 34 and 37). In connection with a letter dated 25 April 1989 from the representative of Panama to the President of the Security Council (S/20606), alleging a "flagrant intervention in Panama's internal affairs by the United States", the United States contended that Panama had requested the Council meeting for reasons of internal politics only (S/PV.2861, pp. 18-27). In connection with a letter dated 3 January 1990 from the representative of Nicaragua to the President of the Security Council (S/21066), concerning the alleged interference by the United States with the residence of the Nicaraguan Ambassador to Panama, the United States disputed that the incident constituted a potential threat to international peace and security which would "require a formal Council meeting or even Council consideration of this issue" (S/PV.2905, p. 21). In connection with requests that the Libyan Arab Jamahiriya fully cooperate with investigations into the terrorist acts against Pan Am flight 103 on 21 December 1988 and UTA flight 772 on 19 September 1989, the representative of the Libyan Arab Jamahiriya, at the 3033rd meeting, on 21 January 1992, contended that the Council was not competent to consider the matter, as it was not in the nature of a political dispute (see the letters dated 20 and 23 December 1991 from the representatives of France, the United Kingdom and the United States to the Secretary-General (S/23306,

S/23307, S/23308, S/23309 and S/23317); see also the discussion of this matter in part IV of the present chapter, and the opening statement of the Libyan Arab Jamahiriya at the 3033rd meeting (S/PV.3033, pp. 13-15 and 22).

⁴¹ Under rule 6 of the Council's provisional rules of procedure, the Secretary-General is obliged to immediately bring such communications to the attention of all representatives on the Security Council. See letters dated 22 March 1989 from the representative of Afghanistan (S/20545); 23 December 1989 from the representative of Nicaragua (S/21051); 15 August 1990 from the representative of the Libyan Arab Jamahiriya (S/21529); 11 October 1990 from the representative of Tunisia (S/21870); 24 November 1990 from the representative of the Libyan Arab Jamahiriya (S/21964); 20 and 23 December 1991 from the representatives of France, the United Kingdom and the United States (S/23306, S/23307, S/23308, S/23309 and S/23317); and 19 October 1992 from the representative of Kyrgyzstan (S/24692).

⁴² See for example letter dated 23 December 1989 from the representative of Nicaragua to the Secretary-General, transmitting a letter of same date addressed to the President of the Security Council (S/21051).

⁴³ See for example letters dated 15 August and 24 November 1990 from the representative of the Libyan Arab Jamahiriya to the Secretary-General (S/21529 and S/21964).

the Security Council⁴⁴ or an express reference to Article 35 (1) of the Charter.⁴⁵

Communications by which new disputes or situations were referred to the Security Council during the period under review are listed in the table below. In addition, the letters dated 27 and 28 November 1989 from the representatives of El Salvador and Nicaragua, respectively, to the President of the Security Council,⁴⁶ have been included in the table, as the matters complained of, while forming part of the broader conflict in Central America, arose after the conclusion of the regional peace agreements by which that conflict was to be brought to an end.⁴⁷ Similarly, a complaint by Afghanistan concerning an alleged military

aggression by Pakistan⁴⁸ has also been included in the table, as this matter, which was considered by the Council under the existing agenda item “the situation relating to Afghanistan”,⁴⁹ arose after the conclusion of the Geneva Agreements,⁵⁰ by which Afghanistan and Pakistan had, inter alia, undertaken to conduct their relations “in strict compliance with the principle of non-interference and non-intervention by States in the affairs of other States”.

Communications by which Member States merely conveyed information, but did not request a Council meeting or other specific Council action, have not been included in the table, as such communications cannot be considered referrals under Article 35.

⁴⁴ See for example letter dated 19 October 1992 from the representative of Kyrgyzstan to the Secretary-General (S/24692); and letters dated 20 and 23 December 1991 from the representatives of France, the United Kingdom and the United States to the Secretary-General (S/23306, S/23307, S/23308, S/23309 and S/23317).

⁴⁵ See for example letter dated 22 March 1989 from the representative of Afghanistan to the Secretary-General (S/20545).

⁴⁶ S/20991 and S/20999.

⁴⁷ Procedure for the establishment of a firm and lasting peace in Central America (Esquipulas II Agreement) (S/19085, annex); the Joint Declaration of the Central American Presidents (S/20491, annex); and the Tela Agreement (see S/20778).

⁴⁸ See the letters dated 22 March and 3 April 1989 from the representative of Afghanistan to the President of the Security Council (S/20545 and S/20561).

⁴⁹ This item had first been included in the Council’s agenda at its 2828th meeting, on 31 October 1988. Afghanistan’s complaint of 22 March and 3 April 1989 and a letter from the representative of Pakistan dated 7 April 1989 (S/20577) were considered by the Council at the 2852nd and the 2853rd meetings, on 11 and 17 April 1989 respectively.

⁵⁰ The Agreements were signed by Afghanistan and Pakistan on 14 April 1988 (see S/19835, annex I).

Communications bringing disputes or situations to the attention of the Security Council during the period 1989-1992

1 January to 31 December 1989

<i>Communication</i>	<i>Article or rule invoked</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 4 January 1989 from the Chargé d’affaires a.i. of the Permanent Mission of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/20364)		Requesting that the Security Council be convened immediately in order to halt the aggression with respect to the downing of two Libyan reconnaissance aircraft by the United States Air Force over international waters.	2835th meeting 5 January 1989

<i>Communication</i>	<i>Article or rule invoked</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Bahrain to the United Nations addressed to the President of the Security Council (S/20367)		Requesting the Security Council be convened immediately to consider the question of the downing of the two Libyan reconnaissance aircraft over international waters by the United States Air Force, and to put an end to the aggression against the Socialist People's Libyan Arab Jamahiriya.	
Letter dated 3 April 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Afghanistan to the United Nations addressed to the President of the Security Council (S/20561)		Requesting the Security Council to convene an emergency meeting in order to consider Pakistan's military aggression and its interference in the internal affairs of Afghanistan.	2852nd meeting 11 April 1989
Letter dated 25 April 1989 from the Permanent Representative of Panama to the United Nations addressed to the President of the Security Council (S/20606)		Requesting that a meeting of the Security Council be convened immediately to consider the grave situation faced by Panama as a result of intervention in its internal matters by the United States.	2861st meeting 28 April 1989
Letter dated 15 August 1989 from the Secretary-General addressed to the President of the Security Council (S/20789)		Requesting that the Council be convened urgently in order to contribute to a peaceful solution to the deteriorating situation in Lebanon, which posed a serious threat to international peace and security.	2875th meeting 15 August 1991
Letter dated 27 November 1989 from the Permanent Representative of El Salvador to the United Nations addressed to the President of the Security Council (S/20991)		Requesting the Security Council to convene as a matter of urgency, to consider actions by the Nicaraguan Government, which constituted breaches of regional agreements.	2896th meeting 30 November 1989
Letter dated 28 November 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council (S/20999)		Requesting that the scope of the urgent meeting requested by El Salvador be expanded to include consideration of the grave repercussions, which the serious deterioration of the situation in El Salvador was having on the peace process in Central America.	
Letter dated 20 December 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council (S/21034)		Requesting the Security Council to convene an urgent meeting on 20 December 1989 to consider the situation following the invasion of the Republic of Panama by the United States.	2899th meeting 20 December 1989

1 January to 31 December 1990

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 3 January 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Nicaragua to the United Nations addressed to the President of the Security Council (S/21066)		Requesting the Security Council to convene an urgent meeting on 8 January 1990 concerning the occupation of Panama by United States troops.	2905th meeting 17 January 1990
Letter dated 2 February 1990 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council (S/21120)		Requesting the Security Council to convene a meeting to consider the harassment of and an armed attack on a Cuban merchant ship by the United States Coast Guard.	2907th meeting 9 February 1990
Letter dated 2 August 1990 from the Permanent Representative of Kuwait to the United Nations addressed to the President of the Security Council (S/21423)		Requesting an immediate meeting of the Security Council to consider the Iraqi invasion of Kuwait in the early morning of 2 August 1990.	2932nd meeting 2 August 1990
Letter dated 2 August 1990 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/21424)		Requesting an urgent meeting of the Security Council in the light of the invasion of Kuwait by Iraqi forces and the request of the Permanent Representative of Kuwait.	

1 January to 31 December 1991

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 15 January 1991 from the Chargé d'affaires a.i. of the Permanent Mission of Côte d'Ivoire to the United Nations addressed to the President of the Security Council (S/22076)		Requesting a meeting of the Security Council concerning the deterioration of the economic and social situation in Liberia.	2974th meeting 22 January 1991
Letter dated 2 April 1991 from the Permanent Representative of Turkey to the United Nations addressed to the President of the Security Council (S/22435)		Requesting the Security Council to convene an urgent meeting to consider the alarming situation concerning Iraqis on the Turkish border, and to adopt necessary measures to put an end to the repression of the Iraqi population in northern Iraq by the Iraqi army.	2982nd meeting 5 April 1991

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council (S/22442)		Requesting the Security Council to convene an urgent meeting to discuss the serious situation resulting from abuses being committed against the Iraqi population.	
Letter dated 19 September 1991 from the Permanent Representative of Austria to the United Nations addressed to the President of the Security Council (S/23052)		Requesting urgent consideration of the deteriorating situation regarding Yugoslavia in informal consultations of the members of the Security Council.	3009th meeting 25 September 1991
Letter dated 19 September 1991 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council (S/23053)		Requesting the urgent convening of a meeting of the Security Council concerning the deteriorating situation regarding Yugoslavia.	
Letter dated 20 September 1991 from the Permanent Representative of Hungary to the United Nations addressed to the President of the Security Council (S/23057)		Requesting the urgent convening of a meeting of the Security Council concerning the deteriorating situation regarding Yugoslavia.	
Letter dated 24 September 1991 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council (S/23069)		Requesting a meeting of the Security Council to discuss the situation in Yugoslavia, requesting the participation of the Federal Secretary for Foreign Affairs of Yugoslavia in the meeting, and hopeful that the Council would be able to adopt a resolution at the meeting to contribute to the current peace efforts for Yugoslavia.	
Letter dated 30 September 1991 from the Permanent Representative of Haiti to the United Nations addressed to the President of the Security Council (S/23098)		Requesting the immediate convening of a meeting of the Security Council to consider the situation in Haiti and its consequences for regional stability.	3011th meeting 3 November 1991
Letter dated 24 November 1991 from the Secretary-General addressed to the President of the Security Council (S/23239)			3018th meeting 27 November 1991

Repertoire of the Practice of the Security Council

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 21 November 1991 from the Permanent Representative of Germany to the United Nations addressed to the President of the Security Council (S/23232)		Requesting the convening of an urgent meeting of the Security Council to discuss the situation in Yugoslavia.	
Letter dated 26 November 1991 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council (S/23247)		Requesting the convening of an emergency meeting of the Security Council to discuss the situation in Yugoslavia.	

1 January to 31 December 1992

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letters dated 20 and 23 December 1991 from the representatives of France, the United Kingdom of Great Britain and Northern Ireland and the United States of America addressed to the Secretary-General (S/23306, S/23307, S/23308, S/23309 and S/23317)		No action requested. Requesting circulation of letters and attached documents by the Governments and judicial bodies of the aggrieved States in connection with the destruction of Pan Am flight 103 on 21 December 1988 and UTA flight 772 on 19 September 1989 as documents of the General Assembly and the Security Council.	3033rd meeting 21 January 1992
Letter dated 20 January 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Somalia to the United Nations addressed to the President of the Security Council (S/23445)		Requesting the Council to convene immediately a meeting to discuss the deteriorating human dilemma prevailing in Somalia.	3039th meeting 23 January 1992
Letter dated 2 April 1992 from the Permanent Representative of Venezuela to the United Nations addressed to the President of the Security Council (S/23771)	Rule 3 of the Council's provisional rules of procedure	Requesting an urgent meeting of the Council to bring to its attention the violation of the diplomatic mission of Venezuela to Tripoli, Libyan Arab Jamahiriya, on 2 April 1992.	3064th meeting 2 April 1992

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 23 April 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Austria to the United Nations addressed to the President of the Security Council (S/23833)		Requesting an urgent meeting of the Security Council on the deteriorating situation in Bosnia and Herzegovina, which was endangering international peace and security.	3070th meeting 24 April 1992
Letter dated 24 April 1992 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council (S/23838)		Requesting an urgent meeting of the Security Council to take such action as might be conducive to the re-establishment of peace in Bosnia and Herzegovina.	
Letter dated 9 May 1992 from the Permanent Representative of Azerbaijan to the United Nations addressed to the President of the Security Council (S/23894)		Bringing to the attention of the Security Council the grave situation in Nagorny-Karabakh.	3072nd meeting 12 May 1992
Letter dated 11 May 1992 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council (S/23896)		Requesting an emergency meeting of the Security Council to discuss the escalation of the conflict in Nagorny-Karabakh.	
Letter dated 27 April 1992 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council (S/23850)		Requesting the Council to convene a meeting as soon as possible in order to consider the terrorist activities being carried out against the Republic of Cuba.	3080th meeting 21 May 1992
Report of the Secretary-General pursuant to Security Council resolution 752 (1992) (S/24000)			3082nd meeting 30 May 1992
Letter dated 26 May 1992 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council (S/23997)		In the light of the situation in Bosnia and Herzegovina, requesting the Council to convene an urgent formal meeting with a view to imposing economic, trade and oil sanctions against the Belgrade authorities and to consider steps that would allow United Nations-escorted relief convoys to reach civilians in Bosnia and Herzegovina and to open Sarajevo Airport for humanitarian reasons.	

Repertoire of the Practice of the Security Council

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 27 May 1992 from the Minister for Foreign Affairs of Bosnia and Herzegovina addressed to the President of the Security Council (S/24024)		Requesting urgent consultation with the members of the Security Council, with a view to the Council taking such measures as might be deemed appropriate to end the brutality in Bosnia and Herzegovina	
Letter dated 11 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council (S/24264)		Requesting the Council to call an emergency meeting and to approve an international military action with regard to the situation in Croatia and Bosnia Herzegovina.	3097th meeting 17 July 1992
Letter dated 12 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council (S/24265)		Suggesting the Council meet immediately and approve a military intervention with regard to the situation in Croatia and Bosnia and Herzegovina.	
Letter dated 13 July 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council (S/24266)		With regard to the situation in Croatia and Bosnia and Herzegovina, requesting the Council to take all steps necessary, including air power, to stop the humanitarian nightmare from deepening, and to initiate relief flights to Tuzla, a city north of Sarajevo.	
Letter dated 13 July 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Slovenia to the United Nations addressed to the President of the Security Council (S/24270)		Requesting the Council to discuss with utmost urgency the present situation in Bosnia and Herzegovina and to take the necessary measures to put an end to the aggression, armed terror, and so-called ethnic purification, and to ensure strict respect for the sovereignty, territorial integrity and independence of the Republic of Bosnia and Herzegovina and its recognized borders.	
Letter dated 17 July 1992 from the Permanent Representatives of Belgium, France and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council (S/24305)			

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 4 August 1992 from the Chargé d'affaires a.i. of the United States Mission to the United Nations addressed to the President of the Security Council (S/24376)		Requesting an immediate meeting of the Security Council to discuss the reports of abuses of civilian prisoners in camps throughout the former Yugoslavia.	3103rd meeting 4 August 1992
Letter dated 4 August 1992 from the Permanent Representative of Venezuela to the United Nations addressed to the President of the Security Council (S/24377)		Requesting the Council to convene an urgent meeting to discuss reports in the international communication media about concentration camps and the torture of citizens of the Republic of Bosnia and Herzegovina by citizens of the Federal Republic of Yugoslavia.	
Letter dated 7 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/24393)		Requesting an urgent meeting of the Council to discuss the question of repression in Iraq, and to allow the Special Rapporteur on the situation of human rights in Iraq to participate in the meeting under rule 39 of the Council's provisional rules of procedure.	3105th meeting 11 August 1992
Letter dated 7 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council (S/24394)		Requesting that an urgent meeting of the Council be convened to consider the situation which had arisen and which constituted a threat to peace and international security in Iraq.	
Letter dated 7 August 1992 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council (S/24395)		Requesting the Council to convene an urgent meeting to consider the further repression of the Iraqi civilian population.	
Letter dated 7 August 1992 from the Chargé d'affaires a.i. of the United States Mission to the United Nations addressed to the President of the Security Council (S/24396)		Requesting that an urgent meeting of the Council be convened to consider the further repression of the Iraqi civilian population, and to request that the Council extend an invitation to the Special Rapporteur on the situation of human rights in Iraq under rule 39 of the Council's provisional rules of procedure.	

Repertoire of the Practice of the Security Council

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 10 August 1992 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the President of the Security Council (S/24401)		Requesting an urgent meeting of the Security Council, with formal debate, to consider the situation in Bosnia and Herzegovina, and take appropriate collective measures as provided for in Chapter VII of the Charter to restore peace and stability in the region.	3106th meeting 13 August 1992
Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Turkey to the United Nations addressed to the President of the Security Council (S/24409)		Requesting the Council to hold an urgent meeting with a formal debate to consider the situation in Bosnia and Herzegovina and take appropriate measures as provided for in Chapter VII of the Charter to alleviate the plight of Bosnia and Herzegovina.	
Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of the Islamic Republic of Iran to the United Nations addressed to the President of the Security Council (S/24410)		Supporting the request made by the Permanent Representative of Bosnia and Herzegovina for an urgent meeting of the Security Council, with formal debate, to consider the grave situation in that country and to take appropriate measures as provided for in Chapter VII of the Charter to restore peace and stability in the region; renewing a call made on the Security Council by the Organization of the Islamic Conference to take necessary measures under Article 42 of the Charter, without further delay.	
Letter dated 11 August 1992 from the Permanent Representative of Malaysia to the United Nations addressed to the President of the Security Council (S/24412)		Requesting an urgent meeting of the Council, with formal debate, to consider the deteriorating situation in Bosnia and Herzegovina, and to take appropriate collective action including measures provided under Article 42, Chapter VII, of the Charter.	
Letter dated 11 August 1992 from the Permanent Representative of Senegal to the United Nations addressed to the President of the Security Council (S/24413)		Requesting the Security Council to convene an urgent meeting, followed by a substantive debate, for the purpose of considering the situation in Bosnia and Herzegovina.	

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 11 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council (S/24415)		Requesting an urgent meeting of the Council to consider the serious situation in Bosnia and Herzegovina and to find an immediate solution to restoring peace and stability.	
Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to the President of the Security Council (S/24416)		Requesting an urgent meeting of the Council to consider the grave and deteriorating situation in Bosnia and Herzegovina threatening international peace and security, and to adopt appropriate measures as provided for under Chapter VII of the Charter.	
Letter dated 11 August 1992 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Security Council (S/24419)		Requesting an urgent meeting of the Council with a formal debate to consider the grave situation in Bosnia and Herzegovina, including the adoption of appropriate measures as provided in Chapter VII of the Charter.	
Letter dated 12 August 1992 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council (S/24423)		Requesting an urgent meeting of the Council, with formal debate, to consider the situation in Bosnia and Herzegovina and to take appropriate collective action, including measures provided for under Article 42, Chapter VII of the Charter to restore peace and stability in the region.	
Letter dated 13 August 1992 from the Permanent Representative of the United Arab Emirates to the United Nations addressed to the President of the Security Council (S/24431)		Requesting an urgent meeting of the Council to be convened under the deteriorating situation in Bosnia and Herzegovina which posed a threat to international peace and security, and to adopt appropriate measures under Chapter VII of the Charter with a view to restoring peace and stability in the region.	

Repertoire of the Practice of the Security Council

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 13 August 1992 from the Permanent Representative of Bahrain to the United Nations addressed to the President of the Security Council (S/24433)		Requesting an urgent meeting of the Security Council to consider the grave situation in Bosnia and Herzegovina, with a view to the adoption of appropriate measures under Chapter VII of the Charter, for the purpose of putting an end to the worsening situation that presented a threat to international peace and security.	
Letter dated 13 August 1992 from the Permanent Representative of the Comoros to the United Nations addressed to the President of the Security Council (S/24439)		Requesting an urgent meeting of the Security Council, with formal debate, to consider the situation in Bosnia and Herzegovina and take appropriate collective action including measures provided under Article 42, Chapter VII of the Charter to restore peace and stability in the region.	
Letter dated 13 August 1992 from the Permanent Representative of Qatar to the United Nations addressed to the President of the Security Council (S/24440)		Requesting an urgent formal meeting of the Council to look into the deteriorating situation in Bosnia and Herzegovina and to consider taking appropriate action under the provisions of Chapter VII of the Charter.	
Letter dated 5 October 1992 from the representatives of Egypt, the Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey to the United Nations addressed to the President of the Security Council (S/24620)		On behalf of the Contact Group of the Organization of the Islamic Conference, requesting the Council to establish safe corridors and effective measures to allow the humanitarian process to be unhindered; take appropriate measures to prevent air attacks against Bosnia and Herzegovina consequent to the agreements reached concerning the "no-fly zone" at the London Conference; to take steps to bring before an international tribunal those responsible for the practice of ethnic cleansing, mass killings, and the commission of other grave breaches of international humanitarian law and in particular the Geneva Conventions.	3119th meeting 6 October 1992

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 6 October 1992 from the First Deputy Foreign Minister of Georgia addressed to the President of the Security Council (S/24619)		Requesting an urgent meeting of the Council to consider the grave situation in Georgia and take appropriate action to restore peace and stability in the region.	3121st meeting 8 October 1992
Letter dated 27 October 1992 from the Secretary-General addressed to the President of the Security Council (not issued as a document of the Council; see S/PV.3126, p. 2)		Suggesting to the Council consideration of the deteriorating political situation and rising tension in Angola.	3126th meeting 27 October 1992
Letter dated 29 October 1992 from the Secretary-General addressed to the President of the Security Council (S/24739)			3131st meeting 30 October 1992
Letter dated 19 October 1992 from the Permanent Representative of Kyrgyzstan to the United Nations addressed to the Secretary-General (S/24692)		Suggesting that the situation in Tajikistan be examined by the Security Council under the supervision of the President of the Security Council.	
Letter dated 21 October 1992 from the Permanent Representative of Tajikistan to the United Nations addressed to the President of the Security Council (S/24699)		Requesting the Council to send a peacekeeping mission to provide humanitarian aid to Tajikistan urgently.	
Letter dated 5 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/23685 and Add.1)			3139th meeting 23 November 1992
Letter dated 3 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/24386)			
Letter dated 19 November 1992 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council (S/24828)		Suggesting that the participation of the Special Rapporteur on the situation of human rights in Iraq would greatly benefit the Security Council deliberations concerning Iraq on 23 November 1992.	

Part II

Investigation of disputes and fact-finding

Note

Article 34 provides that the Security Council may investigate any dispute, or any situation that might lead to international friction or give rise to a dispute, in order to determine whether the continuation of the dispute or situation is likely to endanger the maintenance of international peace and security. However, Article 34 does not exclude 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 mission.⁵¹

The importance of fact-finding for the prevention of conflicts was highlighted by the Security Council in a statement by its President dated 30 November 1992, in connection with the item entitled "An agenda for peace: preventive diplomacy, peacemaking and peacekeeping".⁵² By that statement, the Security Council took note of the Declaration on fact-finding adopted by the General Assembly⁵³ and welcomed the

proposals on fact-finding in the Secretary-General's report entitled "An Agenda for Peace".⁵⁴ The members of the Council expressed the view "that an increased resort to fact-finding as a tool of preventive diplomacy ... [could] result in the best possible understanding of the objective facts of a situation, which [would] enable the Secretary-General to meet his responsibilities under Article 99 of the Charter and facilitate Security Council deliberations". In the same statement, the Council members stated that they would "facilitate and encourage every appropriate use of fact-finding missions on a case-by-case basis", endorsed the Secretary-General's view "that in some cases a fact-finding mission [could] help defuse a dispute or situation" and noted with satisfaction "the recent greater use of fact-finding missions".⁵⁵

During the reporting period, the Security Council adopted two decisions containing an express request to the Secretary-General to initiate or perform fact-finding or investigative functions. By resolution 780 (1992), the Council requested the Secretary-General to establish an impartial Commission of Experts to examine and analyse evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the

⁵¹ According to the proposals on fact-finding contained in the Secretary-General's report entitled "An Agenda for Peace", "formal fact-finding can be mandated by the Security Council or by the General Assembly, either of which may elect to send a mission under its immediate authority or may invite the Secretary-General to take the necessary steps, including the designation of a special envoy" (S/24111, para. 25). According to the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security adopted by the General Assembly on 9 December 1991, the Security Council and the General Assembly should give preference to the Secretary-General in fact-finding (General Assembly resolution 46/59, annex, para. 15). The above-mentioned proposals on fact-finding also envisage that "in exceptional circumstances the Council may meet away from Headquarters as the Charter provides, in order not only to inform itself directly, but also to bring the authority of the Organization to bear on a given situation" (S/24111, para. 25).

⁵² S/24872.

⁵³ Resolution 46/59, annex (see footnote 51). In the year preceding the reporting period, the importance of fact-finding missions had already been emphasized in the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (General Assembly resolution 43/51, annex,

para. 1 (12)).

⁵⁴ According to those proposals, an "increased resort to fact-finding is needed". It is also suggested that "a request by a State for the sending of a United Nations fact-finding mission to its territory should be considered without undue delay" (S/24111, para. 25; see also footnote 51). Calls for improved fact-finding arrangements are also contained in the annual reports of the Secretary-General on the work of the Organization (see for example, *Official Records of the General Assembly, Forty-fifth Session, Supplement No. 1 (A/45/1)*, p. 7; and *ibid.*, *Forty-fourth Session, Supplement No. 1 (A/44/1)*, p. 5).

⁵⁵ As examples of such fact-finding missions, the President of the Council cited the missions which had been sent, during the course of the same year, to Moldova, Nagorny-Karabakh, Georgia, Uzbekistan and Tajikistan. For further information on those missions, see the relevant report of the Secretary-General on the work of the Organization (*Official Records of the General Assembly, Forty-seventh Session, Supplement No. 1 (A/47/1)*, p. 18).

territory of the former Yugoslavia, and to report to the Council on the conclusions of that Commission.⁵⁶ In connection with the civil conflict in Liberia, and after having been requested, at the 3138th meeting on 19 November 1992, by the representatives of States members of the Economic Community of West African States (ECOWAS), Liberia and several other interested States, to support ECOWAS efforts to bring peace and stability to the country, the Security Council, by resolution 788 (1992), requested the Secretary-General to dispatch a Special Representative to Liberia to evaluate the situation, and to report to the Council with any recommendations he might wish to make.

In addition to those decisions, the Security Council, in statements by its President, expressly welcomed or supported fact-finding missions dispatched by the Secretary-General to Cambodia, Moldova, Nagorny-Karabakh, Georgia, Uzbekistan and Tajikistan, among others.⁵⁷

Earlier in the reporting period, by resolution 672 (1990), the Council had welcomed the Secretary-General's decision to send a fact-finding mission to the occupied Arab territories, which decision could not be implemented because of the refusal of the occupying Power to receive that mission.⁵⁸

On a number of other occasions, Member States demanded or suggested to the Security Council that an investigation be carried out or a fact-finding mission be dispatched. Those demands and suggestions, none of

which resulted in a decision by the Security Council, related to the following:

- In connection with Afghanistan's complaint about Pakistan's aggression against it,⁵⁹ the representative of Afghanistan, at the 2852nd meeting on 11 April 1989, requested that the Security Council send a fact-finding mission, consisting of Council members, to Afghanistan and Pakistan.
- In connection with El Salvador's claim that Nicaragua had committed acts of aggression against it,⁶⁰ the representative of El Salvador, at the 2896th meeting, on 30 November 1989, suggested that the Council send a mission to corroborate the facts in situ.⁶¹
- In connection with allegations made by Nicaragua concerning the actions of the United States against the residence of the Nicaraguan Ambassador to Panama on 29 December 1989,⁶² the representative of Nicaragua, at the 2905th meeting, on 16 January 1990, demanded that an investigation be carried out.⁶³
- In connection with international concerns relating to the repression of the Iraqi civilian population in parts of Iraq,⁶⁴ the representative of Iraq, at the 2982nd meeting on 5 April 1991, stated that the Government of Iraq would welcome "an international mission to be formed by the Secretary-General or the Security Council in Iraq, with full guarantees for free movement and

⁵⁶ For further details, see case 1 below.

⁵⁷ By a letter dated 3 August 1989 (S/20769), the President of the Council informed the Secretary-General that the members of the Council agreed to his proposal, contained in a letter dated 2 August 1989 (S/20768), to dispatch a fact-finding mission to Cambodia. By a statement of the President dated 12 May 1992 (S/23904), the Council members welcomed the dispatch by the Secretary-General of a fact-finding mission to Nagorny-Karabakh. By a note by the President dated 10 September 1992, the Council took note of the Secretary-General's intention to send a goodwill mission to Abkhazia (S/24542). By a statement of the President dated 8 October 1992 (S/24637), the Council supported the Secretary-General's decision to send a mission to Georgia. By a statement of the President dated 30 October 1992, the Council welcomed the Secretary-General's decision to send a goodwill mission to Tajikistan and Central Asia (S/24742).

⁵⁸ For further details, see case 2 below.

⁵⁹ This matter had been brought to the attention of the Security Council by a letter dated 3 April 1989 from the representative of Afghanistan (S/20561).

⁶⁰ This matter had been brought to the attention of the Security Council by a letter dated 27 November 1989 from the representative of El Salvador (S/20991).

⁶¹ S/PV.2896, p. 17.

⁶² This matter had been brought to the attention of the Security Council by a letter dated 3 January 1990 from the representative of Nicaragua (S/21066).

⁶³ S/PV.2905, p. 12.

⁶⁴ These concerns were brought to the Council's attention by letters dated 2 and 4 April 1991 from the representatives of Turkey and France respectively (S/22435 and S/22442).

communications, so that its members [could] ascertain the facts and see things as they stand”.⁶⁵

- In connection with requests for the cooperation of the Libyan Arab Jamahiriya with investigations into the terrorist acts against Pan Am flight 103 on 21 December 1988 and UTA flight 772 on 19 September 1989,⁶⁶ the representative of the Libyan Arab Jamahiriya, at the 3033rd meeting on 21 January 1992, stated that “the international dimension of the alleged events might make an international investigation an appropriate means of starting to resolve the dispute” and that it “would have welcomed a neutral investigation committee”.⁶⁷

The case studies that follow set out the details of the decision-making processes involved in establishing a commission to examine breaches of international humanitarian law in the former Yugoslavia; to dispatch a fact-finding mission to the occupied Arab territories; and summarize the arguments advanced during the debate relating to the request of Afghanistan for the dispatch of a fact-finding mission to Afghanistan and Pakistan.

Case 1

The situation in the former Yugoslavia

Establishment of a Commission of Experts to investigate alleged violations of international humanitarian law in the former Yugoslavia. In connection with the situation in the former Yugoslavia,

⁶⁵ S/PV.2982, p. 20. The representative of Iraq further stated that he “had expected that the Security Council would wait and find out the true facts from such a mission before making haste — which [had] been its habit in past months”. See also India’s comments in support of a fact-finding mission (S/PV.2982, p. 63).

⁶⁶ See the letters dated 20 and 23 December 1989 from the representatives of France, the United Kingdom and the United States to the Secretary-General (S/23306, S/23307, S/23308, S/23309 and S/23317). See also the reports of the Secretary-General dated 11 February and 3 March 1992 (S/23574 and S/23672), submitted pursuant to resolution 731 (1992).

⁶⁷ S/PV.3033, p. 11. At the same meeting, the observer for the League of Arab States proposed “to place this question before a neutral international commission of inquiry”, suggesting “the establishment of a joint commission of the United Nations and the League of Arab States to study all the documentation relating to the matter” (S/PV.3033, pp. 29-30).

the Security Council, in a statement made by its President at the 3103rd meeting, on 4 August 1992, reaffirmed that all parties were bound to comply with the obligations under international humanitarian law and that persons who committed or ordered the commission of grave breaches of the Geneva Conventions were individually responsible in respect of such breaches.

At the 3106th meeting, on 13 August 1992, the Council adopted resolution 771 (1992), by which, *inter alia*, it called upon States and international humanitarian organizations “to collate substantiated information relating to the violation of international humanitarian law being committed in the territory of the former Yugoslavia and to make this information available to the Council” and requested the Secretary-General “to submit a report to the Council summarizing the information and recommending additional measures that might be appropriate in response to the information”.

By a note dated 3 September 1992,⁶⁸ the Secretary-General transmitted to the Council a report on the situation in the territory of the former Yugoslavia submitted by the Special Rapporteur of the Commission on Human Rights. In his report, the Special Rapporteur had noted “an urgent need to establish an investigative commission, under the auspices and in cooperation with the competent United Nations bodies, vested with the task of determining the fate of the thousands of persons who disappeared after the seizure of Vukovar as well as of other persons who disappeared during the conflicts in the former Yugoslavia”.⁶⁹ The Special Rapporteur emphasized that “the need to prosecute those responsible for mass and flagrant human rights violations and for breaches of international humanitarian law and to deter future violators require[d] the systematic collection of documentation on such crimes and of personal data concerning those responsible”.⁷⁰ Accordingly, the report contained a recommendation for the establishment of a commission to assess and further investigate specific cases in which prosecution might be warranted.⁷¹

⁶⁸ S/24516.

⁶⁹ S/24516, annex, para. 67.

⁷⁰ *Ibid.*, para. 69.

⁷¹ *Ibid.*, para. 70.

At the 3119th meeting, on 6 October 1992, several speakers expressed strong support for the establishment of such commission on an urgent basis. The President of the Council, speaking in his capacity as the representative of France, believed that it was indeed “very important that the Council send a clear warning to the perpetrators of those violations, who must understand that their personal responsibility is involved”, adding that the decision to establish an investigative commission would be “part of the prospective creation by the appropriate bodies of an international penal jurisdiction to rule on such acts”.⁷² In a similar vein, the representative of Belgium noted that the establishment of the commission would make “more operational the principle contained in the Geneva Conventions regarding the personal responsibility of war criminals”.⁷³ The representative of the Russian Federation, expressing the hope that such commission would, “on the basis of carefully substantiated information, give the true picture of the violations of the Geneva Conventions and other violations of international humanitarian law taking place on the territory of the former Yugoslavia”, stated that the decision to establish such commission would go beyond the settlement of the Yugoslav question insofar as it would also be a warning to all who violated the norms of international humanitarian law in other spheres of conflict.⁷⁴ The representative of Venezuela believed that “the decision to establish a commission of experts to investigate ... violations of international humanitarian law would be inspired by the commission that was set up in 1943 for similar purposes and later served as the basis for the proceedings of the Nuremberg tribunal”, which, in the words of the representative of Venezuela, “would not only serve to establish responsibility and punish the guilty, but would also ... constitute an important deterrent”.⁷⁵

At the same meeting, the Council unanimously adopted resolution 780 (1992),⁷⁶ by which it requested the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse the information submitted to it

⁷² S/PV.3119, p. 16.

⁷³ Ibid, p. 12.

⁷⁴ Ibid., pp. 15-16.

⁷⁵ Ibid., pp. 7-8.

⁷⁶ The relevant draft resolution had been submitted by Belgium, France, Morocco, the United Kingdom, the United States and Venezuela, joined by Hungary.

together with such further information as the Commission might obtain through its own investigations and efforts.⁷⁷

At the 3137th meeting, on 16 November 1992, the Council adopted resolution 787 (1992), by which it welcomed the establishment of the Commission of Experts and requested that Commission to pursue actively its investigations with regard to grave breaches of the Geneva Conventions of 12 August 1949 and other violations of international humanitarian law committed in the territory of the former Yugoslavia, in particular the practice of “ethnic cleansing”.

Case 2

The situation in the occupied Arab territories

Proposed investigative mission to the occupied Arab territories. At the 2926th meeting, on 31 May 1990, in connection with the situation in the occupied Arab territories, the Council considered a draft resolution envisaging the establishment of a commission consisting of three Council members, which would be dispatched to the Palestinian territory “to examine the situation relating to the policies and practices of Israel” in that territory.⁷⁸ The draft resolution, which had been proposed by several Council members, was not adopted owing to the negative vote of a permanent member.⁷⁹

On 8 October 1990, after violence had erupted in the Old City of Jerusalem and resulted in the death of more than 20 Palestinians, the Permanent Observer of Palestine, at the 2946th meeting, recalled the proposal contained in the above-mentioned draft resolution and, in the light of the above tragic events, demanded the “immediate dispatch of a commission by the Council to investigate what happened in Jerusalem”.⁸⁰ At the 2947th meeting, held on the following day, several

⁷⁷ Prior to the adoption of resolution 780 (1992), the Council had requested the submission of such information by resolution 771 (1992).

⁷⁸ The commission would have been requested to submit a report containing recommendations on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation.

⁷⁹ S/21326, submitted by Colombia, Côte d'Ivoire, Cuba, Ethiopia, Malaysia, Yemen and Zaire. A draft resolution containing almost identical provisions was submitted on 9 October 1990 but was not put to the vote (S/21851).

⁸⁰ S/PV.2946, pp. 10-11.

speakers supported the Palestinian call for an investigation or a fact-finding mission.⁸¹

At the 2948th meeting, on 12 October 1990, the Council, having been informed by the Secretary-General of his decision to send a mission to the region, considered a draft resolution by which it would welcome that decision.⁸² The President stated that the Secretary-General, in the informal consultations of the members of the Council leading up to the consideration of the draft resolution, had explained “that the purpose of the mission ... would be to look into the circumstances surrounding the recent tragic events in Jerusalem and other similar developments in the occupied territories, and to submit ... a report containing findings and recommendations to the Council on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation.”⁸³ Following the statement by the President, the draft resolution was put to the vote and adopted unanimously as resolution 672 (1990).

Having learned of Israel’s refusal to receive the proposed mission of the Secretary-General,⁸⁴ the Council convened on 24 October 1990 to continue its consideration of the situation, at its 2949th meeting. At that meeting, the representative of Israel explained that Israel had expressed its readiness to assist the Secretary-General in the preparation of a report on the relevant events, but emphasized that Israel, like any other sovereign State, was the exclusive authority in the territory under its control. The representative noted that Israel had appointed its own “independent commission of inquiry consisting of three prominent figures”, which commission would shortly “present its findings and conclusions of the chain of events, their causes and the actions of Israel’s security forces”.⁸⁵

Many speakers expressed regret at Israel’s refusal to receive the mission of the Secretary-General and stressed that Israel was under an obligation to comply with resolution 672 (1990).⁸⁶ It was also noted that Israel’s sensitivities had been taken into account in the Council’s approach to this matter and that in resolution 672 (1990), instead of calling for the establishment of a Council mission to investigate the incident, the Council had discreetly welcomed the Secretary-General’s decision to send a mission to the region.⁸⁷ Following further deliberations, the Security Council, on 24 October 1990, unanimously adopted resolution 673 (1990),⁸⁸ by which it deplored Israel’s refusal to receive the mission of the Secretary-General to the region; urged the Israel Government to reconsider its decision; and insisted that it comply fully with resolution 672 (1990) and permit the mission to proceed in keeping with its purpose.

In his report to the Security Council dated 31 October 1990, the Secretary-General noted that, owing to Israel’s refusal to receive his mission, he had been unable to secure independent information, on the spot, about the circumstances surrounding the recent events in Jerusalem and similar developments in the West Bank and Gaza Strip.⁸⁹

The report was discussed at the 2953rd meeting, on 7 November 1990, at which several speakers denounced Israel’s rejection of the above-mentioned resolutions. The representative of Israel stated, however, that Israel had the sole responsibility for the occupied territories and that it would “reject any encroachment on its sovereignty and authority”. The representative believed that the proposed mission was “not intended to ascertain facts [but was] rather a transparent attempt to encroach on Israel’s sovereignty”.⁹⁰

On 20 December 1990, the Council adopted resolution 681 (1990) in which it requested the Secretary-General to monitor and observe the situation regarding Palestinian civilians under Israeli occupation, to utilize and designate or draw upon

⁸¹ S/PV.2947, pp. 8-10 (Kuwait); p. 16 (Egypt); pp. 36-37 (Syrian Arab Republic); and pp. 54-55 (Pakistan).

⁸² S/21859, submitted by Canada and the United Kingdom and co-sponsored by Côte d’Ivoire, Finland, France, the Union of Soviet Socialist Republics and Zaire.

⁸³ In the cited statement the Secretary-General had recalled, however, “that under the Fourth Geneva Convention the principal responsibility for ensuring the protection of the Palestinians rested with the occupying Power, namely Israel” (see S/PV.2948, p. 27).

⁸⁴ See the statement adopted by the Israeli Cabinet on 14 October 1990, cited in the report of the Secretary-General of 31 October 1990 (S/21919, para. 3).

⁸⁵ S/PV.2949, p. 17.

⁸⁶ *Ibid.*, p. 27 (Palestine); pp. 38-40 (Sudan); p. 43 (Yemen); p. 48 (Zaire); p. 52 (Malaysia); p. 54 (Colombia); and p. 56 (Cuba).

⁸⁷ See for example S/PV.2949, pp. 44-45.

⁸⁸ The draft resolution (S/21893) was sponsored by Colombia, Cuba, Malaysia and Yemen.

⁸⁹ S/21919 and Corr.1, para. 8.

⁹⁰ S/PV.2953, pp. 52 and 56.

United Nations and other personnel and resources, and to keep the Council regularly informed.⁹¹

Case 3

The situation relating to Afghanistan

Request for the dispatch of a fact-finding mission to Afghanistan and Pakistan. At the 2852nd to 2860th meetings, from 11 to 26 April 1989, the Council considered the situation relating to Afghanistan, having received a communication from Afghanistan alleging a military aggression by Pakistan.⁹²

The representative of Afghanistan, referring to the “dangerous implications of the aggression by Pakistan for peace and security in the region and in the world”, explained that his country was turning to the Security Council “on the basis of the obligations of the Security Council stemming from Articles 34 and 35 of the Charter” and requested that the Security Council send a fact-finding mission, consisting of Council members, to Afghanistan and Pakistan.⁹³

The representative of Pakistan stated that Articles 34 and 35 had no bearing on the current situation inside Afghanistan, as that situation in no way endangered peace and security as defined in Article 34, but rather represented the continuing “struggle of the

Afghan people to overthrow an illegal and unrepresentative regime ... imposed on them by external military intervention”.⁹⁴ Many speakers agreed that Articles 34 and 35 were not applicable⁹⁵ and expressed the view that the conflict in Afghanistan had to be seen as a legitimate struggle for self-determination.⁹⁶ Several speakers also noted that a mechanism established under the Geneva Agreements, the United Nations Good Offices Mission in Afghanistan and Pakistan, had already repeatedly been called upon to undertake investigations, and that, therefore, no further investigative mechanism or procedure was required.⁹⁷

In contrast, the representative of the Union of Soviet Socialist Republics contended that Afghanistan’s recourse to the Council was “entirely right, proper and timely”, as Afghanistan was suffering from outside interference by Pakistan.⁹⁸ This view was shared by several other speakers.⁹⁹

The Security Council concluded its consideration of the item at the 2860th meeting, on 26 April 1989, without adopting a decision.

⁹¹ In a statement adopted on 4 January 1991 (S/22046), the President of the Council expressed the support of Council members for the work of the Secretary-General in implementing resolution 681 (1990). The Secretary-General dispatched his Personal Representative to the area from 1 to 11 March 1991. The discussions held with Palestinians and Israeli officials during this period are summarized in a report to the Security Council dated 9 April 1991 (S/22472).

⁹² Letter dated 3 April 1989 (S/20561).

⁹³ S/PV.2852, pp. 6 and 25.

⁹⁴ *Ibid.*, p. 26.

⁹⁵ S/PV.2853, pp. 12-15 (Saudi Arabia); S/PV.2856, p. 28 (Comoros); and S/PV.2859, p. 16 (Somalia).

⁹⁶ S/PV.2853, p. 11 (Organization of the Islamic Conference (OIC)); p. 42 (Japan); p. 53 (United States); S/PV.2855, p. 22 (Canada); and S/PV.2859, p. 17 (Somalia).

⁹⁷ S/PV.2853, pp. 19-20 (Malaysia); S/PV.2855, p. 13 (China); S/PV.2856, pp. 29-30 (Comoros); and S/PV.2857, p. 11 (Bangladesh).

⁹⁸ S/PV.2855, pp. 32-53 (Union of Soviet Socialist Republics).

⁹⁹ S/PV.2857, pp. 6-7 (Czechoslovakia); p. 17 (Yugoslavia); pp. 21-26 (Ukrainian Soviet Socialist Republic); and S/PV.2859, p. 12 (Hungary); and pp. 32-36 (Byelorussian Soviet Socialist Republic).

Part III

Decisions of the Security Council concerning the pacific settlement of disputes

Note

Chapter VI of the Charter contains various provisions according to which the Council may make recommendations to the parties to a dispute or

situation. According to Article 33 (2) of the Charter, the Council may call on the parties to settle their dispute by such peaceful means as provided for in Article 33 (1). According to Article 36 (1) the Council may recommend appropriate methods or procedures of

adjustment. Article 37 (2) envisages that the Council may 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.

As part of its efforts aimed at the peaceful settlement of conflicts within the framework of Chapter VI of the Charter, the Council frequently endorsed or supported peace agreements concluded by the parties to a conflict, or recommended various methods or procedures of settlement, such as bilateral or multilateral negotiations,¹⁰⁰ mediation or conciliation efforts undertaken by the Secretary-General,¹⁰¹ or resorted to regional arrangements.¹⁰² In

one instance, in connection with the situation in Cambodia, the five permanent members of the Council took the initiative of proposing concrete terms of settlement in an effort to resolve the conflict.¹⁰³

Relevant appeals and recommendations were addressed not only to States but also, in several instances, to non-State actors. This was the case, for instance, in the internal conflicts in Cambodia, Cyprus, El Salvador, Lebanon, Liberia, Somalia, Tajikistan and the former Yugoslavia, in which the Council either specifically called on the relevant factions or communities involved in the conflict or, in a more general fashion, called on all parties to the conflict.¹⁰⁴

¹⁰⁰ See for example, in connection with the situation between Iraq and Kuwait, resolution 660 (1990), by which the Council condemned the Iraqi invasion of Kuwait and called upon both countries “to begin immediately intensive negotiations for the resolution of their differences”. (Resolution 660 (1990) was adopted expressly under Articles 39 and 40 of the Charter. However, insofar as negotiations, for the purpose of the resolution, are deemed to be “provisional measures” within the meaning of Article 40, they cannot be distinguished from the parties’ efforts, required under Article 33 (1), to find a solution by peaceful means.) See also for example resolution 765 (1992), by which the Council urged all parties to the conflict in South Africa to cooperate in the resumption of the negotiation process. In connection with the situation in Tajikistan, see the statement of the President of the Security Council dated 30 October 1992 (S/24742), by which the members of the Council urged “the Government of Tajikistan, local authorities, party leaders and other groups concerned to enter into a political dialogue with a view to reaching an overall settlement of the conflict by peaceful means”.

¹⁰¹ See, for instance, in connection with the situation in Cyprus, resolution 649 (1990), by which the Council called on the leaders of the two communities to cooperate with the Secretary-General in completing an outline of an overall agreement.

¹⁰² See chapter XII, part VI, for further details on the manner in which the Security Council has encouraged efforts undertaken by regional arrangements in the pacific settlement of disputes. For example, in connection with the question of Western Sahara, the Council, in resolution 658 (1990), called on the two parties to cooperate fully with the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity in their efforts aimed at an early settlement. In connection with the situation in Liberia, the members of the Council, by a presidential statement dated 22 January 1991 (S/22133), called on

the parties to cooperate with the Economic Community of West African States (ECOWAS) to restore peace. In connection with the situation in the former Yugoslavia, the Council, by resolutions 749 (1992), 752 (1992) and 764 (1992), called on the parties to cooperate with the efforts of the European Union to bring about a negotiated political solution. In connection with the situation in Nagorny-Karabakh, the members of the Council, by presidential statements of 26 August 1992 (S/24493) and 27 October 1992 (S/24721), appealed to the parties to cooperate with the Conference on Security and Cooperation in Europe with a view to reaching a peaceful settlement of their disputes.

¹⁰³ For details, see section A below.

¹⁰⁴ In connection with the situation in Cyprus, the Security Council, by resolution 649 (1990), called upon the leaders of the two communities in Cyprus to pursue negotiations to reach an overall framework agreement on Cyprus. In connection with the situation in El Salvador, the Council, by resolutions 693 (1991) and 714 (1991), called on both the Government of El Salvador and FMLN to pursue constructive negotiations. In connection with the situation in Yugoslavia, the Council, by resolutions 740 (1992) and 743 (1992), called on all Yugoslav parties to cooperate with the Conference on Yugoslavia. By resolution 749 (1992), the Council called on all parties and others concerned in Bosnia and Herzegovina to cooperate with the efforts of the European Community, and, by resolution 757 (1992), called on the three communities in Bosnia and Herzegovina to resume their discussions on constitutional arrangements. In connection with the situation in Tajikistan, the members of the Council, in a statement by its President dated 30 October 1992 (S/24742), urged the Government of Tajikistan, local authorities, party leaders and other groups concerned to enter into a political dialogue. In connection with the situation in Lebanon, the members of the Council, in statements by the President dated 31 March 1989 (S/20554) and 15 August 1989 (S/20790), called on all

This part of the chapter will aim to provide an overview of the Council's practice in relation to the peaceful settlement of disputes by setting out examples of the most relevant decisions adopted by the Council during the period under review. As it is not always possible to ascertain the concrete basis within the framework of the Charter on which individual Council decisions have been made, the overview sets out relevant decisions in a systematic order, without ascribing them to specific Articles of the Charter.

A. Recommendations relating to terms, methods or procedures of settlement

Set out below are instances in which the Security Council proposed or endorsed terms of settlement, or recommended methods or procedures of settlement.

By resolution 696 (1991), the Council welcomed the decision of the Government of Angola and the National Union for the Total Independence of Angola to conclude the Peace Accords for Angola.

With regard to the situation in Cambodia, following a meeting of their respective Governments in Paris on 27 and 28 August 1990, the permanent members of the Council transmitted to the Secretary-General, by a letter dated 30 August 1990,¹⁰⁵ a framework document defining "the key elements of a comprehensive political settlement of the Cambodia conflict based on an enhanced United Nations role". After the Cambodian parties had indicated their

parties to observe a ceasefire. In a statement by the President dated 27 December 1989 (S/21056), the members of the Council called on the Lebanese people, and in particular all Government officials, civilian and military, to support their President and the constitutional process initiated at Taif. In connection with the situation in Liberia, the members of the Council, in a statement by the President dated 22 January 1991 (S/22133), called on all parties to the conflict to cooperate with ECOWAS, and, by resolution 788 (1992), the Council called on them to respect and implement the various agreements to which they had agreed. By resolution 668 (1990), the Council urged all parties to the conflict in Cambodia to exercise self-restraint. By resolution 733 (1992), the Council urged all parties to the conflict in Somalia to promote a political settlement in Somalia, and by resolution 751 (1992) it called upon all parties, movements and factions in Somalia immediately to maintain a ceasefire.

¹⁰⁵ S/21689.

acceptance of this framework for settlement,¹⁰⁶ the Council, by resolution 668 (1990), endorsed the framework and welcomed its acceptance by the parties. By resolution 718 (1991), the Council expressed its full support for the "comprehensive political settlement of the Cambodia conflict, signed in Paris on 23 October 1991".¹⁰⁷

In connection with peace efforts in Central America, the Council, by resolution 637 (1989), expressed its support for the Guatemala Agreement¹⁰⁸ and the Joint Declaration of the Central American Presidents,¹⁰⁹ and called upon the Presidents to continue their efforts to achieve a firm and lasting peace in Central America through the implementation of the commitments entered into in the Guatemala agreement and in the expressions of good will contained in the Joint Declaration.

By resolution 693 (1991), the Council welcomed the Mexico Agreement signed by the Government of El Salvador and the Frente Farabundo Martí para la Liberación Nacional (FMLN) on 27 April 1991, and called upon both parties to pursue negotiations "urgently and with flexibility, in a concentrated format on the items agreed upon in the Caracas Agenda, in order to reach, as a matter of priority, a political agreement on the armed forces and the accords necessary for the cessation of the armed confrontation". By the same resolution, the Council called upon the parties "to pursue a continuous process of negotiations in order to reach at the earliest possible date the objectives set forth in the Mexico Agreements of 27 April 1991 and all other objectives contained in the Geneva Agreement of 4 April 1990, and to this end

¹⁰⁶ The Cambodian parties had indicated their acceptance at an informal meeting convened by France and Indonesia, in their capacity as Co-Chairmen of the International Conference on Cambodia; see letter dated 11 September 1990 from the representatives of France and Indonesia to the Secretary-General (S/21732).

¹⁰⁷ By resolution 717 (1991), the Council had decided to establish a United Nations Advance Mission in Cambodia immediately after the signing of such an agreement.

¹⁰⁸ Procedure for the establishment of a firm and lasting peace in Central America signed at Guatemala City on 7 August 1987 by the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua (S/19085, annex).

¹⁰⁹ Declaration signed by the Central American Presidents on 14 February 1989 (S/20491, annex).

to cooperate fully with the Secretary-General and his Personal Representative in their efforts”.

By resolution 714 (1991), the Council welcomed the New York Agreement of 25 September 1991, by which the parties had agreed on guarantees and conditions on which to reach a peaceful settlement, including provisions permitting the reintegration of FMLN members into the civil, institutional and political life of the country. By the same resolution, the Council urged the parties to proceed, at the next round of negotiations, “at an intensive and sustained pace to reach at the earliest possible date a ceasefire and a peaceful settlement to the armed conflict in accordance with the framework of the New York Agreement”.

In connection with the situation in Cyprus, the Council, by resolution 649 (1990), called upon the leaders of the two communities to pursue efforts to reach freely a mutually acceptable agreement and “to cooperate, on an equal footing, with the Secretary-General in completing, in the first instance and on an urgent basis, an outline of an overall agreement, as agreed in June 1989”.¹¹⁰

Following the submission, on 21 August 1992, of the Secretary-General’s report on the outcome of his mission of good offices in Cyprus,¹¹¹ the Council, by resolution 774 (1992), urged the parties to pursue uninterrupted negotiations at United Nations Headquarters until an overall framework agreement was reached on the basis of the set of ideas reflected in the Secretary-General’s report of 3 April 1992.¹¹²

By resolution 750 (1992), the Council endorsed the set of ideas reflected in the Secretary-General’s report of 8 October 1991 as an appropriate basis for reaching an overall agreement, being brought to a conclusion as an integrated package mutually agreed upon by both communities.¹¹³

With regard to the situation in former Yugoslavia, the Council, by resolution 713 (1991), called on all

parties to the conflict to settle their disputes “through negotiation at the Conference on Yugoslavia, including through the mechanisms set forth within it”.¹¹⁴

Following the serious deterioration of the situation in Bosnia and Herzegovina, the Council, by resolution 752 (1992), urged the three communities in Bosnia and Herzegovina to participate “actively and constructively” and “on a continuous basis” in the tripartite talks on constitutional arrangements under the auspices of the Conference on Yugoslavia and “to conclude and implement the arrangements being developed at those talks”.

In a statement by the President dated 2 September 1992,¹¹⁵ the Council members expressed their full support for the Statement of Principles adopted and the other agreements reached at the London stage of the International Conference on the former Yugoslavia, held on 26 and 27 August 1992, and noted with satisfaction that the Conference held in London had established the framework within which an overall political settlement of the crisis in the former Yugoslavia in all its aspects could be achieved through a continuous and uninterrupted effort.¹¹⁶

By resolution 779 (1992), the Council welcomed the Joint Declaration signed at Geneva on 30 September 1992 by the Presidents of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro), which, *inter alia*, reaffirmed the demilitarization of the Prevlaka peninsula, and endorsed the principles agreed by the Presidents that all statements or commitments made under duress, particularly those relating to land and property, were wholly null and void and that all displaced persons had the right to return in peace to their former homes.

By resolution 787 (1992), the Council appealed to the parties to continue negotiations for constitutional arrangements on the basis of the draft outline constitution for Bosnia and Herzegovina under the auspices of the Co-Chairmen of the Steering Committee of the International Conference on the

¹¹⁰ This appeal was reiterated in a statement by the President of the Council dated 19 July 1990 (S/21400).

¹¹¹ S/24472.

¹¹² S/23780.

¹¹³ By resolutions 774 (1992) and 789 (1992), in addition to reaffirming this endorsement, the Council also endorsed the territorial adjustments reflected in the map contained in the annex to the report of the Secretary-General dated 21 August 1992 (S/24472) as the basis for reaching an overall agreement.

¹¹⁴ The appeal to the parties to cooperate with the Conference was repeated in resolutions 740 (1992), 743 (1992), 752 (1992), 762 (1992), 764 (1992) and 787 (1992), and in a statement by the President of the Council dated 2 September 1992 (S/24510).

¹¹⁵ S/24510.

¹¹⁶ The Council reiterated its support for these agreements in resolution 776 (1992).

former Yugoslavia, these negotiations to be held in continuous and uninterrupted session.

In connection with the situation in Georgia, in a statement of the President dated 10 September 1992, the Council members welcomed the principles of settlement relating to Abkhazia contained in the Final Document of the Moscow meeting of 3 September 1992 between the Russian Federation and Georgia, which affirmed the territorial integrity of Georgia, provided for the establishment of a ceasefire and constituted the basis for an overall political settlement.¹¹⁷

With regard to Lebanon, in a statement by the President dated 22 November 1989,¹¹⁸ and in several subsequent statements,¹¹⁹ the Council members reaffirmed their support for the Taif Agreement ratified by the Lebanese Parliament on 5 November 1989 as the only basis for guaranteeing the full sovereignty, independence, territorial integrity and national unity of Lebanon.

In a statement by the President dated 7 May 1992 in connection with the situation in Liberia,¹²⁰ the members of the Council expressed the belief that the Yamoussoukro Accord of 30 October 1991 offered the best possible framework for a peaceful resolution of the Liberian conflict by creating the necessary conditions for free and fair elections in Liberia. By resolution 788 (1992), the Council reaffirmed this position and called on the parties to respect and implement the various agreements to which they had agreed within the framework of the peace process.

With regard to Mozambique, the Council welcomed, by resolution 782 (1992), the signature, on 4 October 1992 in Rome, of a General Peace Agreement¹²¹ between the Government of

Mozambique and the Resistência Nacional Moçambicana (RENAMO).¹²²

In connection with the situation in Namibia, the Council, by resolution 628 (1989), welcomed the signature of the agreement between Angola, Cuba and South Africa on the one hand, and the agreement between Angola and Cuba on the other hand, both of which had been signed on 22 December 1988, and expressed its full support for those agreements.

With regard to the situation concerning Western Sahara, the Council approved, by resolution 658 (1990), the report of the Secretary-General dated 18 June 1990,¹²³ which contains the full text of the settlement proposals accepted by the parties on 30 August 1988 as well as an outline of the plan provided by the Secretary-General to implement those proposals.

B. Decisions involving the Secretary-General in the Council's efforts at the peaceful settlement of disputes

While 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, the Charter does not otherwise describe or define the role of the Secretary-General in relation to matters of peace and security.

However, the Council's efforts aimed at the peaceful settlement of disputes frequently require the involvement of the Secretary-General, who, in coordination with the Council or at its request, facilitates peace efforts in various ways. This was reconfirmed in a statement by the President of the Council, adopted at the summit meeting held on 31 January 1992 in connection with the item entitled "The responsibility of the Security Council in the maintenance of international peace and security",¹²⁴ by

¹¹⁷ S/24542. See also the statement of the President of the Security Council dated 8 October 1992 (S/24637), by which the Council called on all the parties to observe the terms of that Agreement.

¹¹⁸ S/20988. The statement was adopted following the assassination of the President of Lebanon in Beirut earlier the same day.

¹¹⁹ Presidential statements of 27 December 1989, 31 July 1990, 30 January 1991, 31 July 1991, 29 January 1992 and 30 July 1992 (S/21056, S/21418, S/22176, S/22862, S/23495 and S/24362).

¹²⁰ S/23886.

¹²¹ S/24635, annex.

¹²² By resolution 797 (1992), the Council again stressed the importance it attached to the General Peace Agreement and to the fulfilment by the parties in good faith of the obligations contained therein.

¹²³ S/21360 (transmitted to the Council in accordance with resolution 621 (1988)).

¹²⁴ S/23500.

which the members of the Council emphasized that the Secretary-General had a crucial role to play in promoting international peace and security.¹²⁵

During the period under review, the Council frequently called on the parties to a dispute or situation to cooperate in negotiations held under the auspices of the Secretary-General, expressed support for conciliation efforts undertaken by the Secretary-General or expressly requested the Secretary-General to assume an active role in the process of achieving a political settlement.

Decisions calling on conflicting parties to cooperate with the Secretary-General's efforts have been set out above. The following overview sets out examples of decisions by which the Security Council specifically requested or welcomed the Secretary-General's endeavours in this area.

Having considered the report of the Secretary-General on the situation in Central America, dated 26 June 1989,¹²⁶ which provided details of the progress achieved by the Central American Governments and the role of the Secretary-General in the process, the Council, by resolution 637 (1989), expressed its full support to the Secretary-General to continue his mission of good offices, in consultation with the Council. The Council reconfirmed its support in subsequent resolutions.¹²⁷

Following the consideration of reports of the Secretary-General dated 21 December 1990 and 16 April 1991,¹²⁸ in which the Secretary-General had provided an account of his efforts to promote the achievement of a negotiated political situation to the conflict in El Salvador, the Council, by resolution 693 (1991), *inter alia*, commended the Secretary-General and his Personal Representative for their efforts at

good offices and expressed its full support for their continuing efforts to facilitate a peaceful settlement to the conflict in El Salvador.

By resolution 714 (1991), the Council congratulated the Secretary-General and his Personal Representative for Central America for their skilful and tireless efforts which had been vital to the peace process. By resolution 729 (1992), the Council reaffirmed its support for the Secretary-General's continuing mission of good offices with regard to the Central American peace process.

The Secretary-General continued his mission of good offices in Cyprus on the basis of Security Council authorization, renewed every six months.¹²⁹

In a statement by the President dated 9 June 1989,¹³⁰ the members of the Council welcomed and reaffirmed their support for the direct talks launched in August 1988 under the auspices of the Secretary-General in the context of his mission of good offices in Cyprus, and called on the parties to cooperate with the Special Representative of the Secretary-General to achieve a negotiated, just and lasting settlement.

After a meeting between the leaders of the two communities in Cyprus, held from 26 February to 2 March 1990, had not resulted in any progress,¹³¹ the Council, by resolution 649 (1990), called upon those leaders to cooperate, on an equal footing, with the Secretary-General in completing, in the first instance and on an urgent basis, an outline of an overall agreement, and expressed its full support for the "effort of the Secretary-General in carrying out his mission of good offices concerning Cyprus".¹³²

After a set of ideas had emerged in talks held in 1991 between the leaders of the two communities in Cyprus and the representatives of the Secretary-General, the Council, in a statement made by its

¹²⁵ The General Assembly, by a resolution adopted on 18 December 1992, also encouraged the Secretary-General and the Security Council "to engage at an early stage in close and continuous consultation in order to develop, on a case-by-case basis, an appropriate strategy for the peaceful settlement of specific disputes, including the participation of other organs, organizations and agencies of the United Nations system, as well as regional arrangements and organizations as appropriate" (resolution 47/120 A, section I, para. 4).

¹²⁶ S/20699.

¹²⁷ Resolutions 654 (1990), 693 (1991), 729 (1992) and 791 (1992).

¹²⁸ S/22031 and S/22494 and Corr.1.

¹²⁹ Authorization was regularly given in connection with the semi-annual extension of the mandate of the peacekeeping force established under resolution 186 (1964); see resolutions 634 (1989), 646 (1989), 657 (1990), 680 (1990), 691 (1991), 697 (1991), 723 (1991), 750 (1992), 759 (1992) and 796 (1992). For the original authorization, see resolution 367 (1975), para. 6.

¹³⁰ S/20682.

¹³¹ See the report of the Secretary-General dated 3 April 1990 (S/23780, para. 3).

¹³² Such support was also expressed in a statement by the President of the Council dated 19 July 1990 (S/21400).

President on 13 July 1992,¹³³ endorsed the Secretary-General's intention to invite the two leaders to a joint meeting as soon as the two sides "were in agreement range on the set of ideas".

Following the submission, on 21 August 1992, of the Secretary-General's report on the outcome of his mission of good offices in Cyprus,¹³⁴ the Council, by resolution 774 (1992), reaffirmed its position, previously expressed in resolution 716 (1991), that a high-level international meeting, convened and chaired by the Secretary-General, in which the two communities and Greece and Turkey would participate, represented an effective mechanism for concluding an overall framework mechanism on Cyprus.

With regard to the situation in Cambodia, the Secretary-General informed the Council members, by a letter dated 2 August 1989 addressed to the President of the Security Council,¹³⁵ that he had attended the Conference on Cambodia convened in Paris on 30 July 1989 at the initiative of the Government of France, at which time he had expressed the view that peace in Cambodia could be achieved only in the framework of a comprehensive political settlement. By a letter dated 30 August 1990,¹³⁶ the representatives of the five permanent members of the Security Council transmitted to the Secretary-General a joint statement which, together with an appended framework document, defined the key elements of a comprehensive political settlement of the Cambodia conflict.¹³⁷ That framework was accepted by the parties at an informal meeting held at Jakarta on 10 September 1990,¹³⁸ and endorsed by the Security

Council in resolution 668 (1990), adopted on 20 September 1990.

In connection with the situation concerning Western Sahara, the Council, by resolution 658 (1990), expressed its full support for the Secretary-General in his mission of good offices and approved his report¹³⁹ containing the full text of the settlement proposals accepted by the parties on 30 August 1988, as well as an outline of his plan to implement those proposals.

By resolutions 690 (1991) and 725 (1991), the Council expressed its full support for the efforts of the Secretary-General for the organization and supervision of a referendum for self-determination of the people of Western Sahara.

With regard to the former Yugoslavia, the Council, by resolution 713 (1991), invited the Secretary-General to offer his assistance in relation to the collective efforts for peace and dialogue in Yugoslavia undertaken under the auspices of the States members of the European Union.

By resolution 765 (1992), the Council invited the Secretary-General to appoint a Special Representative for South Africa in order to recommend, after discussions with the parties, measures which would assist in bringing an effective end to the violence and in creating conditions for negotiations leading towards a peaceful transition to a democratic, non-racial and united South Africa.

On 23 January 1992, by resolution 733 (1992), the Council requested the Secretary-General to assist in the process of a political settlement in Somalia.¹⁴⁰ Following a meeting of the Secretary-General with leaders of the Somali factions at a conference of national reconciliation and unity held in New York from 12 to 14 February 1992,¹⁴¹ and after further international negotiations conducted in Somalia from 29 February to 3 March 1992, a ceasefire agreement was secured.

¹³³ S/24271.

¹³⁴ S/24472.

¹³⁵ S/20768.

¹³⁶ S/21689, annex and appendix.

¹³⁷ The statement had been adopted in New York on 27 and 28 August 1990, at the sixth meeting of the five permanent members, held at the vice-ministerial level.

¹³⁸ By a letter dated 11 September 1990 (S/21732) addressed to the Secretary-General, the representatives of France and Indonesia, in their capacity as Co-Chairmen of the International Conference on Cambodia, transmitted the joint statement of the informal meeting on Cambodia issued at Jakarta, by which the Cambodian parties had accepted the framework document formulated by the five permanent members as the basis for settling the Cambodia conflict, and had committed themselves to elaborating that framework into a comprehensive political settlement through the processes of the Paris Conference.

¹³⁹ S/21360.

¹⁴⁰ This request was reiterated in resolutions 751 (1992), 767 (1992), 775 (1992) and 794 (1992).

¹⁴¹ A joint delegation of the United Nations and three regional and intergovernmental organizations, headed by the Secretary-General's envoy for Somalia, met separately with the two Somali factions on 13 and 14 February; see the report of the Secretary-General dated 11 March 1992 (S/23693), para. 22.

By resolution 751 (1992), the Council requested the Secretary-General to facilitate the maintenance of a ceasefire throughout the country and to continue his consultations with all Somali parties, movements and factions towards the convening of a conference for national reconciliation and unity in Somalia. By the same resolution, the Council decided to establish a United Nations Operation in Somalia to support the Secretary-General's efforts.

With regard to the situation in Georgia, the members of the Council took note, in a statement by the President dated 10 September 1992,¹⁴² of the intention of the Secretary-General to send a goodwill mission and requested him to inform the Council periodically of the developments in Abkhazia.

In connection with alleged terrorist acts by the Libyan Arab Jamahiriya, the Council requested the Secretary-General, by resolution 731 (1992), to seek the full cooperation of the Libyan Government with investigations into the destruction of Pan Am flight 103 on 21 December 1988 and UTA flight 772 on 19 September 1989.¹⁴³

On 25 January 1992, following consultations with the Libyan authorities, the Secretary-General, through a Special Envoy, sent a personal message to the Libyan leader, in which he expressed the hope that the matter could be resolved quickly, but emphasized that he was acting under the terms of resolution 731 (1992) and not as a mediator between the Security Council and the Libyan authorities.¹⁴⁴

With regard to the situation between Iraq and Kuwait,¹⁴⁵ several days after the Council had demanded Iraq's immediate and unconditional withdrawal from Kuwait by resolution 660 (1990) and imposed a general trade embargo against Iraq by resolution 661 (1990), it adopted, on 18 August 1990, resolution 664 (1990) by which it welcomed the efforts of the Secretary-General to pursue urgent negotiations with the Government of Iraq, following the concern and anxiety expressed by the members of the Council on 17 August 1990.

By resolution 670 (1990), the Council welcomed the Secretary-General's use of his good offices to advance a peaceful resolution based on the relevant resolutions of the Council and noting with appreciation his continuing efforts to this end. The Council later stated, in resolution 674 (1990) that it reposed its trust in the Secretary-General to make available his good offices and, as he considered appropriate, to pursue them and to undertake diplomatic efforts in order to reach a peaceful solution to the crisis caused by the Iraqi invasion and occupation of Kuwait, on the basis of resolutions 660 (1990), 662 (1990) and 664 (1990).

¹⁴² S/24542.

¹⁴³ See the letters dated 20 and 23 December 1989 from the representatives of France, the United Kingdom and the United States to the Secretary-General (S/23306, S/23307, S/23308, S/23309 and S/23317).

¹⁴⁴ See the reports of the Secretary-General dated 11 February and 3 March 1992 (S/23574 and S/23672), submitted pursuant to resolution 731 (1992).

¹⁴⁵ While the use of the Secretary-General's good offices is not typically associated with situations in which enforcement measures under Chapter VII of the Charter have become necessary, efforts to employ such good offices may sometimes be undertaken in parallel with the imposition of enforcement measures. As mediation and good offices are instruments typically undertaken within the framework of Chapter VI of the Charter, the decisions mentioned here have been included in spite of the fact that they were adopted, in whole or in part, under Chapter VII of the Charter.

Part IV

Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter

Note

This part of the chapter highlights the most important arguments raised in Council deliberations with regard to the interpretation of specific provisions of the Charter concerning the Council's role in the peaceful settlement of disputes. This includes in particular discussions concerning the competence of the Council to consider a dispute or situation and its power to make appropriate recommendations within the framework of Chapter VI of the Charter.

In accordance with the relevant provisions of Chapter VI, the Council shall, when it deems necessary, make recommendations in relation to disputes or situations which are likely to endanger international peace and security. Accordingly, this part will focus on discussions concerning the existence of a dispute or situation within the meaning of Chapter VI of the Charter.

When making recommendations to the parties, the Security Council is also required, pursuant to Article 36 of the Charter, to take into consideration any procedures for the settlement of the dispute which have already been adopted between the parties, and the general rule that disputes of a legal nature should be referred to the International Court of Justice. Instances in which the requirements stipulated by Article 36 (2) and (3) became the subject of deliberations will, therefore, also be considered below.

Since the referral of a situation or dispute to the Council was challenged on the basis of distinct arguments, some situations are considered under several sub-headings.

Questions regarding the existence of a dispute

In the following instances, the referral of a situation to the Council by a Member State was challenged on the basis of an assertion that the incident in question did not constitute a dispute.¹⁴⁶

¹⁴⁶ Instances in which the existence of a dispute was denied

During the Council's deliberations at the 2835th meeting on 5 January 1989, in connection with the downing of two Libyan reconnaissance aircraft by the United States,¹⁴⁷ the United States denied that the incident was part of or related to any differences between the two countries and maintained that its aircraft had acted in self-defence under Article 51 of the Charter.¹⁴⁸

A draft resolution, submitted by several countries at the 2841st meeting, on 11 January 1989, was voted upon but was not adopted. By that draft resolution, the Council would have deplored the downing of the two Libyan aircraft; and called upon the parties to resolve their differences by peaceful means and to cooperate with the Secretary-General in an effort to bring about a peaceful settlement of the differences existing between them.¹⁴⁹

In connection with a letter dated 2 February 1990, from the representative of Cuba to the President of the Security Council,¹⁵⁰ concerning the alleged harassment of a Cuban merchant ship by the United States, the representative of the United States, at the 2907th meeting on 9 February 1990, maintained that the incident was not "a spat between the United States and Cuba", but a "routine drug-interdiction case", which was an "entirely routine and normal law-enforcement procedure on the high seas" and "in accordance with

on the grounds that an incident or conflict did not involve any other State, but was essentially an internal matter, are considered in chapter XII.

¹⁴⁷ The incident was brought to the Council's attention by letters dated 4 January 1989 from the representatives of the Libyan Arab Jamahiriya and Bahrain to the President of the Security Council (S/20364 and S/20367). Those letters, which describe the incident as an aggression, were considered at the 2835th, 2836th, 2839th, 2840th and 2841st meetings of the Council. For a more comprehensive treatment of this matter, see chapter VIII, section 3.

¹⁴⁸ S/PV.2835, pp. 14-17.

¹⁴⁹ S/20378, submitted by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia. The result of the voting was as follows: 9 votes in favour, 4 against (Canada, France, United Kingdom, United States) and 2 abstentions (Brazil, Finland) (see S/PV.2841, p.48).

¹⁵⁰ S/21120.

customary international law and practice”. Accordingly, the United States believed that such a matter did not merit Security Council consideration.¹⁵¹

Assertion that international peace and security are not endangered

In several instances, Member States, by asserting that a dispute or situation did not pose a threat to international peace and security, also challenged the Council’s general competence, under Chapter VI, to consider certain matters or make recommendations in relation thereto. Such instances may therefore be illustrated in this section even though the expression “threat to the peace” usually indicates the consideration of a situation before the Council under Chapter VII of the Charter.

In connection with a letter dated 3 January 1990 from the representative of Nicaragua to the President of the Council,¹⁵² concerning the alleged interference by the United States with the residence of the Nicaraguan Ambassador to Panama, the representative of Nicaragua, at the 2905th meeting on 17 January 1990, explained that Nicaragua had requested the Council to meet in order to obtain a resolution by which the Council would denounce that action, which he described as “a provocation designed to obtain an equivalent response — which would result in the unleashing of even broader actions against Nicaragua, with a serious threat to international peace and security”.¹⁵³

In response, the United States contended that no formal Council meeting or even Council consideration was required, as the incident did not constitute an actual or a potential threat to international peace and security, and as clear remedies for dealing with such incident already existed.¹⁵⁴ In a similar vein, the United Kingdom stated that, in its view, the matter did not constitute a threat to international peace and security or provide any basis for a Council resolution under Chapter VI of the Charter.¹⁵⁵

¹⁵¹ S/PV.2907, pp. 26-34. For further details, see chapter VIII, section II.

¹⁵² S/21066.

¹⁵³ S/PV.2905, pp. 3 and 13-15.

¹⁵⁴ *Ibid.*, pp. 21, 33 and 34.

¹⁵⁵ *Ibid.*, pp. 34-35.

A draft resolution submitted by several Member States, in which the Council would have expressed its concern about the incident, was voted upon but was not adopted.¹⁵⁶

The representatives of Canada and Finland, the only other speakers in the debate, explained that they had voted for the draft resolution as the incident in question constituted a violation of general principles of international law. The representative of Finland noted, however, that he continued to have difficulty in accepting that the subject matter of the draft fell within the competence of the Security Council as defined in the Charter, as it was “not of such a character as to present a threat to international peace and security”.¹⁵⁷

In connection with alleged terrorist acts by the Libyan Arab Jamahiriya against Pan Am flight 103 on 21 December 1988 and UTA flight 772 on 19 September 1989, the Security Council, at its 3033rd meeting, on 21 January 1992, considered letters dated 20 and 23 December 1991 from the representatives of France, the United Kingdom and the United States to the Secretary-General, alleging the involvement of Libyan Government officials in those incidents.¹⁵⁸ The Council also considered a draft resolution proposed by the three countries, in which the Council would have condemned the destruction of the two aircraft and urged the Libyan Government to cooperate fully in establishing responsibility for the terrorist acts.¹⁵⁹

During the Council’s deliberations on the draft resolution, the representative of the Libyan Arab Jamahiriya asserted that the matter was not a dispute of a political nature within the meaning of Chapter VI of the Charter, as the Libyan Arab Jamahiriya had never threatened any country and could not “behave in such a way as to endanger peace and security”.¹⁶⁰

¹⁵⁶ S/21084, submitted by Colombia, Côte d’Ivoire, Cuba, Democratic Yemen, Ethiopia, Malaysia and Zaire. The result of the voting was as follows: 13 votes in favour, 1 against (United States) and 1 abstention (United Kingdom).

¹⁵⁷ S/PV.2905, p. 38.

¹⁵⁸ S/23306, S/23307, S/23308, S/23309 and S/23317. For a comprehensive discussion of the item, see chapter VIII, section 3. See also the reports of the Secretary-General pursuant to resolution 731 (1992) (S/23574 and S/23672).

¹⁵⁹ S/23422, submitted by France, the United Kingdom and the United States.

¹⁶⁰ S/PV.3033, p. 23.

This view was not shared, however, by the sponsors of the draft resolution, who believed that the situation did constitute a threat to international peace and security.¹⁶¹ Other speakers, some of whom characterized international terrorism as a threat to international peace and security, also expressed clear support for the draft resolution,¹⁶² which was subsequently adopted as resolution 731 (1992).

The legal nature of disputes, in the light of Article 36 (3) of the Charter

Article 36 (3) of the Charter provides that the Security Council, in making recommendations under Article 36, should 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.¹⁶³

¹⁶¹ See in particular S/PV.3033, p. 79 (United States); p. 82 (France); and p. 103 (United Kingdom); and S/PV.3063, p. 67 (United States); pp. 68-69 (United Kingdom); and p. 73 (France).

¹⁶² See S/PV.3033, P. 47 (Canada); p. 72 (Ecuador); p. 83 (Belgium); and pp. 87-89 (Russian Federation); and S/PV.3063, p. 76 (Hungary); p. 77 (Austria); pp. 79-81 (Russian Federation); and pp. 82-83 (Venezuela).

¹⁶³ In his report entitled "An Agenda for peace", the Secretary-General stated that "greater reliance on the Court would be an important contribution to United Nations peacemaking" and called attention to the power of the Security Council under Articles 36 and 37 of the Charter to recommend to Member States the submission of a dispute to the International Court of Justice, arbitration or other dispute-settlement mechanism (S/24111, para. 38). Similar recommendations are contained in the Secretary-General's reports on the work of the Organization (see for example *Official Records of the General Assembly, Forty-fourth Session, Supplement No. 1 (A/44/1)*, p. 6; *ibid.*, *Forty-fifth Session, Supplement No. 1 (A/45/1)*, p. 7; and *ibid.*, *Forty-sixth Session, Supplement No. 1 (A/46/1)*, p. 4.). In addition to recommending greater recourse to the International Court of Justice in adjudicating disputes of a legal nature, the Secretary-General proposed that advisory opinions on the legal aspects of a dispute should be requested more often. He also suggested that, in addition to the rights granted to the General Assembly and the Security Council under Article 96 of the Charter, the Secretary-General should enjoy a right to make such requests (see A/45/1, p. 7, and A/46/1, p. 4). In order to assist developing countries that lacked the necessary

In the following instances, Member States questioned the competence of the Security Council to consider a dispute, owing to its alleged legal nature, or advanced arguments in favour of a referral of such dispute to the International Court of Justice.

In connection with the alleged terrorist acts by the Libyan Arab Jamahiriya against Pan Am flight 103 on 21 December 1988 and UTA flight 772 on 19 September 1989, the Council, at its 3033rd meeting, on 21 January 1992, considered letters dated 20 and 23 December 1991 from the representatives of France, the United Kingdom and the United States to the Secretary-General,¹⁶⁴ alleging the involvement of Libyan Government officials in those acts. The Council also considered a draft resolution proposed by the aggrieved countries, by which the Council would, *inter alia*, condemn the destruction of the two aircraft and urge the Libyan Government to cooperate fully in establishing responsibility for the terrorist acts.¹⁶⁵

At that meeting, the representative of the Libyan Arab Jamahiriya asserted that the investigations undertaken in the said three countries had never proved the involvement of the Libyan State, and that the incident in question was a matter of a purely legal nature, which ought to be dealt with by the judiciary and which the Council was not competent to consider. The Libyan Arab Jamahiriya emphasized that it had initiated investigatory proceedings against the two accused individuals, who would be brought to trial, and, if convicted, punished according to the provisions of Libyan law. The Libyan representative also noted that "the competent authorities in his country [had] expressed their readiness to receive investigators to participate in the investigation". He believed "that the international dimensions of the alleged events might make an international investigation an appropriate means of starting to resolve the dispute". The representative contended that, if there was an issue before the Council, it was "a question concerning a

means for recourse to the Court or for implementing its decisions, the Secretary-General established a special voluntary trust fund (see A/44/1, p. 6).

¹⁶⁴ S/23306, S/23307, S/23308, S/23309 and S/23317. For a comprehensive discussion of the matter, see chapter VIII, section 3. See also the reports of the Secretary-General pursuant to resolution 731 (1992) (S/23574 and S/23672).

¹⁶⁵ S/23422; adopted unanimously at the same meeting as resolution 731 (1992).

conflict of jurisdiction, a dispute over the legal determination to be made in connection with a request for extradition". Accordingly, he believed that the Council ought to take into consideration that, under Article 36 (3) of the Charter, legal disputes should as a general rule be referred to the International Court of Justice in accordance with the provisions of the Statute of the Court.¹⁶⁶ More generally, the representative stated that the Council ought to recommend settlement through the divers legal channels that are available, not only within the framework of the Charter, but also under the provisions of more relevant international conventions.¹⁶⁷

Several non-members of the Council, which had been invited to participate in the debate, supported the position of the Libyan Arab Jamahiriya. The representative of the Arab League believed that the dispute should be placed before a neutral international commission of inquiry.¹⁶⁸ The Sudan and the Islamic Republic of Iran believed that the dispute should be resolved within the framework of existing international instruments, through an international inquiry or by arbitration.¹⁶⁹ The representative of Iraq noted that there was "no precedent for such judicial disputes being brought before the Security Council."¹⁷⁰ Mauritania believed that the case appeared to be "a question essentially juridical in nature".¹⁷¹ Yemen thought that the question should be "dealt with in a legal manner".¹⁷²

However, the sponsors of the draft resolution, supported by other Council members, believed that the situation constituted a threat to international peace and security, which could only be appropriately addressed by the Security Council.¹⁷³

The representative of the United States stated that the matter was "a situation to which standard procedures [were] clearly inapplicable", and called upon the Council not to be "distracted by Libyan attempts to convert this issue of international peace and security into one of bilateral differences". The proposed resolution was to ensure "that the people accused be simply and directly turned over to the judicial authorities of the Governments which are competent under international law to try them". The suggestion of the Libyan Arab Jamahiriya that its nationals be tried elsewhere, was described by the representative as a "tortured attempt to identify or create venues that could reduce and even negate the value of the evidence so painfully collected in long and thorough investigations by the requesting States". The representative asserted that neither the Libyan Arab Jamahiriya nor indeed any other State could seek "to hide support for international terrorism behind traditional principles of international law and State practice".¹⁷⁴

The representative of the United Kingdom emphasized that it was the exceptional circumstance of government involvement in terrorism that had made it appropriate for the Council to adopt a resolution urging the Libyan Arab Jamahiriya to make the accused available for trial in Scotland or the United States and to cooperate with the French judicial authorities. He added that his Government was "not asserting the guilt of these men before they were tried", but that "there was serious evidence against them which they had to face in court". The representative believed that "since the crime occurred in Scotland and the aircraft was American, and since the investigation [had] been carried out in Scotland and in the United States, the trial should clearly take place in Scotland or in the United States." With regard to the suggestion that the matter be referred to an international tribunal, he noted that this was "simply not practical", that the International Court of Justice had no criminal jurisdiction and that there was no other international tribunal with such jurisdiction. The representative acknowledged that he did understand the position of those countries whose law prevented the extradition of their nationals, but noted that there was no rule of international law which precluded the extradition of

¹⁶⁶ S/PV.3033, pp. 8-22.

¹⁶⁷ *Ibid.*, p. 22. Reference was made in particular to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal in 1971.

¹⁶⁸ S/PV.3033, p. 28.

¹⁶⁹ *Ibid.*, pp. 33-36 and 63-65.

¹⁷⁰ *Ibid.*, p. 38.

¹⁷¹ *Ibid.*, p. 52.

¹⁷² *Ibid.*, p. 56.

¹⁷³ *Ibid.*, pp. 78-79 (United States); p. 82 (France); p. 103 (United Kingdom) and p. 46 (Italy); pp. 47-48 (Canada); pp. 72-73 (Ecuador); p. 76 (Cape Verde); p. 83. (Belgium); pp. 87-89 (Russian Federation); pp. 91-92 (Hungary); pp. 92-93 (Austria); p. 97 (Japan).

¹⁷⁴ *Ibid.*, pp. 79-80.

nationals, adding that “indeed many countries place no bar on this and regularly do extradite their nationals”. As to prosecution in the Libyan Arab Jamahiriya, he stated that “it must be clear to all that the State which is itself implicated in the acts of terrorism cannot try its own officials”.¹⁷⁵

The representative of France expressed the hope that the unanimous reaction of the international community, expressed by the adoption of the proposed Security Council resolution, would induce the Libyan authorities to respond quickly to the requests of the judicial authorities conducting the investigation into the terrorist attacks.¹⁷⁶

The representative of the Russian Federation believed it to be important that, “in accordance with universally acknowledged legal norms, the judicial organs of those countries to which the downed aircraft belonged and over whose territory the crime was committed should be allowed to deal with this case”. He believed that the “international interest in this trial should ensure that it is open and impartial in nature”.¹⁷⁷

At the same meeting, the draft resolution was adopted unanimously as resolution 731 (1992). However, several Council members emphasized the exceptional nature of the case or expressed certain reservations.

The representative of Morocco felt that the Council was “touching on a principle of international law that is well established in both unwritten law and in various instruments”, namely the principle of “extradite or prosecute”. Accordingly, it could not share the view that the adoption of the draft resolution “enshrine[d] any exception to that uncontested principle of international law”.¹⁷⁸

The representative of Venezuela noted that “the inability of the General Assembly to take a stand on the establishment of an international crime tribunal [had] made it necessary for the Council to act”, noting that “although this measure [was] exceptional and [had] involved problems for many countries in the area of

jurisdiction and extradition of nationals, the Council [did] have the necessary competence and [had to] be prepared to assume the enormous responsibility involved in filling this institutional gap in result of the lack of alternative machinery to deal with crimes against mankind”.¹⁷⁹

The Council resumed its consideration of the matter on 31 March 1992, at its 3063rd meeting, at which it discussed and adopted the text of resolution 748 (1992).¹⁸⁰

The Libyan Arab Jamahiriya again emphasized that it would welcome a neutral investigation, or consideration of the matter by the International Court of Justice. It reaffirmed its view that a referral to the Court should have been duly considered by the Council, in accordance with Article 36 (3) of the Charter.¹⁸¹ Referring to an application it had made to the Court itself several days earlier, the Libyan Arab Jamahiriya questioned why the aggrieved parties, instead of awaiting the Court’s judgment, exerted pressure on the Security Council to consider this matter at the same time at which the Court was considering it, noting also that the United States had “declared in advance its rejection of any ruling of the International Court of Justice that would not be in its favour.”¹⁸²

In statements made prior to the vote on the draft resolution, four Council members expressed themselves in favour of an appropriate role for the International Court of Justice in this matter.¹⁸³

The representative of China believed that the hearings held recently by that Court would “undoubtedly help clarify the facts and ascertain the truth through investigations”. He also stated that China

¹⁷⁵ Ibid., pp. 103-105.

¹⁷⁶ Ibid., p. 82.

¹⁷⁷ Ibid., p. 88.

¹⁷⁸ Ibid., pp. 58-59. A similar view was expressed by Zimbabwe (ibid., p. 71), which also voted in favour of the resolution.

¹⁷⁹ Ibid., p. 99. Certain reservations were also expressed by the representatives of China and India.

¹⁸⁰ By resolution 748 (1992), which was adopted by 10 votes to none, with 5 abstentions (Cape Verde, China, India, Morocco, Zimbabwe), the Council imposed against the Libyan Arab Jamahiriya a broad range of measures under Chapter VII of the Charter. While the relevant deliberations would therefore seem to fall outside the framework of this chapter, they have been included here because of the repeated citation, by several speakers, of Article 36 (3) of the Charter.

¹⁸¹ S/PV.3063, pp. 6-7 and 18.

¹⁸² Ibid., pp. 14-16.

¹⁸³ These Council members (Cape Verde, China, India and Zimbabwe), in addition to Morocco, abstained from voting on the draft resolution.

was in favour of “conducting serious, thorough, fair and objective investigations of the bombing incidents”, in accordance with the Charter and the relevant principles of international law.¹⁸⁴

The representative of India, noting that the judicial proceedings before the Council had not yet run their course, believed that “a little delay on that account in the Security Council’s moving on to the next stage would have merited positive consideration”. The representative felt that “it should be feasible for these two principal organs of the United Nations to function in tandem in a manner so as to reinforce each other’s efficacy and prestige in the course of international peace and security”.¹⁸⁵

The representative of Cape Verde believed that the International Court of Justice should “have a role to play whenever a legal issue was at stake, as mentioned in paragraph 3 of Article 36 of the Charter”. He added that it would therefore be “more appropriate” for the Council to act after the International Court of Justice — which was seized of the matter — had decided what was the applicable law, if any, as to the issue of jurisdiction. The representative also explained that it would be difficult for his country to endorse measures that could run counter to its Constitution, which did not allow the extradition of its own nationals.¹⁸⁶

The representative of Zimbabwe agreed that it would have been preferable for the Council to await the outcome of the judicial proceedings. He believed that, “while there [was] no specific provision in the Charter that precluded parallel consideration of the matter by these two principal organs ... the authors of the Charter [had] intended the two bodies to complement each other’s efforts rather than proceed in a manner that could produce contradictory results”.¹⁸⁷

Similar views were held by the States non-members of the Security Council which had been invited to attend the meeting.¹⁸⁸

The sponsors of the draft resolution, supported by other Council members, believed however that the measures imposed against the Libyan Arab Jamahiriya by resolution 748 (1992) were appropriate and necessary to deal with the threat to international peace and security posed by that country’s alleged failure to implement resolution 731 (1992) and cooperate with the investigations.¹⁸⁹

Commenting on the proceedings before the International Court of Justice, the representative of the United Kingdom said he believed that the application by the Libyan Arab Jamahiriya to the Court was in fact “directed at interfering with the exercise by the Security Council of its rightful functions and prerogatives” under the Charter. He emphasized that the Council was “fully entitled to concern itself with issues of terrorism and the measures needed to address acts of terrorism in any particular case or to prevent it in the future”.¹⁹⁰

The representative of Venezuela agreed that, although it would have been desirable for there to be a simultaneous decision by the Court and the Council, the absence of such a decision could not inhibit the actions which one or other of them might take, since both were independent of each other. However, the representative noted that Venezuela also saw a need for

International Court of Justice, to which it has been submitted, ha[d] been considering it since last Thursday” (S/PV.3063, pp. 31-32). The representative of Iraq stated that his country did “not believe that harm [would] be done to international peace and security if the Council show[ed] patience and persist[ed] in following up efforts to achieve the desired solution, especially since the International Court of Justice [was] considering the question and the Libyan Arab Jamahiriya ha[d] expressed in advance its acceptance of the Court’s opinion” (ibid., p. 37). The representative of Uganda “welcomed as a positive step this issue’s being brought before the International Court of Justice” (ibid., p. 40). The representative of Jordan more generally recalled its emphasis “on the need to call upon the Security Council to resolve the conflict through negotiations, mediation and a judicial settlement, in accordance with the stipulations of Chapter VI, Article 33, of the Charter” (ibid., pp. 26-27).

¹⁸⁹ See in particular the statements made by the representatives of the United States (S/PV.3063, pp. 66-67); the United Kingdom (ibid., pp. 68-69); France (ibid., pp. 73-74); Japan (ibid., pp. 74-75); Austria (ibid., pp. 76-88); and the Russian Federation (ibid., pp. 79-80).

¹⁹⁰ S/PV.3063, pp. 68-69.

¹⁸⁴ S/PV.3063, pp. 59-60.

¹⁸⁵ Ibid., p. 58.

¹⁸⁶ Ibid., pp. 46-47.

¹⁸⁷ Ibid., pp. 52-53.

¹⁸⁸ The representative of Mauritania noted that the States of the Arab Maghreb Union considered “that it could be possible to avoid the sanctions and other measures set out in the text, especially since the dispute in question seems to be basically juridical in nature and since the

the United Nations system “to be provided with legal mechanisms capable of dealing with the type of criminal activity now before the Council”. Accordingly, he reiterated Venezuela’s request “that an international criminal court be set up to complement the International Court of Justice”.¹⁹¹

With regard to the situation between Iraq and Kuwait¹⁹² at the 2981st meeting, on 3 April 1991, the Council had before it a draft resolution by which it would call upon the Secretary-General to make arrangements with Iraq and Kuwait to demarcate the boundary between them.¹⁹³ At that meeting, several speakers expressed doubt as to whether the Council had the authority to deal with such a matter¹⁹⁴ and expressed the view that boundary questions ought to be referred to the International Court of Justice.¹⁹⁵

Referring explicitly to Article 36 (3), the representative of Ecuador stated his country’s belief that the Council, in taking a position on the territorial boundary between Iraq and Kuwait and in requesting the Secretary-General to make arrangements with both countries to demarcate the boundary, had wrongly considered this case to be an exception to the general principle requiring such disputes to be referred to the International Court of Justice.¹⁹⁶

In response, the sponsors of the draft resolution drew attention to the uniqueness of the situation, stressed that the border to be demarcated would be the international boundary previously agreed upon by the two countries,¹⁹⁷ and emphasized that the involvement

of the Council in the demarcation of the boundary was not an attempt to use the Council to replace the existing principles pertaining to the settlement of boundaries.¹⁹⁸

Several speakers criticized the provisions in the draft resolution envisaging the establishment of a commission and fund to deal with reparations and compensation, and argued that the International Court of Justice, rather than the Security Council, should decide the financial claims against Iraq.¹⁹⁹

The majority of Council members expressed support for these provisions, however, observing that the question of reparations was an essential part of the post-war process.²⁰⁰

At the same meeting, the draft resolution was adopted as resolution 687 (1991).²⁰¹

Relevance of procedures for the settlement of disputes adopted by the parties, in the light of Article 33 (2) of the Charter

Article 33 (1) requires the parties to a dispute, the continuance of which is likely to endanger the maintenance of international peace and security, first of all to seek a solution by peaceful means, such as negotiation, conciliation or arbitration. The importance placed on the parties’ efforts to reach a settlement is also reflected in Article 36 (2), which provides that the Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted between the parties.

In the following instances, the deliberations of the Security Council turned to the question whether the

Agreement concluded between Iraq and Kuwait in 1963, which was registered with the United Nations.

¹⁹⁸ S/PV.2981, pp. 84-86 (United States); and pp. 112-113 (United Kingdom).

¹⁹⁹ Ibid., p. 41 (Yemen); and pp. 68-71 (Cuba). See also letter dated 5 December 1990 from the representative of Colombia (S/21986) and letter dated 27 May 1991 from the representative of Iraq (S/22643, annex).

²⁰⁰ S/PV.2981, p. 53 (Zaire); p. 87 (United States); p. 93 (France); p. 96 (China); p. 103 (Russian Federation); p. 114 (United Kingdom); p. 126 (Romania); and p. 129-130 (Belgium).

²⁰¹ The resolution was adopted by 12 votes to 1 (Cuba), with 2 abstentions (Ecuador, Yemen).

¹⁹¹ Ibid., pp. 82-84.

¹⁹² The situation between Iraq and Kuwait, which, as a whole, falls within the framework of Chapter VII of the Charter, has been included in this section only on account of the express references to Article 36 (3) made in the debate.

¹⁹³ S/22430, submitted by France, Romania, the United Kingdom and the United States.

¹⁹⁴ S/PV.2981, p. 32 (Iraq); p. 41 (Yemen); p. 61 (Cuba); pp. 77-78 (India); and pp. 107-108 (Ecuador).

¹⁹⁵ Ibid., p. 41 (Yemen): “We might mention that the Security Council has never set any boundaries. That task has always been left to negotiations or brought before the International Court of Justice, with the agreement of the parties concerned.”

¹⁹⁶ Ibid., pp. 107-108. See also the letter dated 18 June 1992 from the representative of Ecuador to the President of the Security Council (S/24117), and Ecuador’s statement at the 3108th meeting (S/PV.3108, pp. 3-4).

¹⁹⁷ The demarcation of the boundary was to be based on an

priority accorded to the parties' own efforts under those provisions might, in certain circumstances, restrict the Council's competence to consider a dispute in accordance with Article 33 (2).

In connection with alleged terrorist acts by the Libyan Arab Jamahiriya against Pan Am flight 103 on 21 December 1988 and UTA flight 772 on 19 September 1989, the representative of the Libyan Arab Jamahiriya asserted, at the Council's 3033rd meeting, that the Council was competent only to consider a dispute "in which the parties to it [had] not followed any of the means for peaceful settlement of disputes set out in Article 33 of the Charter". Referring to certain measures the Libyan Arab Jamahiriya had taken to respond to demands made by the aggrieved States, the representative reminded Council members that, in accordance with Article 36 (2) of the Charter, the Council should take into account any measures already adopted. As the Libyan Arab Jamahiriya had "frequently declared its readiness to negotiate and accept mediation and other peaceful means to settle the dispute", the Council ought to "call upon the other parties to respond favourably to that expression of readiness". In particular, the Council should call on the United States and the United Kingdom to enter promptly into negotiations with the Libyan Arab Jamahiriya on "proceedings leading to arbitration and the appointment of an arbitration panel".²⁰²

While several speakers supported the appeal of the Libyan Arab Jamahiriya to resolve the matter by the peaceful means of settlement set out in Article 33 (1),²⁰³ others believed that the situation concerned a threat to international peace and security, which could not be resolved by such means.²⁰⁴ Accordingly, they expressed support for the draft resolution before the Council, which at the same meeting was adopted as resolution 731 (1992).

Following the adoption of the resolution, the representative of the United States emphasized that the Council was dealing with a case of international terrorism, and not "some difference of opinion or

approach that [could] be mediated or negotiated". For that reason, he called upon the Council not to be "distracted by Libyan attempts to convert this issue of international peace and security into one of bilateral differences".²⁰⁵ In a similar vein, the representative of France believed that "the exceptional gravity of these attacks and the considerations connected with the restoration of law and security justif[ied] this action in the Security Council".²⁰⁶ This view was shared by the representative of the United Kingdom, who saw the action taken by the Council as the "proper reaction of the international community" to the situation arising from the failure, thus far, of the Libyan Arab Jamahiriya "to respond effectively to the most serious accusations of State involvement in acts of terrorism".²⁰⁷

The Council resumed its consideration of the item at the 3063rd meeting, on 31 March 1992. The Council members had before them another draft resolution proposed by the aggrieved three countries, by which the Council would impose a range of sanctions against the Libyan Arab Jamahiriya.²⁰⁸

The Libyan Arab Jamahiriya, while rejecting demands for the extradition of the two Libyan citizens accused of being implicated in the terrorist acts, again referred to its "full willingness to find a peaceful and just solution to the dispute" and declared its readiness to cooperate with all the parties concerned in the implementation of resolution 731 (1991). It maintained, however, that the Council, by adopting that resolution, had ignored "the provisions of Article 33 of the Charter concerning the settlement of disputes between Member States by peaceful means", adding that "the impasse in finding a solution [had] not been created by any lack of cooperation on the part of the Libyan authorities", but by the rejection, by the other parties, of all the initiatives the Libyan Arab Jamahiriya had taken.²⁰⁹ As evidence of its assertions, the Libyan Arab Jamahiriya, *inter alia*, cited the

²⁰² S/PV.3033, pp. 14-15, 18 and 23.

²⁰³ *Ibid.*, pp. 28 and 31 (League of Arab States); p. 36 (Sudan); pp. 38-40 (Iraq); pp. 51-52 (Mauritania); pp. 64-65 (Islamic Republic of Iran); pp. 67-69 (OIC); and p. 86 (China).

²⁰⁴ *Ibid.*, p. 47 (Canada); p. 72 (Ecuador); p. 79 (United States); p. 82 (France); p. 83 (Belgium); pp. 87-89 (Russian Federation); and p. 103 (United Kingdom).

²⁰⁵ *Ibid.*, p. 79.

²⁰⁶ *Ibid.*, p. 82. France conceded, however, that "this action, motivated by these specific cases of international terrorism, [could] not constitute a precedent". With regard to the exceptional nature of the Council's action, see also the observations made by the representatives of India and Venezuela (*ibid.*, pp. 96 and 101).

²⁰⁷ *Ibid.*, p. 104.

²⁰⁸ S/23762, subsequently adopted as resolution 748 (1992).

²⁰⁹ S/PV.3063, pp. 6-17.

Secretary-General's report to the Security Council dated 3 March 1992, in which the Secretary-General had noted "a certain evolution in the position of the Libyan authorities".²¹⁰

Several other speakers reiterated their view that the parties, in accordance with Article 33, should first of all seek a solution by peaceful means.²¹¹

The sponsors of the draft resolution,²¹² echoed by several other speakers,²¹³ insisted however that the Libyan Arab Jamahiriya had not complied with resolution 731 (1992), that the Council was faced with a threat to international peace and security, and that there was no alternative, therefore, to taking enforcement measures.

At the same meeting, the Council adopted the draft resolution before it as resolution 748 (1992).²¹⁴

In connection with a letter dated 3 January 1990 from the representative of Nicaragua to the President of the Council,²¹⁵ alleging a violation of Nicaragua's diplomatic premises in Panama by the United States, the representative of the United States, at the 2905th meeting, on 17 January 1990, contended that, as the matter had already been dealt with diplomatically and as the United States had formally expressed its regret to the Government of Nicaragua, further consideration of the matter by the Security Council was unnecessary. More specifically, the representative stated that "in normal diplomatic practice, if an issue such as this cannot be resolved directly between those concerned,

then the dean of the diplomatic corps — in this case the Papal Nuncio — mediates the incident".²¹⁶

In a similar vein, the representative of the United Kingdom, while observing that it viewed with concern any breach of the inviolability of diplomatic premises, placed emphasis on the fact that the United States had "formally and at the highest level expressed its regret to the Government of Nicaragua".²¹⁷

A draft resolution submitted by several Member States, by which the Council would have expressed its concern about the incident, was voted upon but not adopted.²¹⁸

In connection with the situation between Iraq and Kuwait,²¹⁹ the Council, at its 2981st meeting, adopted resolution 687 (1991), by which it called upon the Secretary-General to make arrangements with Iraq and Kuwait to demarcate the boundary between them. Several speakers expressed doubt as to whether the Council had the authority to deal with such matter²²⁰ and expressed the view that boundary questions ought to be dealt with directly by the parties concerned, through negotiations.²²¹

In response, the representative of the United States, being one of the sponsors of the relevant draft resolution,²²² drew attention to the uniqueness of the situation, stressed that the border to be demarcated would be the international boundary previously agreed upon between both countries,²²³ and emphasized that

²¹⁰ S/23672, para. 6. The representative of India, noting that the non-aligned countries had spared no effort to bring about a peaceful negotiated settlement, also suggested that the Council consider the evolution in the position of the Libyan Arab Jamahiriya in deciding on its future course of action, as recommended by the Secretary-General in his report (S/PV.3063, p. 58).

²¹¹ See S/PV.3063, p. 27 (Jordan: express reference to Article 33); p. 52 (Zimbabwe); p. 58 (India); p. 60 (China); p. 33 (Mauritania); p. 64 (Morocco: express reference to Article 33); p. 43 (OIC); and p. 47 (Cape Verde).

²¹² *Ibid.*, p. 67 (United States); pp. 68-73 (United Kingdom); and pp. 73-74 (France).

²¹³ S/PV.3063, pp. 74-75 (Japan); p. 76 (Hungary); p. 77 (Austria); pp. 79-81 (Russian Federation); pp. 81-82 (Belgium); and pp. 82-83 (Venezuela).

²¹⁴ The resolution was adopted by 10 votes to none, with 5 abstentions.

²¹⁵ S/21066.

²¹⁶ S/PV.2905, p. 21.

²¹⁷ *Ibid.*, p. 34.

²¹⁸ S/21084, submitted by Colombia, Côte d'Ivoire, Cuba, Democratic Yemen, Ethiopia, Malaysia and Zaire. The result of the voting was as follows: 13 votes to 1 (United States), with 1 abstention (United Kingdom).

²¹⁹ The situation between Iraq and Kuwait, which, as a whole, falls within the framework of Chapter VII of the Charter, has been included in this section only on account of the express references to Article 33 (1) made in the debate.

²²⁰ S/PV.2981, p. 32 (Iraq); p. 61 (Cuba); pp. 77-78 (India); and pp. 107-108 (Ecuador). See also the letter from the representative of Ecuador dated 18 June 1992 (S/24117), and Ecuador's statement at the 3108th meeting (S/PV.3108, pp. 3-4).

²²¹ S/PV.2981, p. 32 (Iraq); p. 4 (Yemen); and p. 96 (China).

²²² S/22430, submitted by France, Romania, the United Kingdom and the United States.

²²³ Reference was made to an Agreement concluded between Iraq and Kuwait in 1963, which was registered with the United Nations.

the involvement of the Council in the demarcation of the boundary was not an attempt to use the Council to replace the existing principles pertaining to the settlement of boundaries.²²⁴ Similar observations were made by the representative of the United Kingdom, who noted that the resolution was not attempting to settle the boundary, but believed that the dispute had resulted from “the failure do demarcate that boundary and the determination of Iraq to raise territorial claims that [were] incompatible with the 1963 Agreement”.²²⁵

The representative of Kuwait observed that, by adopting the resolution, the Security Council was merely calling upon the Secretary-General to offer the necessary technical aid to demarcate the border. Kuwait believed that, through the demarcation of the

boundary, the Council was “testing Iraq’s credibility in regard to its respect for legal documents and treaties”.²²⁶

The representative of Venezuela noted that the demarcation of the boundary was being carried out in the special circumstances following Iraq’s invasion of Kuwait, which posed a threat to international peace and security. It was Venezuela’s understanding, therefore, that the resolution did not alter the general principle expressed in Article 33 of the Charter that disputes of the nature currently before the Council had to be resolved by the party’s themselves through negotiation.²²⁷

²²⁴ S/PV.2981, pp. 84-86.

²²⁵ *Ibid.*, pp. 112-113.

²²⁶ *Ibid.*, p. 133.

²²⁷ S/PV.3108, p. 3. See also the letter dated 18 June 1992 from the representative of Venezuela to the President of the Security Council (S/24121, annex).

Chapter XI

Consideration of the provisions of Chapter VII of the Charter

Contents

	<i>Page</i>
Introductory note	877
Part I. Determination of a threat to the peace, breach of the peace, or act of aggression under Article 39 of the Charter	879
Part II. Provisional measures to prevent the aggravation of a situation in accordance with Article 40 of the Charter	888
Part III. Measures not involving the use of armed force in accordance with Article 41 of the Charter	893
Part IV. Other measures to maintain or restore international peace and security in accordance with Article 42 of the Charter	913
Part V. Decisions and deliberations having relevance to Articles 43 to 47 of the Charter	919
Part VI. Obligations of Member States under Article 48 of the Charter	925
Part VII. Obligations of Member States under Article 49 of the Charter	927
Part VIII. Special economic problems of the nature described in Article 50 of the Charter	929
Part IX. The right of self-defence in accordance with Article 51 of the Charter	934

Introductory note

This chapter deals with action taken by the Security Council with respect to threats to the peace, breaches of the peace and acts of aggression, within the framework of Chapter VII of the Charter of the United Nations.

The period under review was marked by a considerably expanded scope of Council action in this field. At the summit meeting of the Security Council on 31 January 1992, on the subject of its responsibility for the maintenance of international peace and security, the hope was expressed that this new era would present new opportunities for the maintenance of peace and security on a global scale. At the same time, the risks resulting from the break-up and the transformation of several Member States were highlighted.¹

In a statement adopted at the conclusion of that meeting,² the members of the Council reaffirmed their commitment to the collective security system of the Charter to deal with threats to peace and to reverse acts of aggression, and expressed the belief that there were now new favourable international circumstances under which the Security Council had begun to fulfil more effectively its primary responsibility for the maintenance of international peace and security.³

During the period under review, Chapter VII of the Charter was invoked by the Security Council in an increased number of its decisions, in comparison with the period covered by the preceding Supplement (1985 to 1988). Most of those decisions related to the situation between Iraq and Kuwait and the situation in the former Yugoslavia, but the Council also adopted measures under Chapter VII of the Charter in connection with the situation in Somalia and the situation in Liberia, and in order to ensure the full cooperation of the Libyan Arab Jamahiriya in establishing responsibility for the terrorist attacks against Pan Am flight 103 and UTA flight 772.⁴

¹ See S/PV.3046. This was the first meeting of the Security Council held at the level of Heads of State and Government. For a summary of the debate, see chapter VIII, section 28.

² S/23500.

³ By that statement, the members of the Council further expressed their agreement that the world now had the best chance of achieving international peace and security since the foundation of the United Nations, but also recognized that change, however welcome, had brought new risks for stability and security, noting that some of the most acute problems resulted from change to State structures. See also the Secretary-General's remarks in his report entitled "An Agenda for Peace" (S/24111, para. 8), which the Secretary-General had been invited to prepare by Council members in that statement.

⁴ In connection with the situation between Iraq and Kuwait, see resolutions 660 (1990), third preambular para.; 661 (1990), seventh preambular para.; 664 (1990), fifth preambular para.; 666 (1990), sixth preambular para.; 667 (1990), tenth preambular para.; 670 (1990), thirteenth preambular para.; 674 (1990), eighth preambular para.; 677 (1990), fourth preambular para.; 678 (1990), fifth preambular para.; 686 (1991), fifth preambular para.; 687 (1991), twenty-sixth preambular para.; 689 (1991), second preambular para.; 692 (1991), third preambular para.; 699 (1991), fourth preambular para.; 700 (1991), third preambular para.; 705 (1991), second preambular para.; 706 (1991), tenth preambular para.; 707 (1991), fourteenth preambular para.; 712 (1991), fifth preambular para.; and 715 (1991), fourth preambular para.; and presidential statement of 17 June 1992 (S/24113, para. 5). In connection with items relating to the situation in the former Yugoslavia, see resolutions 713 (1991), para. 6; 724 (1991), para. 5; 757 (1992), last preambular para.; 760 (1992), second preambular para.; 770 (1992), eleventh preambular para.; 771 (1992), para. 7; and 787 (1992), paras. 9, 10 and 12. In connection with items relating to the situation in Somalia, see resolutions 733 (1992), fifth preambular para.; and 794 (1992), paras. 10 and 16. In connection with the situation in Liberia, see resolution 788 (1992), para. 8. In connection with items relating to the Libyan Arab Jamahiriya, see resolution 748 (1992), tenth preambular para. Two draft resolutions which were not put to the vote also contained explicit

This chapter will focus, in parts I to VIII, on selected material that may best serve to highlight how the provisions of Chapter VII of the Charter were interpreted by the Council in its deliberations and applied in its decisions.⁵ Given the increase in the practice of the Council under Chapter VII during the period under review, and in order to give due focus to the key relevant elements that arose in its decisions or deliberations, several Articles that were grouped together in previous Supplements have been dealt with individually in separate parts of this chapter. Thus, parts I to IV focus on the practice of the Council in accordance with Articles 39 to 42, while part V focuses on Articles 43 to 47, part VI deals with Article 48, part VII addresses Member States' obligations under Article 49, and parts VIII and IX deal, respectively, with the practice of the Council with respect to Articles 50 and 51.

references to Chapter VII: in connection with the situation between Iraq and Kuwait, see S/21742, fourth preambular para.; in connection with the letter dated 27 April 1992 from the representative of Cuba addressed to the President of the Security Council, see S/23990, tenth preambular para.

⁵ The action taken by the Council in response to threats to the peace, breaches of the peace and acts of aggression is considered in a comprehensive manner in chapter VIII.

Part I

Determination of a threat to the peace, breach of the peace, or act of aggression under Article 39 of the Charter

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Note

During the period under review, the Security Council adopted one resolution in which Article 39 was explicitly invoked. By resolution 660 (1990) of 2 August 1990, the Council determined that there existed “a breach of international peace and security as regards the Iraqi invasion of Kuwait” earlier that day. Noting that it was acting under Articles 39 and 40 of the Charter, the Council condemned the Iraqi invasion and demanded that Iraq withdraw its forces immediately and unconditionally to the positions in which they had been located on 1 August 1990.

The Council also adopted several resolutions determining, or expressing concern at, the existence of a “threat to the peace”, with regard to, for example, the situation in the Middle East (Lebanon); the situation between Iraq and Kuwait; the situation in the former Yugoslavia; the situation in Somalia; items relating to the Libyan Arab Jamahiriya; and the situation in Liberia. The context in which those determinations were made and the manner in which they were formulated is set out in section A below. The Council sometimes distinguished different types of situations by describing them, variously, as threats to “international peace and security”, to “international peace and security in the region”, to “international peace and security, particularly in West Africa as a whole”, or to “peace, security and stability in the region”.⁶

⁶ See, for example, resolutions 713 (1991) (“international peace and security”); 688 (1991) (“international peace and security in the region”); 788 (1992) (“international peace and security, particularly in West Africa as a whole”); and the presidential statement of 31 March 1989 (S/20554) (“peace, security and stability in the region”).

The adoption of some of those resolutions gave rise to a constitutional discussion in the Security Council, casting light on the interpretation and application of Article 39. This discussion is reflected in section B below.

During the period under consideration, the members of the Council also identified certain generic threats to peace and security. In the statement made by the President on their behalf at the conclusion of the summit meeting held on 31 January 1992 to consider the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”, the members of the Council expressed the view that the proliferation of weapons of mass destruction constitutes a threat to international peace and security; and that the non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security.⁷

In several other instances, a threat to the peace was alleged to exist by a Member State, but no such determination was made by the Security Council.⁸

⁷ S/23500.

⁸ Such allegations were made and considered in connection with, for example, the following items: (a) letters dated 4 January 1989 from the representatives of the Libyan Arab Jamahiriya and Bahrain to the President of the Council (S/PV.2835, 2836, 2839, 2840, 2841); (b) the situation relating to Afghanistan (S/PV.2852, 2853, 2855-2857, 2859, 2860); (c) the situation in Panama (S/PV.2899-2902); (d) letter dated 2 February 1990 from the representative of Cuba to the President of the Security Council (S/PV.2907); (e) the situation in the Middle East: letter dated 17 February 1992 from the representative of Lebanon to the President of the Security Council (S/PV.3053); (f) the situation relating to Nagorny-Karabakh (S/PV.3072); and (g) the situation in Georgia (S/PV.3121).

A. Decisions of the Security Council relating to Article 39

1. Breach of the peace

The situation between Iraq and Kuwait

By resolution 660 (1990) of 2 August 1990, the Security Council expressed alarm at the invasion of Kuwait earlier that day by the military forces of Iraq, and determined that there existed “a breach of international peace and security as regards the Iraqi invasion of Kuwait”.⁹

2. Threat to the peace

The situation in the Middle East (Lebanon)

In a statement made by the President of the Council on behalf of the members of the Council at the 2951st meeting on 31 March 1989,¹⁰ the members of the Council expressed their grave concern at the recent deterioration of the situation in Lebanon, which had left many victims among the civilian population and caused considerable material damage. They expressed the view that this situation posed “a threat ... to peace, security and stability in the region”. The members of the Council reaffirmed the statement of 31 March 1989 in a further presidential statement¹¹ made at the 2858th meeting, on 24 April 1989.¹²

The situation between Iraq and Kuwait

By resolution 674 (1990) of 29 October 1990, the Council expressed alarm at “the dangers of the present crisis caused by the Iraqi invasion and occupation of Kuwait, which directly threaten international peace and security”.

⁹ The Council recalled or reaffirmed resolution 660 (1990) in many of its subsequent decisions, including resolutions 664 (1990), 665 (1990), 667 (1990), 670 (1990), 674 (1990), 678 (1990), 686 (1991) and 687 (1991).

¹⁰ S/20554.

¹¹ S/20602.

¹² In a letter to the President of the Security Council dated 15 August 1989 (S/20789), the Secretary-General informed the Council that he regarded the crisis in Lebanon as a serious threat to international peace and security, and asked that the Council be convened urgently. In response to the Secretary-General's appeal, the Council held a meeting the same day, at which it adopted a statement (S/20790) reaffirming its statement of 24 April.

In resolution 687 (1991), of 3 April 1991, the Council stated that it was “conscious of the threat that all weapons of mass destruction pose to peace and security in the area and of the need to work towards the establishment in the Middle East of a zone free of such weapons”.

The situation between Iraq and Kuwait (repression of the Iraqi civilian population in parts of Iraq)

By resolution 688 (1991) of 5 April 1991, the Council stated that it was “Gravely concerned by the repression of the Iraqi civilian population in many parts of Iraq, including most recently in Kurdish-populated areas, which led to a massive flow of refugees towards and across international frontiers and to cross-border incursions which threaten international peace and security in the region”.¹³

At the 3059th meeting of the Council, on 11 March 1992, the President made a statement on behalf of the Council, the relevant part of which reads:¹⁴

34. The members of the Council are particularly concerned at the reported restrictions on the supplies of essential commodities, in particular food and fuel, which have been imposed by the Government of Iraq on the three northern governorates of Dohuk, Erbil and Sulaymaniyya. In this regard, as the Special Rapporteur has noted in his report, inasmuch as the repression of the population continues, the threat to international peace and security in the region mentioned in resolution 688 (1991) remains.

The situation in the former Yugoslavia

By resolution 713 (1991) of 25 September 1991, the Council stated that it was “Deeply concerned by the fighting in Yugoslavia, which is causing a heavy loss of human life and material damage, and by the consequences for the countries of the region, in particular in the border areas of neighbouring countries”. The Council expressed concern “that the continuation of this situation constitutes a threat to international peace and security”.

The Council recalled or reaffirmed resolution 713 (1991) in subsequent resolutions, two of which contained express references to the continued existence

¹³ The Council reaffirmed resolution 688 (1991) in resolution 706 (1991).

¹⁴ S/23699.

of a threat to international peace and security. In resolution 721 (1991), adopted on 27 November 1991, the Council stated that it was “deeply concerned by the fighting in Yugoslavia and by the serious violations of earlier ceasefire agreements, which have caused heavy loss of human life and widespread material damage, and by the consequences for the countries of the region”. The Council noted “that the continuation and aggravation of this situation constitutes a threat to international peace and security”. In resolution 743 (1992), of 21 February 1992, by which the Council decided to establish a United Nations Protection Force, the Council expressed concern “that the situation in Yugoslavia continues to constitute a threat to international peace and security as determined in resolution 713 (1991)”.

Items relating to the situation in the former Yugoslavia (the situation in Bosnia and Herzegovina)

In a statement made by the President on behalf of the Council at its 3070th meeting, on 24 April 1992,¹⁵ the Council noted “with deep concern the rapid and violent deterioration of the situation in Bosnia and Herzegovina, which in addition to causing an increasing number of deaths of many innocent victims further risks compromising peace and security in the region”. By resolution 757 (1992) of 30 May 1992, the Council determined “that the situation in Bosnia and Herzegovina and in other parts of the former Socialist Federal Republic of Yugoslavia constitutes a threat to international peace and security”. In resolution 770 (1992), of 13 August 1992, the Council “recognized that the situation in Bosnia and Herzegovina constitutes a threat to international peace and security and that the provision of humanitarian assistance in Bosnia and Herzegovina is an important element in the Council’s effort to restore international peace and security in the area”.

In a statement made by the President on behalf of the Council at the 3132nd meeting, on 30 October 1992,¹⁶ the Council stated that it remained “concerned by the continuing conflict in the Republic of Bosnia and Herzegovina with its resultant loss of life and material damage, which threaten international peace and security”. By resolution 787 (1992) of 16 November

¹⁵ S/23842.

¹⁶ S/24744.

1992, the Council reaffirmed its determination “that the situation in the Republic of Bosnia and Herzegovina constitutes a threat to the peace”, and reaffirmed “that the provision of humanitarian assistance in the Republic of Bosnia and Herzegovina is an important element in the effort by the Council to “restore peace and security in the region”.

In a statement made by the President on behalf of the Council at its 3146th meeting, on 9 December 1992,¹⁷ the Council stated that it was “alarmed by the most recent reports that Serb militia in the Republic of Bosnia and Herzegovina have renewed their offensive in Bosnia and Herzegovina, and in particular against the city of Sarajevo, resulting in further loss of life and material damage as well as in endangering the security of the United Nations Protection Force and international relief workers, thus threatening international peace and security”.

Items relating to the situation in Somalia

By resolution 733 (1992) of 23 January 1992, the Council stated that it was “Gravely alarmed at the rapid deterioration of the situation in Somalia and the heavy loss of human life and widespread material damage resulting from the conflict in the country and aware of its consequences on stability and peace in the region”. The Council voiced its concern that “the continuation of this situation constitutes, as stated in the report of the Secretary-General, a threat to international peace and security”.

In four subsequent resolutions, the Council stated that it was “deeply disturbed by the magnitude of the human suffering caused by the conflict and concerned that [the continuation of] the situation in Somalia constitutes a threat to international peace and security”.¹⁸

In resolution 794 (1992) of 3 December 1992, the Council determined “that the magnitude of the human tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constitutes a threat to international peace and security”.

¹⁷ S/24932.

¹⁸ See, respectively, resolutions 746 (1992), 751 (1992), 767 (1992) and 775 (1992). The last two resolutions, adopted following further deterioration of the humanitarian situation in Somalia, omit the language in square brackets.

Items relating to the Libyan Arab Jamahiriya

By resolution 731 (1992) of 21 January 1992, the Council urged the Government of the Libyan Arab Jamahiriya immediately to provide a full and effective response to the requests made by France, the United Kingdom and the United States to cooperate fully in establishing responsibility for the terrorist acts carried out against Pan Am flight 103 and UTA flight 772. In resolution 748 (1992) of 31 March 1992, the Council determined “that the failure by the Libyan Government to demonstrate by concrete actions its renunciation of terrorism and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992) constitute a threat to international peace and security”.

The situation in Liberia

In resolution 788 (1992) of 19 November 1992, the Council expressed regret “that parties to the conflict in Liberia have not respected or implemented the various accords to date, especially the Yamoussoukro IV Agreement”, and determined that “the deterioration of the situation in Liberia constitutes a threat to international peace and security, particularly in West Africa as a whole”.

B. Constitutional discussion arising in connection with Article 39

A number of issues were discussed at the meetings of the Council leading up to its determinations of the existence of a breach of the peace or threat to the peace that cast light on the interpretation and application of Article 39. These are considered below.

Military invasion constituting a breach of the peace

Case 1

The situation between Iraq and Kuwait

On 2 August 1990, the Security Council met urgently, at the request of the representatives of Kuwait and the United States,¹⁹ to consider “the invasion of Kuwait by Iraqi forces”. The representative of Kuwait reported that, in the early hours of that day, Iraqi forces

had crossed Kuwait’s borders, penetrated Kuwait’s territory and reached the populated area of the country. They had occupied ministries, and the headquarters of the Government had been shelled. Baghdad Radio had announced that the aim of the invasion of Kuwait was to stage a coup d’état to overthrow the regime and establish a new regime and a Government friendly to Iraq. The representative assured the Council, however, that the Amir, the Prime Minister, and the Government of Kuwait remained in control in Kuwait and were defending the country’s security.²⁰

In response, the representative of Iraq claimed that the events taking place in Kuwait were “internal matters which have no relation to Iraq”. The “Free Provisional Government of Kuwait” had requested the Government of Iraq to assist it to establish security and order. The Iraqi forces would withdraw as soon as order had been restored.²¹

The representative of the United States disputed the Iraqi account of events. According to reports received from the United States Embassy in Kuwait, Iraqi military forces had crossed over into Kuwaiti territory all along the frontier and rapidly proceeded to Kuwait City where they currently were. There had been opposition to the movement of those military forces, firing and combat; Kuwaiti forces were resisting the advance of the Iraqis. The representative observed that the Iraqis had made a serious mistake: “instead of staging their coup d’état and installing this so-called free provisional government before the invasion, they got it the wrong way around: they invaded Kuwait and then staged the coup d’état in a blatant and deceitful effort to justify their action”.²²

The representative of the United Kingdom similarly condemned the “full-scale invasion” of Kuwait’s territory by Iraq. He dismissed the Iraqi account in the following terms: “Thus, we have an invasion from the outside; ... a phoney coup d’état from within; and ... the purported establishment of a puppet government”. Describing the invasion as “an unquestionable act of aggression,” he welcomed the invocation of articles 39 and 40 in the draft resolution before the Council.²³

²⁰ S/PV.2932, p. 6.

²¹ Ibid., p. 11.

²² Ibid., pp. 12-13.

²³ Ibid., pp. 19-21.

¹⁹ See S/21423 and S/21424.

Other Council members uniformly condemned the Iraqi invasion of Kuwait's territory, with some describing it as an act of aggression.²⁴ Nine members jointly sponsored the draft resolution, adopted as resolution 660 (1990),²⁵ by which the Council determined that there existed a breach of international peace and security as regards the Iraqi invasion of Kuwait; and, acting under Articles 39 and 40 of the Charter, condemned the invasion and demanded that Iraq withdraw immediately and unconditionally all its forces to the positions in which they had been located on 1 August 1990.

Consequences of the repression of a civilian population constituting a threat to the peace

Case 2

Items relating to the situation between Iraq and Kuwait

In response to requests contained in letters dated 2 and 4 April 1991 from the representatives of Turkey and France to the President of the Security Council,²⁶ the Council, at its 2982nd meeting, considered the situation resulting from the repression of the Iraqi civilian population in parts of Iraq. The Council had before it a draft resolution by which it would find that the consequences of the repression — which had “led to a massive flow of refugees towards and across international frontiers and to cross-border incursions” — threatened international peace and security in the region.²⁷

The representative of Turkey stated that his Government had requested the meeting in view of the “grave threat to the peace and security of the region posed by the tragic events taking place in Iraq”. He described the situation in the northern part of Iraq adjacent to the borders of Turkey and the Islamic Republic of Iran as especially alarming, with hundreds

of thousands of displaced persons having been driven to the Iraqi-Turkish border and having trekked across it. He denied that what was going on in northern Iraq could be justified as an internal affair of that country. Given the scale of the human tragedy and its international implications, the Council could not remain indifferent but should take urgent and forceful action to secure an immediate cessation of the repression of the inhabitants of that area.²⁸ The Iranian representative, whose country was similarly affected, stated: “it is evident that the situation inside Iraq, due to its gravity and implications for the neighbouring countries, has consequences that threaten regional and international peace and security”. He, too, believed it was incumbent upon the Council to take immediate measures to put an early end to the suffering of the Iraqi people.²⁹

Opposition to Security Council involvement in the matter was voiced, on the other hand, by the representative of Iraq, and three Council members who voted against the resolution.³⁰ The representative of Iraq denied any repression by the Iraqi Government of its citizens. He described the draft resolution under consideration as an “illegitimate intervention in Iraq's internal affairs and a violation of Article 2 of the Charter, which prohibits intervention in the internal affairs of other States”.³¹ One representative took exception to the references in the draft resolution to political developments within Iraq and to its calls for internal dialogue, which he regarded as attempts to intervene in the internal affairs of Iraq, contrary to Article 2 of the Charter. His country did not, moreover, share the view expressed in the draft resolution that there was a problem threatening international peace and security, as there was no conflict or war across the borders of Iraq with its neighbours. The issue was not, therefore, within the competence of the Security Council.³² The representatives of Zimbabwe and Cuba, similarly, considered that a domestic political conflict lay at the core of the situation referred to in the draft resolution. The serious humanitarian situation that had arisen and the question of refugees gave cause for concern but could be adequately addressed, in their view, by the appropriate organs of the United Nations.

²⁴ Ibid., p. 16 (Colombia); p. 17 (Canada); p. 18 (France); pp. 18-19 (Malaysia); p. 22 (Finland); p. 23 (Soviet Union, China); and pp. 24-25 (Romania).

²⁵ Resolution 660 (1990) was adopted by 14 votes to none. Yemen did not participate in the voting.

²⁶ S/22435 and S/22442.

²⁷ By the draft resolution (adopted, without amendment, as resolution 688 (1991)), the Council would also demand that Iraq immediately end the repression, and insist that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance.

²⁸ S/PV.2982, pp. 4-8.

²⁹ Ibid., pp. 13-15.

³⁰ Cuba, Yemen, Zimbabwe.

³¹ Ibid., p. 17.

³² Ibid., p. 27 (Yemen).

Although the humanitarian dimensions affected neighbouring States, that did not make the internal conflict in Iraq an issue of which the Council should be seized.³³ The representative of India, who abstained in the vote, stated that his delegation had sought to focus the attention of the Council on the aspect of the threat or likely threat to peace and security in the region, rather than on the factors that had created the current situation. He believed that the Council should have concentrated on the former and left the other aspects to other, more appropriate organs of the United Nations.³⁴ The representative of China, too, while noting the international aspects of the situation in Iraq, considered that they should be settled through the appropriate channels.³⁵

Most Council members, however, rejected the argument that the matter was in some way outside the scope of the Council, that it was an entirely internal matter. They were of the view that, while the situation under consideration related to the internal policy of Iraq, the transboundary impact of Iraq's treatment of its civilian population clearly threatened peace and security in the region. They saw it as the Council's legitimate responsibility to respond to the concerns raised by Turkey, the Islamic Republic of Iran and other neighbouring countries at the huge surge of Iraqi refugees which was destabilizing the region.³⁶ The draft resolution was adopted as resolution 688 (1991).³⁷

³³ Ibid., pp. 31-32 and 46-52, respectively.

³⁴ Ibid., p. 63.

³⁵ Ibid., pp. 55-56.

³⁶ Ibid., p. 22 (Romania); p. 36 (Ecuador); p. 37 (Zaire); p. 41 (Côte d'Ivoire); p. 53 (France); p. 56 (Austria); pp. 57-58 (United States); pp. 60-61 (Soviet Union); p. 65 (United Kingdom); and p. 67 (Belgium). Similar views were expressed by a number of non-members: see S/PV.2982, pp. 9-10 (Pakistan); p. 69 (Italy); p. 74 (Luxembourg); and p. 92 (Canada).

³⁷ The resolution was adopted by 10 votes to 3 (Cuba, Yemen, Zimbabwe), with 2 abstentions (China, India).

Threats to international peace and security arising from internal conflicts

Case 3

Items relating to the situation in the former Yugoslavia

At the request of several Member States,³⁸ the Security Council met to consider "the deteriorating situation regarding Yugoslavia", the continuation of which was likely to endanger the maintenance of international peace and security. The meeting was welcomed by the Government of Yugoslavia, which expressed the hope that the Council would be able to adopt a resolution that would contribute to the efforts to bring peace to all Yugoslavs.³⁹ It was held at ministerial level, 10 Council members being represented by their Foreign Ministers.

Speaking at the beginning of the debate, the Minister for Foreign Affairs of Yugoslavia observed that the Council's concern with his country was fully justified: "The Yugoslav crisis threatens peace and security on a large scale. Yugoslavia is in conflict with itself". He added that the Yugoslav crisis had jeopardized not only the present and future of the Yugoslav peoples, but also peace and stability in Europe.⁴⁰

The representative of Belgium stated that it had become essential for the Council to deal with the situation in Yugoslavia. He pointed to the intensification of the fighting, the loss of human life and the significant material damage, and, above all, to the consequences for the other countries of the region, particularly the bordering countries. For Belgium, it was "obvious that this situation is a threat to regional peace and security": the threat was particularly destabilizing as it was occurring in an extremely delicate context of political and economic change in Central and Eastern Europe.⁴¹ This view was shared by other Council members, several of whom stressed the

³⁸ Letters dated 19, 20 and 24 September 1991 from the representatives of Austria, Canada and Hungary to the President of the Security Council (S/23052, S/23053 and S/23057, respectively).

³⁹ Letter dated 24 September 1991 from the representative of Yugoslavia to the President of the Security Council (S/23069).

⁴⁰ S/PV.3009, pp. 6 and 11.

⁴¹ Ibid., p. 21.

fact that the conflict had begun to spill over national borders, giving it an international dimension.⁴²

A number of Council members⁴³ emphasized that, in the light of the Charter provisions concerning non-interference in the internal affairs of a Member State, the explicit agreement of the Government of Yugoslavia to the Council's involvement in the Yugoslav crisis had been a decisive factor in their decision support the draft resolution (unanimously adopted at the meeting as resolution 713 (1991)).

The first two preambular paragraphs of resolution 713 (1991) refer explicitly to the fact that Yugoslavia had welcomed the decision to convene a meeting of the Security Council, and the statement made by the Minister for Foreign Affairs of Yugoslavia at the meeting. The third and fourth paragraphs read:

Deeply concerned by the fighting in Yugoslavia, which is causing a heavy loss of human life and material damage, and by the consequences for the countries of the region, in particular in the border areas of neighbouring countries,

Concerned that the continuation of this situation constitutes a threat to international peace and security.

Case 4

Items relating to the situation in the former Yugoslavia (Bosnia and Herzegovina)

By resolution 757 (1992) of 30 May 1992, the Security Council determined "that the situation in Bosnia and Herzegovina and in other parts of the former Socialist Federal Republic of Yugoslavia constitutes a threat to international peace and security".

At the Council meeting at which that resolution was adopted, the Council members expressed differing views with regard to the nature of the threat. Some speakers saw the threat to the peace as emanating essentially from ethnic strife within Bosnia and Herzegovina, which threatened to spill over into other countries.⁴⁴ Others, including sponsors of the

⁴² Ibid., pp. 46-48 (India); p. 51 (Soviet Union); p. 57 (United Kingdom); and p. 58 (United States).

⁴³ Ibid., p. 27 (Ecuador); p. 28 (Zimbabwe); p. 36 (Yemen); p. 38 (Cuba); p. 45 (India); p. 49 (China); and p. 64 (Zaire).

⁴⁴ See, for example, the statement by the representative of the Russian Federation: "The expansion of the ethnic strife into a broader bloody conflict involving groups and forces from republics bordering on Bosnia and Herzegovina constitutes a real threat to the countries of

resolution, viewed the continuing outside interference in Bosnia and Herzegovina by the Belgrade authorities, both military and civilian, as the decisive factor, some describing it as aggression.⁴⁵ A number of speakers noted that Bosnia and Herzegovina was, by this time, a member of the international community, having been admitted as a State Member of the United Nations on 22 May 1992.

Despite these differences, a broad majority of Council members agreed on the need to address the threat by imposing mandatory sanctions against Serbia and Montenegro under Chapter VII of the Charter.⁴⁶

Case 5

The situation in Liberia

Following a deterioration of the situation in Liberia, which had been torn by civil conflict since 1989, the Security Council held its 3138th meeting on 19 November 1992, at the request of the representative of Benin on behalf of the Economic Community of West African States (ECOWAS),⁴⁷ to consider the imposition of a general arms embargo on Liberia in support of sanctions imposed by ECOWAS. The request was endorsed by the Minister for Foreign Affairs of Liberia.⁴⁸

During the debate, the representative of Benin, speaking on behalf of an ECOWAS ministerial delegation, expressed the view that, despite the measures adopted by ECOWAS, there remained a great

the region and to international peace and security" (S/PV.3082, p. 36). See also the statement by the representative of India (ibid., pp. 20-21).

⁴⁵ See, for example, the statement made by the representative of the United States: "The aggression of the Serbian regime and the armed forces it has unleashed against Bosnia and Herzegovina represent a clear threat to international peace and security" (S/PV.3082, p. 33). See also the statement made by the representative of Hungary: "To sum up, the provisions of resolution 752 (1992) are not being complied with at all, and the aggression against Bosnia and Herzegovina is raging on" (ibid., p. 15). Venezuela observed that "Belgrade is waging war against other States, sovereign members of our Organization" (ibid., pp. 29-30).

⁴⁶ Resolution 757 (1992) was adopted by 13 votes to none. The representatives of China and Zimbabwe abstained from the voting, believing that the crisis could be settled only through negotiations.

⁴⁷ S/24735.

⁴⁸ S/24825.

risk that the civil war would spread to the entire West African subregion, and that its continuation “threatened the peace and security of the West African subregion and therefore international peace and security”.⁴⁹

The Minister for Foreign Affairs of Liberia also emphasized the international dimension of the conflict in his country. He observed: “The Liberian situation has all the makings of one that could degenerate into a wider conflagration in West Africa. By its spill-over effects, it is already a clear and present danger to neighbouring Sierra Leone; it is slowly transforming West Africa into an arms market”. Accordingly, he urged that the request to the Security Council to support the measures taken by ECOWAS be perceived “in the context of the Council’s responsibility for the maintenance of international peace and security.”⁵⁰

Similar views were expressed by other members of the ECOWAS delegation. The Foreign Minister of Sierra Leone warned that his country faced a mortal danger to its security because of the conflict in Liberia;⁵¹ the Foreign Minister of Senegal highlighted the many destabilizing consequences the crisis in Liberia had for the 16 countries of the region.⁵²

Several members of the Council also spoke of the threat posed by the civil conflict to the peace and security of the neighbouring States and the region as a whole.⁵³ Some remarked that, with thousands of refugees spilling over into neighbouring countries, the crisis in Liberia could no longer be considered a purely domestic issue to be resolved by the Liberians themselves.⁵⁴

At the end of the debate, the Council unanimously adopted resolution 788 (1992), by which it determined “that the deterioration of the situation in Liberia constitutes a threat to international peace and security, particularly in West Africa as a whole”, and imposed a general arms embargo on Liberia. In a preambular paragraph, the Council took account of the

request made by the representative of Benin on behalf of ECOWAS, and of the endorsement of that request by the Minister for Foreign Affairs of Liberia.

Case 6

The situation in Somalia

By resolution 794 (1992), which was adopted unanimously at the 3145th meeting on 3 December 1992, the Security Council determined “that the magnitude of the human tragedy caused by the conflict in Somalia, further exacerbated by the obstacles being created to the distribution of humanitarian assistance, constitutes a threat to international peace and security”.⁵⁵

During the debate held in connection with the adoption of that resolution, most Council members, in line with the above description of the threat, expressed the view that the humanitarian situation itself necessitated the adoption of measures under Chapter VII of the Charter.⁵⁶ Some referred to the international or regional dimension of the crisis.⁵⁷

A number of Council members emphasized the unique character of the situation in Somalia and cautioned that the action taken by the Council should

⁵⁵ By a letter dated 29 November 1992 to the President of the Security Council (S/24868), the Secretary-General had concluded that the Council now had no alternative but to decide to adopt “more forceful measures to secure the humanitarian operations in Somalia”. Noting that no government existed in Somalia that could request and allow the use of force, he observed that it would be necessary for the Council “to make a determination under Article 39 of the Charter that a threat to the peace exists, as a result of the repercussions of the Somali conflict on the entire region, and to decide what measures should be taken to maintain international peace and security” (ibid., p. 3).

⁵⁶ For the relevant statements, see S/PV.3145, p. 12 (Ecuador); p. 18 (Cape Verde); p. 23 (Belgium); p. 26 (Russian Federation); p. 29 (France); p. 31 (Austria); pp. 33-35 (United Kingdom); p. 36 (United States); pp. 39-40 (Venezuela); p. 43 (Japan); and p. 47 (Hungary).

⁵⁷ Ibid., pp. 19-20 (Cape Verde); p. 38 (United States); p. 42 (Venezuela); and p. 44 (Morocco).

⁴⁹ S/PV.3138, pp. 8-11 and 97.

⁵⁰ Ibid., pp. 18-20.

⁵¹ Ibid., pp. 51-54.

⁵² Ibid., p. 22.

⁵³ Ibid., pp. 61-62 (Zimbabwe); p. 66 (Russian Federation); p. 69 (Cape Verde); p. 71 (China); p. 81 (Ecuador); pp. 84-85 (Venezuela); p. 87 (India); and p. 89 (Morocco). See also, to similar effect, the statement made by the representative of Egypt, not a member of the Council (ibid., pp. 93-95).

⁵⁴ Ibid., p. 62 (Zimbabwe); and p. 87 (India).

not be seen as a precedent.⁵⁸ Others, however, thought that Council action demonstrated its capacity to adapt to the new challenges of the post-cold-war world.⁵⁹

**Insufficient action by a State against terrorism
constituting a threat to the peace**

Case 7

Items relating to the Libyan Arab Jamahiriya

At its meeting on 21 January 1992, the Security Council considered letters dated 20 and 23 December 1991 from France, the United Kingdom and the United States to the Secretary-General,⁶⁰ alleging the involvement of Libyan Government officials in the destruction of Pan Am flight 103 and UTA flight 772 and making specific requests of the Libyan authorities relating to the judicial procedures that were under way. By resolution 731 (1992), the Council urged the Libyan Government to provide a full and effective response to those requests to cooperate fully in establishing responsibility for the terrorist acts, so as to contribute to the elimination of international terrorism. During the debate held in connection with the adoption of that resolution, several members of the Council described attacks against civilian aircraft, as in the case at hand, and acts of international terrorism in general, as acts that threaten international peace and security.⁶¹ The representative of the Libyan Arab Jamahiriya asserted, however, that his country had never threatened another and could not “behave in such a way as to endanger peace and security”.⁶²

At its 3063rd meeting, on 31 March 1992, the Council adopted resolution 748 (1992), by which it determined that the failure by the Libyan Government

to demonstrate by concrete actions its renunciation of terrorism, and in particular its continued failure to respond fully and effectively to the requests in resolution 731 (1992), constituted a threat to international peace and security.⁶³ Having made that determination, the Council imposed certain measures on the Libyan Arab Jamahiriya.⁶⁴ In the debate leading to the adoption of resolution 748 (1992), the representative of the Libyan Arab Jamahiriya contended that the situation before the Council did not involve a threat to the peace, breach of the peace or act of aggression, but was a legal dispute concerning who should investigate the accused and who should put them on trial. In his view, it was inappropriate, therefore, to invoke Chapter VII in the draft resolution under consideration.⁶⁵ Several Council members⁶⁶ and other Member States,⁶⁷ while not directly addressing the question of the existence of a threat to the peace, shared the view of the Libyan Arab Jamahiriya that the means of peaceful settlement set out under Chapter VI of the Charter had not been exhausted and that resort to Chapter VII was premature. The sponsors of the draft resolution,⁶⁸ on the other hand, stressed that the evidence revealing the involvement of the Libyan Arab Jamahiriya in these acts of terrorism indicated a serious breach of international peace and security, fully justifying the adoption by the Council of measures

⁵⁸ *Ibid.*, p. 7 (Zimbabwe); pp. 12-14 (Ecuador); p. 17 (China); and pp. 49 and 51 (India). Resolution 794 (1992) recognizes the “unique character of the present situation in Somalia” and notes that its “deteriorating, complex and extraordinary nature” requires “an immediate and exceptional response” (second preambular para.).

⁵⁹ *Ibid.*, p. 30 (France); p. 31 (Austria); p. 36 (United States); and p. 48 (Hungary).

⁶⁰ S/23306, S/23307, S/23308, S/23309 and S/23317.

⁶¹ See S/PV.3033, p. 47 (Canada); p. 72 (Ecuador); pp. 78-79 (United States); p. 82 (France); p. 83 (Belgium); pp. 87-89 (Russian Federation); p. 91 (Hungary); pp. 92-93 (Austria); and pp. 102-103 (United Kingdom).

⁶² *Ibid.*, p. 23.

⁶³ In the preamble to resolution 748 (1992), the Council also stated its conviction that “the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is essential for the maintenance of international peace and security”. Further, it reaffirmed that, in accordance with the principle in Article 2 (4) of the Charter, “every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involve a threat or use of force”.

⁶⁴ See the discussion on Article 41 in part III of the present chapter.

⁶⁵ S/PV.3063, pp. 19-20.

⁶⁶ *Ibid.*, pp. 46-47 (Cape Verde); p. 52 (Zimbabwe); pp. 57-58 (India); pp. 60-61 (China); and pp. 63-64 (Morocco); all of those members abstained from voting on the resolution.

⁶⁷ *Ibid.*, pp. 23-30 (Jordan, on behalf of the Group of Arab States); pp. 32-33 (Mauritania, on behalf of the States members of the Arab Maghreb Union); pp. 34-37 (Iraq); pp. 39-40 (Uganda); pp. 42-44 (observer for the Organization of the Islamic Conference).

⁶⁸ *Ibid.*, pp. 66-67 (United States); pp. 68-69 (United Kingdom); and pp. 73-74 (France).

pursuant to Chapter VII of the Charter. That view was echoed by several other Council members.⁶⁹

⁶⁹ Ibid., p. 76 (Hungary); p. 77 (Austria); pp. 79-81 (Russian Federation); pp. 81-82 (Belgium); and pp. 82-83 (Venezuela).

Part II

Provisional measures to prevent the aggravation of a situation in accordance with Article 40 of the Charter

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Note

During the period under consideration, the Security Council adopted one resolution explicitly under Article 40 of the Charter. By resolution 660 (1990) of 2 August 1990, the Council, noting that it was acting under Articles 39 and 40, condemned the Iraqi invasion of Kuwait; demanded that Iraq withdraw immediately and unconditionally all its forces to the positions in which they had been located on 1 August 1990; and called upon Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences.

In a number of other resolutions adopted under Chapter VII, the Security Council, without expressly referring to Article 40, also called upon the parties to comply with certain provisional measures in order to prevent an aggravation of the situation concerned. The types of measures called for included (a) the withdrawal of armed forces; (b) the cessation of hostilities; (c) the conclusion or observance of a ceasefire; (d) the negotiation of differences and disputes; (e) compliance with obligations under international humanitarian law; (f) the creation of the

conditions necessary for the unimpeded delivery of humanitarian assistance; and (g) cooperation with peacekeeping efforts and humanitarian assistance. Some of the specific measures that the Council called upon the parties concerned to take are summarized chronologically in section A below, by agenda item.

A number of Council resolutions contained warnings that, in the event of failure to comply with the terms of those resolutions, the Council would meet again and consider further steps. Those warnings, which might be considered as falling under Article 40, were expressed in various ways. Frequently, the Council warned that it would consider taking further measures if its calls were not heeded.⁷⁰ In one instance, the Council signalled its decision to “consult urgently to take further concrete measures as soon as possible, under Chapter VII of the Charter”.⁷¹

During the Council’s deliberations in the period under review there was no significant constitutional discussion regarding Article 40. There were only occasional references made to it or its language to support a specific demand relating to the question

⁷⁰ See, for example, the following resolutions: in connection with the situation between Iraq and Kuwait, resolutions 660 (1990), para. 4; and 674 (1990), para. 10; in connection with items relating to the situation in the former Yugoslavia, resolutions 752 (1992), para. 14; 757 (1992), fourteenth preambular para.; 761 (1992), para. 4; 771 (1992), para. 7; 781 (1992), para. 6; 786 (1992), para. 6; and 787 (1992), para. 5; in connection with the situation in Somalia, resolution 767 (1992), para. 4.

⁷¹ Resolution 667 (1990), para. 6, in connection with the situation between Iraq and Kuwait.

under consideration.⁷² The binding effect of certain provisional measures under Article 40 was stressed by Council members, notably in connection with the Iraqi invasion of Kuwait.⁷³

Decisions of the Security Council relating to Article 40

The situation between Iraq and Kuwait

The Council, having determined that Iraq's invasion of Kuwait constituted a breach of international peace and security, adopted a number of resolutions, by which, inter alia, it demanded that Iraq withdraw immediately and unconditionally all its forces to the positions where they were located on 1 August 1990;⁷⁴ called upon Iraq and Kuwait to begin immediately intensive negotiations to resolve their differences;⁷⁵ demanded that Iraq rescind its actions purporting to annex Kuwait;⁷⁶ demanded that Iraq permit and facilitate the immediate departure from Kuwait and Iraq of third-State nationals and grant immediate and continuing access of consular officials to such nationals; demanded that Iraq take no action to jeopardize the safety, security or health of such

nationals; and demanded that Iraq rescind its orders for the closure of consular and diplomatic missions in Kuwait and the withdrawal of the immunity of their personnel, and refrain from any such actions in the future.⁷⁷

The Council further demanded the immediate release of those foreign nationals abducted from diplomatic premises; demanded that Iraq immediately and fully comply with its international obligations under preceding Security Council resolutions, the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, and international law; and demanded that Iraq immediately protect the safety and well-being of diplomatic and consular personnel and premises in Kuwait and in Iraq and take no action to hinder the diplomatic and consular missions in the performance of their functions. The Council signalled its decision to "consult urgently to take further concrete measures as soon as possible, under Chapter VII of the Charter, in response to Iraq's continued violation of the Charter of the United Nations, of resolutions of the Security Council and of international law".⁷⁸

On 29 November 1990, the Council noted that, despite all efforts by the United Nations, Iraq refused to comply with its obligation to implement resolution 660 (1990) and subsequent resolutions. It demanded that Iraq comply fully with those resolutions, and decided, while maintaining all its decisions, to allow Iraq one final opportunity, "as a pause of goodwill", to do so. It authorized Member States co-operating with the Government of Kuwait, unless Iraq fully implemented those resolutions on or before 15 January 1991, "to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area".⁷⁹

Items relating to the situation between Iraq and Kuwait

In April 1991, the Security Council condemned the repression of the Iraqi civilian population in many

⁷² Two explicit references were made to Article 40 during the Council's proceedings. During the consideration of the situation between Iraq and Kuwait, the representative of the United Kingdom welcomed the invocation of Articles 39 and 40 in resolution 660 (1990) (S/PV.2932, pp. 19-21). During the consideration of items relating to the Libyan Arab Jamahiriya, the representative of the Libyan Arab Jamahiriya contended that Article 40 required the Security Council, before making recommendations or deciding upon the measures provided for in Article 39, to call upon the parties to a dispute to comply with such provisional measures as it deemed necessary or desirable; and that the Council must then take account of whether the parties to the dispute did or did not take such provisional measures. It could not "jump directly" to Article 41 (S/PV.3063, pp. 19-21).

⁷³ See, for example, commenting on resolution 660 (1990), the statements of the representatives of the United States, France, Canada, the United Kingdom and China (S/PV.2933, pp. 16, 21, 23, 26 and 28).

⁷⁴ Resolution 660 (1990), para. 2. By resolution 661 (1990), the Council imposed economic measures against Iraq to secure its compliance with that demand and to restore the authority of the legitimate Government of Kuwait: see also part III of the present chapter, on Article 41.

⁷⁵ Resolution 660 (1990), para. 3.

⁷⁶ Resolution 662 (1990), para. 3.

⁷⁷ Resolution 664 (1990), paras. 1, 2 and 3; reaffirmed in resolution 674 (1990), paras. 3, 4 and 6.

⁷⁸ Resolution 667 (1990), paras. 1, 2, 3, 4 and 6; reaffirmed in resolution 674 (1990), paras. 3 and 6.

⁷⁹ Resolution 678 (1990); see also part IV of the present chapter, on Article 42.

parts of Iraq, most recently in Kurdish-populated areas, the consequences of which, it found, threatened international peace and security in the region. The Council demanded that Iraq, as a contribution to removing the threat to international peace and security in the region, end that repression, and, in the same context, expressed the hope that an open dialogue would take place to ensure that the human and political rights of all Iraqi citizens were respected. It further insisted that Iraq allow immediate access by international humanitarian organizations to all those in need of assistance in all parts of Iraq and make available all necessary facilities for their operations.⁸⁰

Items relating to the situation in the former Yugoslavia

The Security Council expressed concern that the continuation of the situation in Yugoslavia constituted a threat to international peace and security. It strongly urged all parties to abide by ceasefire agreements entered into in September 1991; and appealed urgently to and encouraged all parties to settle their disputes peacefully and through negotiation at the Conference on Yugoslavia, including through the mechanisms set forth within it.⁸¹ It further strongly urged the Yugoslav parties to comply fully with an agreement signed at Geneva on 23 November 1991.⁸² It also strongly urged all States and parties to refrain from any action which might contribute to increasing tension, to inhibiting the establishment of an effective ceasefire and to impeding or delaying a peaceful and negotiated outcome to the conflict in Yugoslavia.⁸³

The Council urged all parties to honour the commitments made in November 1991 at Geneva and in January 1992 in Sarajevo.⁸⁴ The Council subsequently established the United Nations Protection Force, and once again urged all parties and others concerned to comply strictly with the ceasefire agreements signed at Geneva and Sarajevo, and urged them to cooperate fully and unconditionally in the implementation of the United Nations peacekeeping plan. It called again upon the Yugoslav parties to cooperate fully with the Conference on Yugoslavia in

its aim of reaching a political settlement consistent with the principles of the Conference on Security and Cooperation in Europe.⁸⁵ It further urged all parties and others concerned to take all action necessary to ensure complete freedom of aerial movement for the United Nations Protection Force; and called upon them not to resort to violence, particularly in any area where the Force was to be based or deployed.⁸⁶

Items relating to the situation in the former Yugoslavia (the situation in Bosnia and Herzegovina)

The Council appealed to all parties and others concerned in Bosnia and Herzegovina to cooperate with the efforts of the European Community to bring about a ceasefire and a negotiated political solution.⁸⁷ It further made a number of demands of the parties and others concerned. It demanded that (a) all parties and others concerned in Bosnia and Herzegovina stop the fighting immediately and respect the ceasefire signed in April 1992, and cooperate with the efforts of the European Community to bring about a negotiated political solution respecting the principle that any change of borders by force is not acceptable; (b) that all forms of interference from outside Bosnia and Herzegovina, including by units of the Yugoslav People's Army as well as elements of the Croatian Army, cease immediately; (c) that those units of the Yugoslav People's Army and elements of the Croatian Army then in Bosnia and Herzegovina either be withdrawn, or be subject to the authority of the Government of Bosnia and Herzegovina, or be disbanded and disarmed; and (d) that all irregular forces in Bosnia and Herzegovina be disbanded and disarmed.⁸⁸ The Council also called upon all parties and others concerned to ensure the immediate cessation of forcible expulsions of persons from the areas where they lived and any attempts to change the ethnic composition of the population anywhere in the former Socialist Federal Republic of Yugoslavia. Further, it called upon them to ensure that conditions were established for the effective and unhindered delivery of humanitarian assistance, including safe and secure access to airports in Bosnia and Herzegovina. In addition, the Council demanded that all parties and

⁸⁰ Resolution 688 (1991), paras. 2 and 3; reaffirmed in resolution 706 (1991), eighth preambular para.

⁸¹ Resolution 713 (1991), paras. 4 and 5.

⁸² Resolution 721 (1991), para. 3.

⁸³ Resolution 724 (1991), para. 7.

⁸⁴ Resolution 727 (1992), para. 4.

⁸⁵ Resolution 743 (1992), paras. 8 and 10.

⁸⁶ Resolution 749 (1992), paras. 3-5.

⁸⁷ Resolution 749 (1992), para. 6.

⁸⁸ Resolution 752 (1992), paras. 1, 3, 4 and 5.

others concerned cooperate fully with the United Nations Protection Force and the European Community Monitoring Mission, and respect fully their freedom of movement and the safety of their personnel.⁸⁹ At the end of May 1992, the Council, deploring the fact that these demands had not been complied with, imposed a broad range of economic, diplomatic and other measures against the Federal Republic of Yugoslavia (Serbia and Montenegro).⁹⁰

The Council continued to reiterate its calls for the cessation of hostilities, the observance of ceasefire agreements and the withdrawal of armed forces.⁹¹ It also called again upon all parties concerned to cooperate fully with the Conference on Yugoslavia and its aim of reaching a political settlement consistent with the principles of the Conference on Security and Cooperation in Europe.⁹² It further called upon the parties in the Republic of Bosnia and Herzegovina to consider the draft outline constitution for Bosnia and Herzegovina as a basis for negotiating a political settlement of the conflict in that country and to continue negotiations for constitutional arrangements on the basis of the draft outline.⁹³

The Council also made more specific appeals in connection with efforts aimed at delivering humanitarian assistance to the people of Bosnia and Herzegovina, and repeatedly called on the parties to cooperate in making such assistance possible. For example, it demanded that all parties and others concerned create immediately the necessary conditions for unimpeded delivery of humanitarian supplies to Sarajevo and other destinations in Bosnia and Herzegovina, including the establishment of a security zone encompassing Sarajevo and its airport.⁹⁴ It later demanded that all parties and others concerned cooperate fully with the United Nations Protection Force and international humanitarian agencies and organizations, failing which the Council indicated that it did not exclude other measures to deliver

humanitarian assistance to Sarajevo and its environs.⁹⁵ Recognizing that the provision of humanitarian assistance in Bosnia and Herzegovina was an important element in its effort to restore international peace and security in the area, the Council called on States to take nationally or through regional agencies or arrangements all measures necessary to facilitate the delivery of humanitarian assistance.⁹⁶

In the wake of reports of widespread violations of international humanitarian law occurring within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina, including mass forcible expulsion and deportation of civilians and imprisonment and abuse of civilians in detention centres, the Council demanded that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, immediately cease and desist from all breaches of international humanitarian law. It also demanded that relevant international humanitarian organizations, in particular the International Committee of the Red Cross, be granted immediate, unimpeded and continued access to camps, prisons and detention centres within the territory of the former Yugoslavia, and called upon all parties to facilitate such access.⁹⁷ The Council further decided, acting under Chapter VII of the Charter, that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia Herzegovina, must comply with these demands, failing which the Council would “need to take further measures under the Charter”.⁹⁸

Items relating to the situation in Somalia

The Security Council expressed its concern that the continuation of the situation in Somalia constituted a threat to international peace and security. It strongly

⁸⁹ Resolution 752 (1992), paras. 6, 8 and 11.

⁹⁰ Resolution 757 (1992); see also part III of the present chapter, on Article 41.

⁹¹ See, for example, resolutions 757 (1992), 758 (1992), 761 (1992), 762 (1992), 764 (1992), 770 (1992), 779 (1992) and 787 (1992).

⁹² See, for example, resolutions 762 (1992) and 764 (1992).

⁹³ Resolution 787 (1992), para. 1.

⁹⁴ Resolutions 757 (1992), para. 17, and 758 (1992), para. 8.

⁹⁵ Resolution 761 (1992); see also resolutions 764 (1992) and 769 (1992).

⁹⁶ Resolution 770 (1992). This was followed, in October, by the establishment of a ban on military flights in the airspace of Bosnia and Herzegovina, which the Council considered an essential element for the safety of the delivery of humanitarian assistance and a decisive step for the cessation of hostilities in the country (resolution 781 (1992)); see also part III of the present chapter, on Article 41.

⁹⁷ Resolution 771 (1992); see also resolution 770 (1992).

⁹⁸ Resolution 771 (1992), para. 7; see also resolutions 780 (1992) and 787 (1992), on the establishment of a Commission of Experts to investigate the allegations.

urged all parties to the conflict immediately to cease hostilities and agree to a ceasefire, and to promote the process of reconciliation and of political settlement in the country.⁹⁹ It also called upon the parties to facilitate the delivery by the United Nations, the specialized agencies and other humanitarian organizations of humanitarian assistance to all those in need of it. In addition, it urged all parties to take all necessary measures to ensure the safety of personnel providing humanitarian assistance, to assist them, and to ensure full respect for the rules and principles of international law regarding the protection of civilian populations.¹⁰⁰ The Council took note of the signing of ceasefire agreements, and urged the Somali factions to honour their commitment under the agreements.¹⁰¹ It also urged all the Somali factions to facilitate the delivery by humanitarian organizations of humanitarian assistance to all those in need of it, and called on all parties, movements and factions in Mogadishu in particular, and in Somalia in general, to respect the security and safety of the technical team and the personnel of the humanitarian organizations and to guarantee their complete freedom of movement in and around Mogadishu and other parts of Somalia.¹⁰² By resolution 767 (1992), it reiterated those calls.¹⁰³

⁹⁹ Resolution 733 (1992), para. 4.

¹⁰⁰ Resolution 733 (1992), paras. 7 and 8.

¹⁰¹ Resolution 746 (1992), para. 2.

¹⁰² Resolution 746 (1992), paras. 3 and 8.

¹⁰³ Resolution 767 (1992), paras. 3, 7 and 9.

Further, it called upon all parties, movements and factions in Somalia to cooperate with the United Nations with a view to the deployment of United Nations security personnel mandated to escort deliveries of humanitarian supplies, and it called upon them to assist in the general stabilization of the situation in the country. The Council noted that, without such cooperation, it did “not exclude other measures to deliver humanitarian assistance to Somalia”.¹⁰⁴

The situation in Liberia

Having determined that the deterioration of the situation in Liberia constituted a threat to international peace and security, the Security Council called upon all parties to the conflict to respect and implement the ceasefire and the various accords of the peace process, and to respect strictly the provisions of international humanitarian law.¹⁰⁵

¹⁰⁴ Resolution 767 (1992), para. 4. These appeals to the Somali parties, movements and factions were reiterated in resolutions 775 (1992) and 794 (1992). In the latter resolution, the Council, acting under Chapter VII, authorized the Secretary-General and Member States cooperating “to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia”.

¹⁰⁵ Resolution 788 (1992), paras. 6 and 5, respectively. By the same resolution, the Council decided, under Chapter VII of the Charter, to impose an arms embargo against Liberia.

Part III

Measures not involving the use of armed force in accordance with Article 41 of the Charter

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Note

During the period under review, the Security Council imposed measures under Chapter VII, of the type provided for in Article 41, against Iraq, Yugoslavia,¹⁰⁶ the Libyan Arab Jamahiriya, Somalia and Liberia, after having determined, in each case, the existence of a breach of the peace or a threat to the peace.¹⁰⁷ The decisions of the Council by which those measures were imposed, altered or implemented will be set out in the following brief overview (section A).¹⁰⁸ This overview will be followed in

¹⁰⁶ The term “Yugoslavia” is intended to refer to both the former Socialist Federal Republic of Yugoslavia and the Federal Republic of Yugoslavia (Serbia and Montenegro). By resolution 713 (1991) the Security Council imposed an arms embargo against the Socialist Federal Republic of Yugoslavia. By resolution 757 (1992), the Council imposed a trade embargo against the Federal Republic of Yugoslavia.

¹⁰⁷ In connection with the situation between Iraq and Kuwait, the Council made such a determination in a decision prior to the resolution imposing such measures (see resolution 660 (1990), second preambular para.). In all other situations, this determination was made by the same decision by which such measures were imposed (see the study on the practice of the Security Council in connection with Article 39 in part I of the present chapter).

¹⁰⁸ In addition to the decisions set out in this overview, attention is drawn to resolution 765 (1992) on South Africa and resolution 792 (1992) on Cambodia. By resolution 765 (1992), the Council reaffirmed the measures previously imposed against South Africa. By resolution 792 (1992), the Council, without invoking

section B by a short summary of Member States’ views, as expressed in the Council’s deliberations, on salient issues raised in connection with these measures.

A. Decisions of the Security Council relating to Article 41

1. Measures imposed against Iraq

By resolution 661 (1990) of 6 August 1990, the Council imposed a broad range of measures against Iraq in order to secure its compliance with the Council’s demand to withdraw immediately and unconditionally all its forces from the territory of Kuwait, and to restore the authority of the legitimate Government of Kuwait.¹⁰⁹ Those measures included, in particular, a ban on all international trade, but envisaged an exemption for imports of medicine and health supplies and, in humanitarian circumstances, foodstuffs. By the same resolution, the Council established a committee charged with monitoring the implementation of those measures.

By resolution 665 (1990) of 25 August 1990, the Council authorized Member States cooperating with Kuwait to use “such measures commensurate to the specific circumstances as may be necessary ... to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990)”.

Chapter VII of the Charter, inter alia, called on those concerned “to ensure that measures are taken, consistent with the provisions of Article VII of annex 2 to the Paris Agreements, to prevent the supply of petroleum products to the areas occupied by any Cambodian party not complying with the military agreements”. By the same resolution, the Council undertook “to consider appropriate measures to be implemented should the Party of Democratic Kampuchea obstruct the implementation of the peace plan, such as the freezing of the assets held by the Party of Democratic Kampuchea outside Cambodia”.

¹⁰⁹ Resolution 661 (1990) was adopted by 13 votes to none, with 2 abstentions (Cuba, Yemen). The relevant draft resolution had been sponsored by 10 members of the Council.

By resolution 666 (1990) of 13 September 1990, the Council decided that the Committee established pursuant to resolution 661 (1990) was to keep the situation regarding foodstuffs in Iraq and Kuwait under constant review, in order to make the necessary determination as to whether “humanitarian circumstances” had arisen.

By resolution 670 (1990) of 25 September 1990, the Council confirmed that the embargo applied “to all means of transport, including aircraft”.¹¹⁰

By resolution 686 (1991), which was adopted on 2 March 1991 after the suspension of the military operations conducted by an alliance of States against the Iraqi forces in accordance with resolution 678 (1990),¹¹¹ the Council affirmed that all previous resolutions, including resolution 661 (1990), continued to have full force and effect.¹¹²

By resolution 687 (1991) of 3 April 1991,¹¹³ the Council linked the termination of the measures imposed under resolution 661 (1990) to the compliance by Iraq with certain disarmament requirements, and to arrangements for the compensation of any direct loss, damage or injury suffered by foreign Governments, nationals and corporations as a result of Iraq’s unlawful invasion and occupation of Kuwait.¹¹⁴ By the same resolution, the Council endorsed the recommendation of the Committee established pursuant to resolution 661 (1990) to make the exemption for supplies of foodstuffs envisaged in resolution 661 (1990) immediately effective,¹¹⁵ and to allow for the import of

certain materials and supplies for essential humanitarian needs.¹¹⁶

By resolution 706 (1991) of 15 August 1991, the Council authorized States to permit the import of certain quantities of petroleum and petroleum products from Iraq, and decided that a portion of the proceeds of sale would be made available to the Secretary-General, to finance the purchase of foodstuffs, medicines and

the Secretary-General and ICRC on the deteriorating humanitarian situation in Iraq, the Committee established pursuant to 661 (1990) had decided “to make, with immediate effect, a general determination that humanitarian circumstances appl[ied] with respect to the entire civilian population of Iraq in all parts of Iraq’s national territory”. The Committee had also concluded that certain essential civilian and humanitarian imports to Iraq were “integrally related to the supply of foodstuffs and supplies intended strictly for medical purposes (which [were] exempt from sanctions under the provisions of resolution 661 (1990)) and that such imports should also be allowed with immediate effect”. The Committee had further decided upon “a simple notification procedure for foodstuffs supplied to Iraq and a no-objection procedure for those civilian and humanitarian imports (other than supplies intended strictly for medical purposes)”. The Committee’s decision was brought to the attention of all Member States in a note by the Secretary-General (S/22400, annex). The relevant reports prepared by the Secretariat and ICRC were attached to a letter from the Secretary-General to the President of the Security Council dated 20 March 1991 (S/22366).

¹¹⁶ See resolution 687 (1991), para. 20. The Council also empowered the Committee to approve exceptions to the “prohibition against the import of commodities and products originating in Iraq”, when necessary to ensure that Iraq possessed sufficient financial resources to purchase humanitarian supplies (para. 23). By the same resolution (para. 26), the Council requested the Secretary-General, in consultation with appropriate Governments, to develop guidelines to facilitate full international implementation of the sanctions imposed against Iraq. Under the guidelines, which were contained in the annex to the report of the Secretary-General pursuant to paragraph 26 of resolution 687 (1991) (S/22660) and approved by the Council in resolution 700 (1991), the Committee was required to advise States and international organizations on whether goods and supplies proposed to be exported to Iraq in accordance with permitted exemptions constituted items with potential for diversion or conversion to military use (“dual-use items”) (see S/22660, annex, paras. 13 and 15).

¹¹⁰ In resolution 670 (1990), which was adopted by 14 votes to 1 (Cuba) at the 2943rd meeting, the Council also confirmed, however, that the ban on flights to Iraq did not apply to deliveries of food in humanitarian circumstances, subject to authorization by the Council or the Committee, or supplies intended strictly for medical purposes.

¹¹¹ The suspension of combat operations was noted in the preamble to resolution 686 (1991), when the Council also referred to “the need to be assured of Iraq’s peaceful intentions, and the objective expressed in resolution 678 (1990) of restoring international peace and security in the region”.

¹¹² The resolution was adopted at the 2978th meeting, by 11 votes to 1 (Cuba), with 3 abstentions (China, India, Yemen).

¹¹³ The resolution was adopted at the 2981st meeting, by 12 votes to 1 (Cuba), with 2 abstentions (Ecuador, Yemen).

¹¹⁴ See resolution 687 (1991), para. 22.

¹¹⁵ On 22 March 1991, after having received reports from

materials and supplies for essential civilian needs.¹¹⁷ Resolution 712 (1991) of 19 September 1991 comprised provisions aimed at the implementation of the goals established by resolution 706 (1991).

By resolution 778 (1992) of 2 October 1992, the Council noted that Iraq had rejected both resolution 706 (1991) and resolution 712 (1991). In the light of Iraq's refusal to cooperate in the implementation of those resolutions, and in order to generate the funds required for the purposes referred to in resolution 706 (1991), the Council therefore decided that States in which there were funds representing Iraqi petroleum or petroleum products, paid for after 6 August 1990, were to transfer such funds to the escrow account established by the United Nations in accordance with resolution 706 (1991).¹¹⁸

2. Measures imposed against Yugoslavia

Embargo on arms deliveries to the former Yugoslavia

By resolution 713 (1991), adopted on 25 September 1991 following the outbreak of hostilities in the former Yugoslavia, the Council decided, under Chapter VII of the Charter, that "for the purposes of establishing peace and security in Yugoslavia", all States were to "immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Yugoslavia until the Council decide[d] otherwise following consultations between the Secretary-General and the Government of Yugoslavia".¹¹⁹

¹¹⁷ The authorization was limited to a period of six months and to a value to be determined by the Council, but not to exceed US\$ 1.6 billion. Each petroleum purchase was to be approved by the Committee. Petroleum imports also remained subject to the approval by the Council of a scheme for the purchase of humanitarian supplies. In addition to purchases of humanitarian supplies, the proceeds of sale were also to be used to finance war reparations, and costs incurred by the United Nations in carrying out specific tasks mandated by the Security Council.

¹¹⁸ Resolution 778 (1992) also envisaged that States in which there were Iraqi petroleum or petroleum products were to purchase or arrange for the sale of such petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds to the said escrow account.

¹¹⁹ By resolution 724 (1991), the Council established a committee to monitor the implementation of the embargo

By resolution 727 (1992), which was adopted on 8 January 1992, after the disintegration of the Socialist Federal Republic of Yugoslavia, the Council decided that the embargo would continue to apply to all areas that had been part of Yugoslavia, any decisions on the question of the recognition of the independence of certain republics notwithstanding.¹²⁰

Measures imposed against the Federal Republic of Yugoslavia

By resolution 757 (1992) of 30 May 1992, the Council imposed a broad range of measures against the Federal Republic of Yugoslavia (Serbia and Montenegro), including a ban on all international trade and financial transactions, with the exception of "supplies intended for strictly medical purposes and foodstuffs".¹²¹ The measures adopted also included a suspension of scientific and technical cooperation and sports and cultural exchanges with the Federal Republic of Yugoslavia.

The objective of those measures was to ensure compliance with resolution 752 (1992) of 15 May 1992, by which the Council had demanded that all parties involved in Bosnia and Herzegovina stop fighting immediately and respect the ceasefire of 12 April 1992;¹²² that all forms of interference from outside Bosnia and Herzegovina cease immediately;¹²³ that action be taken regarding units of the Yugoslav People's Army in Bosnia and Herzegovina, including the disbanding and disarming of any units that were neither withdrawn nor placed under the authority of the Government of Bosnia and Herzegovina;¹²⁴ and that all irregular forces in Bosnia and Herzegovina be disbanded and disarmed.¹²⁵

imposed by resolution 713 (1991).

¹²⁰ See resolution 727 (1992), para. 6, and the report of the Secretary-General referred to therein (S/23363, para. 33).

¹²¹ Such supplies were to be notified to the Security Council Committee established pursuant to resolution 724 (1991). The exemptions provided for under resolution 757 (1992) were subsequently expanded by resolution 760 (1992), so as to include "commodities and products for essential humanitarian need". The supply of such commodities and products was subject to approval by the Committee.

¹²² Resolution 752 (1992), para. 1.

¹²³ *Ibid.*, para. 3.

¹²⁴ *Ibid.*, para. 4.

¹²⁵ *Ibid.*, para. 5.

By resolution 787 (1992) of 15 November 1992, the Council prohibited the trans-shipment of strategic goods through Yugoslavia in order to prevent their diversion in violation of resolution 757 (1992); and called upon States, acting nationally or through regional agencies or arrangements, to use “such measures commensurate with the specific circumstances as may be necessary” to halt all inward and outward maritime shipping, and all shipping on the Danube River, in order to inspect and verify cargoes and destinations.¹²⁶

3. Measures imposed against the Libyan Arab Jamahiriya

By resolution 748 (1992) of 31 March 1992, the Council banned all international air travel to and from the Libyan Arab Jamahiriya, with the exception of flights approved on grounds of significant humanitarian need; imposed a ban on the supply of aircraft and aircraft components; prohibited the supply of arms and related materials to the Libyan Arab Jamahiriya; required States to reduce the number and level of the staff at Libyan diplomatic and consular missions abroad; and restricted the travel of Libyan nationals suspected of terrorist activity.¹²⁷

The objective of these measures was to ensure that the Libyan Arab Jamahiriya would cooperate fully in establishing responsibility for the terrorist attacks against Pan Am flight 103 and UTA 772;¹²⁸ and that the Libyan Arab Jamahiriya would commit itself definitely “to cease all types of terrorist action and all assistance to terrorist groups”, which commitment was to be demonstrated by concrete actions.

4. Embargo on arms deliveries to Somalia

By resolution 733 (1992) of 23 January 1992, the Council decided, under Chapter VII of the Charter, that “for the purposes of establishing peace and security in

Somalia”, all States were to “immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Somalia” until the Council decided otherwise”.

By resolution 794 (1992) of 3 December 1992, the Council called upon States, acting nationally or through regional agencies or arrangements, “to use such measures as may be necessary” to ensure the strict implementation of the arms embargo.

5. Embargo on arms deliveries to Liberia

By resolution 788 (1992) of 19 November 1992, the Council decided, under Chapter VII of the Charter, that “for the purposes of establishing peace and security in Liberia”, all States were to “immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Liberia” until the Council decided otherwise.

B. Constitutional discussion relating to Article 41

This overview will focus on the principal arguments advanced in relation to Article 41 with respect to several situations before the Council. Special attention is given to those issues that were raised by or affected several Member States.

This section sets out case studies highlighting the arguments raised relating to the following issues:

- Discussion on measures under Article 41
- Humanitarian impact of measures under Article 41
- Employment of force in the implementation of measures under Article 41
- Duration of measures imposed under Article 41
- Obligations of States non-members of the United Nations to apply measures under Article 41.

1. Discussion on measures under Article 41

The question of the potential of measures under Article 41 of the Charter to form an effective instrument for the maintenance or restoration of international peace and security was debated extensively during the period under review, in particular in connection with the measures imposed

¹²⁶ See resolution 787 (1992), paras. 12 and 13.

¹²⁷ The resolution was adopted by 10 votes to none, with 5 abstentions (Cape Verde, China, India, Morocco, Zimbabwe). By that resolution, the Council established a committee to monitor the sanctions.

¹²⁸ By resolution 731 (1992), the Council had urged the Government of the Libyan Arab Jamahiriya immediately to provide a full and effective response to the requests of the Governments of France, the United Kingdom and the United States to cooperate fully in the relevant investigations.

against Iraq, Yugoslavia and the Libyan Arab Jamahiriya.¹²⁹

Case 8

Measures imposed against Iraq

At the 2933rd meeting, on 6 August 1990, at which the Security Council adopted resolution 661 (1990), several Council members expressed the hope that the measures imposed against Iraq by that resolution would help to ensure Iraq's compliance with the demand that Iraq withdraw its forces from the territory of Kuwait.

Noting that many individual States and several regional organizations¹³⁰ had condemned the Iraqi invasion, the representative of the United States observed that the resolution would "give effect to their condemnations of this invasion and to all calls for immediate and unconditional withdrawal". He stated that, by the proposed resolution, the Council would declare to Iraq that it would use the means ... provided in Chapter VII of the Charter to give effect to Security Council resolution 660 (1990). Iraq needed to learn "that its disregard for international law [would] have crippling political and economic costs, including, but not limited to, arms cut-offs". The speaker stated that the Council's concerted resolve would demonstrate that the international community did not — and would

not — accept "Baghdad's preference for the use of force, coercion and intimidation".¹³¹

The representative of the United Kingdom explained that "economic sanctions should not be regarded as a prelude to anything else", and stressed that economic sanctions were "designed to avoid the circumstances in which military action might otherwise arise".¹³²

The representative of Malaysia said he hoped that the broad sanctions envisaged in the draft resolution would be of short duration, given prompt compliance by Iraq with resolution 660 (1990).¹³³

Some speakers also believed that the measures could serve as a warning to help avoid similar situations in the future. The representative of Zaire noted that his vote "should be seen as a warning to all those who might be tempted to use their military force in the future to bring about institutional changes in other countries whose only fault is to be small or militarily weak".¹³⁴ The representative of Colombia believed that, in spite of the negative consequences that might result from the imposition of the measures, they had to be adopted "for the sake of peace and future generations".¹³⁵

However, the representative of Iraq, noting that his Government had already begun to withdraw its troops, claimed that the proposed resolution would only "exacerbate the crisis in the Gulf region and impede the withdrawal of forces".¹³⁶ This view was shared by the representative of Cuba, who believed that the imposition of the proposed sanctions would tend "to complicate the situation even more at a time when Iraq [had] begun withdrawing its troops", and "would also impede the current actions and efforts of the Arab States to arrive at a solution".¹³⁷ In a similar vein, the representative of Yemen contended that "the brotherly Arab means of containing the conflict [was] the valid and effective way of dealing with it".¹³⁸

¹²⁹ The question was also addressed by several speakers during the 3046th meeting of the Council, held at the level of Heads of State and Government on 31 January 1992 under the item entitled "The responsibility of the Security Council in the maintenance of international peace and security". At that meeting, the President of the United States observed that progress in achieving the aims of the Council stemmed from "acting in concert" and urged that it was necessary to deal resolutely with "renegade regimes", and "if necessary by sanctions or stronger measures, in order to compel them to observe international standards of behaviour". Moreover, terrorists and their State sponsors should know that there would be "serious consequences" if they violated international law (S/PV.3046, p. 53). This view was also held by the Minister for Foreign Affairs of Zimbabwe, whose representative advocated the increased use of economic sanctions to ensure compliance with Security Council resolutions (*ibid.*, pp. 123-125).

¹³⁰ In particular the European Union, the Gulf Cooperation Council and the Arab League, in addition to the group of non-aligned States.

¹³¹ S/PV.2933, p. 18.

¹³² *Ibid.*, p. 27.

¹³³ *Ibid.*, p. 21.

¹³⁴ *Ibid.*, p. 33.

¹³⁵ *Ibid.*, p. 51.

¹³⁶ *Ibid.*, p. 12.

¹³⁷ *Ibid.*, p. 38. (Cuba abstained from voting on the draft resolution.)

¹³⁸ *Ibid.*, p. 52. (Yemen abstained from voting on the draft resolution.)

Case 9

Arms embargo imposed against the former Yugoslavia

At the 3009th meeting, on 25 September 1991, at which the Council unanimously adopted resolution 713 (1991), a number of speakers expressly stated their hope and belief that the arms embargo imposed by that resolution would help to restore peace.

The representative of Yugoslavia, acknowledging that Yugoslavia was “in conflict with itself”¹³⁹ and that it had “not been able to resolve the crisis” on its own,¹⁴⁰ stated that it was essential “for the international community to be engaged in an active and constructive way in seeking a solution by imposing a general and complete embargo on all deliveries of weapons and military equipment to all parties in Yugoslavia”.¹⁴¹

The representative of the Union of Soviet Socialist Republics supported the decision to impose the embargo since the shipment of arms to Yugoslavia “could lead to a further exacerbation of the situation in the country, in the Balkans and in Europe as a whole”.¹⁴² The representative of France stated that the Council was “helping peace in Yugoslavia by decreeing a general and complete embargo on arms deliveries to that country”.¹⁴³ The Romanian representative referred to the “paramount importance” of instituting the embargo until peace and stability had been established, noting that “the illegal introduction of weapons to Yugoslavia had contributed, to a great extent, to the current obstacles in the way of a peaceful settlement of the Yugoslav crisis”.¹⁴⁴

However, at the open debates held on 13 and 16 November 1992,¹⁴⁵ after the disintegration of the Socialist Federal Republic of Yugoslavia, and in the light of the continued application of the embargo to all areas that previously formed part of that State,¹⁴⁶ the

representative of the newly founded Republic of Bosnia and Herzegovina, supported by a number of States non-members of the Council, contended that the continuation of the arms embargo would not help to restore peace. Instead, the cause of peace would be furthered if the embargo were selectively lifted, so that it would no longer apply to Bosnia and Herzegovina.

The representative of Bosnia and Herzegovina emphasized that “from the victims’ perspective, self-defence does not increase conflict, but rather reduce the brutal and murderous consequences of aggression directed at civilians”.¹⁴⁷ He contended that “self-defence through legitimate and lawful authorities or through international mechanisms ... makes peace a reality, rather than an uncertain and far-off goal”.¹⁴⁸

The representative of Turkey stated that if Bosnia and Herzegovina had adequate means to protect itself, then perhaps the aggressor might be induced “to resort to dialogue to overcome differences”.¹⁴⁹ The representative of Pakistan argued that lifting the embargo against Bosnia and Herzegovina would not exacerbate the conflict, contending that the experience of Croatia had indicated “that the Serbs halted their onslaught only after the Croats were enabled to put up a stiff resistance”.¹⁵⁰ The representative of the Islamic Republic of Iran believed that lifting the embargo against Bosnia and Herzegovina was “the only effective means to stop the aggression, short of international military action”.¹⁵¹

On the other hand, the representative of the United Kingdom stated that the introduction of more arms into the region “could only lead to more killing, more suffering and the jeopardizing of efforts to deliver humanitarian supplies to those in need”.¹⁵² The representative of Ecuador agreed that the lifting of the embargo against Bosnia and Herzegovina would not contribute to the cause of peace, as violence would “not be eliminated by increasing the flow of arms”.¹⁵³

¹³⁹ S/PV.3009, p. 6.

¹⁴⁰ *Ibid.*, p. 11.

¹⁴¹ *Ibid.*, p. 17.

¹⁴² *Ibid.*, pp. 52-53.

¹⁴³ *Ibid.*, p. 67.

¹⁴⁴ *Ibid.*, pp. 43-44.

¹⁴⁵ 3134th to 3137th meetings.

¹⁴⁶ By resolution 727 (1992), which was unanimously adopted at the 3028th meeting on 8 January 1992, the Council had reaffirmed the embargo and decided that it would continue to apply to “all areas that have been part of Yugoslavia, any decisions on the question of the

recognition of the independence of certain republics notwithstanding” (see paragraph 6 of that resolution and the report of the Secretary-General referred to therein (S/23363, para. 33)).

¹⁴⁷ S/PV.3134, pp. 54-55.

¹⁴⁸ *Ibid.*

¹⁴⁹ S/PV.3135, p. 25 (a-z).

¹⁵⁰ S/PV.3136, pp. 33-34.

¹⁵¹ *Ibid.*, p. 73.

¹⁵² S/PV.3135, p. 9.

¹⁵³ S/PV.3136, p. 14.

These views were shared, by Mr. Cyrus Vance and Lord Owen, co-Chairmen of the International Conference on Yugoslavia, who argued that the cause of peace would be best served by maintaining the embargo. Mr. Vance believed that lifting the arms embargo would only increase hostilities in Bosnia and Herzegovina and could spread the conflict throughout the Balkan region.¹⁵⁴ Lord Owen observed that “prohibiting arms sales tends to dampen conflict while pushing arms sales deepens conflict”.¹⁵⁵

At its 3137th meeting, on 16 November 1992, the Council adopted resolution 787 (1992), by which it reaffirmed resolution 713 (1991) and all subsequent relevant resolutions, and thereby the continued application of the arms embargo to all parties to the conflict.¹⁵⁶

Case 10

Measures imposed against the Federal Republic of Yugoslavia

At the 3082nd meeting, on 30 May 1992, at which the Council adopted resolution 757 (1992), the sponsors of that resolution, supported by several other speakers, argued that the measures imposed by that resolution against the Federal Republic of Yugoslavia would help to facilitate a solution to the conflict in Bosnia and Herzegovina.¹⁵⁷

The representative of the United States, acknowledging that the measures which the Council was about to take were “serious and comprehensive”, stated that his Government was “determined to see them through and if necessary to seek further measures”, until the Serbian regime changed course.¹⁵⁸ The representative of the United Kingdom observed that the measures were “designed purely and simply to try to bring about a peaceful solution; to bring the parties back to the negotiating table; to get them off the battlefield, to bring home to them that this [was] bankrupt policy, that it [would] lead nowhere”.¹⁵⁹ The

representative of France stated that the purpose of resolution 757 (1992) was “not to punish or isolate certain parties, but to use pressure to promote the pursuit of peace efforts and the resumption of inter-community dialogue in Bosnia and Herzegovina”.¹⁶⁰ The representative of the Russian Federation acknowledged that, in voting for the resolution, it was “discharging its obligations as a permanent member of the Security Council for the maintenance of international law and order”.¹⁶¹ The representative of Hungary expressed the view that, by adopting the resolution, the Council was reaffirming its credibility and taking “a very important step towards the containment of aggression and the restoration of peace and stability”.¹⁶² The representative of Ecuador believed that the measures would “contribute to the restoration of common sense and good judgement, especially in the minds of the leaders in the region”.¹⁶³

The representatives of China and Zimbabwe, who abstained from voting on the resolution, expressed the concern that the measures envisaged in the resolution might be counter-productive.¹⁶⁴ The representative of China believed that sanctions would “probably lead to a further deterioration of the situation”.¹⁶⁵ The representative of Zimbabwe questioned whether the imposition of sanctions would “encourage all the parties involved to cooperate fully in reaching a negotiated solution, or militate against this essential ingredient to any lasting solution”, and whether such measures would “contribute towards confidence-building among the parties involved, or lead to desperate acts by some of the parties”.¹⁶⁶

¹⁵⁴ S/PV.3134, pp. 16-17.

¹⁵⁵ *Ibid.*, p. 28.

¹⁵⁶ Resolution 787 (1992), the draft of which had been submitted by Belgium, France, Hungary, Morocco, the United Kingdom and the United States, was adopted by 13 votes to none, with 2 abstentions (China, Zimbabwe).

¹⁵⁷ S/PV.3082, p. 7 (Cape Verde); pp. 17-18 (Ecuador); p. 43 (United Kingdom); and p. 44 (Austria).

¹⁵⁸ *Ibid.*, pp. 33-34.

¹⁵⁹ *Ibid.*, p. 43.

¹⁶⁰ *Ibid.*, pp. 40-41.

¹⁶¹ *Ibid.*, p. 37.

¹⁶² *Ibid.*, p. 17.

¹⁶³ *Ibid.*, p. 18.

¹⁶⁴ *Ibid.*, pp. 9-10 and 13-14. Questions as to the usefulness of sanctions were also raised by India, which, however, “decided to defer to the collective judgement of other members of the Council” and, “in response to the international call for deterrent action”, voted in favour of the resolution (S/PV.3082, p. 24).

¹⁶⁵ S/PV.3082, pp. 9-10. China reiterated that concern at the 3137th meeting, when the Council adopted resolution 787 (1992) (S/PV.3137, p. 121).

¹⁶⁶ S/PV.3082, pp. 13-14.

Following the debate, resolution 757 (1992) was adopted with the affirmative votes of 13 members of the Council.¹⁶⁷

Case 11

Measures imposed against the Libyan Arab Jamahiriya

At the open debate held on 31 March 1992,¹⁶⁸ in connection with the adoption of resolution 748 (1992), the sponsors of that resolution,¹⁶⁹ supported by several other speakers, argued that the imposition of the proposed measures against the Libyan Arab Jamahiriya would be in conformity with the Council's responsibility for the maintenance of international peace and security.

The representative of the United States stated that, by imposing such measures, the Council was sending a message that it would use its powers under the Charter to "preserve the rule of law and ensure the peaceful resolution of threats to international peace and security".¹⁷⁰ The representative of the United Kingdom believed that the Council was fully entitled to take such measures to address terrorism, and that any other view would "seriously weaken the Council's ability to maintain peace and security in future circumstances which are unforeseen and unforeseeable".¹⁷¹ He further contended that, by adopting resolution 748 (1992), the Council was acting "in full conformity with its primary responsibility for the maintenance of international peace and security".¹⁷²

The representative of Hungary felt that the Council had to "take further measures to ensure compliance with its own resolutions", noting that it was necessary "to act individually and collectively against any terrorist challenge ... and to do everything possible to put an end once and for all to this crime against humanity".¹⁷³ The representative of Austria, describing terrorism as "the most dangerous threat to international peace and security", agreed that it was appropriate for the Security Council "to deal firmly

with this matter", noting that the proposed measures were not "punishment" but that they had been introduced "in order to make a certain member of the international community comply with its obligations under the Charter".¹⁷⁴

The representative of the Libyan Arab Jamahiriya, however, contended that the measures about to be adopted by the Council would "undermine the basis of international law and open the door to chaos, with a particular threat to the future of smaller States".¹⁷⁵

The representatives of China and Zimbabwe, who abstained from voting on the resolution, believed that such measures would not help to settle the question. The representative of China stated that the imposition of such measures would "complicate the issue further, aggravate regional tension and have serious economic consequences for the countries concerned in the region".¹⁷⁶ The representative of Zimbabwe contended that the approach taken by the Council could have "far-reaching ramifications which could cause irreparable harm to the credibility and prestige of the Organization, with dire consequences for a stable and peaceful world order".¹⁷⁷

Similar views were expressed by several States non-members of the Council. The representative of Jordan felt that the adoption of the proposed draft resolution might "undermine the hopes which the Arab people and public opinion [were] pinning on reaching a peaceful settlement satisfactory to all parties".¹⁷⁸ The representative of Iraq stated that Iraq did "not believe that harm would be done to international peace and security" if the Council showed patience and persisted in following up efforts to achieve the desired solution.¹⁷⁹ The Permanent Observer of the Organization of the Islamic Conference expressed the concern that the imposition of the proposed measures against the Libyan Arab Jamahiriya would not "help resolve the issue", but would "uselessly increase tension among members of the international

¹⁶⁷ China and Zimbabwe abstained from voting on the resolution.

¹⁶⁸ 3063rd meeting.

¹⁶⁹ France, the United Kingdom and the United States.

¹⁷⁰ S/PV.3063, p. 67.

¹⁷¹ *Ibid.*, pp. 68-69.

¹⁷² *Ibid.*, p. 72.

¹⁷³ *Ibid.*, pp. 76-77.

¹⁷⁴ *Ibid.*, p. 77.

¹⁷⁵ *Ibid.*, p. 18.

¹⁷⁶ *Ibid.*, p. 61.

¹⁷⁷ *Ibid.*, pp. 54-55.

¹⁷⁸ *Ibid.*, pp. 24-25.

¹⁷⁹ *Ibid.*, p. 37.

community”.¹⁸⁰ At the same meeting, resolution 748 (1992) was adopted by 10 affirmative votes.¹⁸¹

2. Humanitarian impact of measures under Article 41

The humanitarian impact of economic sanctions was addressed in the Council’s decisions and deliberations in connection with the measures imposed by resolution 661 (1990) on Iraq and Kuwait, by resolution 748 (1992) on the Libyan Arab Jamahiriya, and by resolution 757 (1992) on the Federal Republic of Yugoslavia.¹⁸²

A brief summary of the Council’s decisions and debates addressing humanitarian concerns in connection with the application of those measures is set out below.

Case 12

The situation between Iraq and Kuwait

Resolution 661 (1990) of 6 August 1990, by which the Council imposed a general ban on all international trade with Iraq, provided that imports of medicine and health supplies would be exempted from the ban. In addition, the resolution provided that an exemption for foodstuffs would be made in the event of “humanitarian circumstances”. By resolution 666 (1990) of 13 September 1990, the Council decided that the committee charged with monitoring the implementation of the sanctions, which had been

established by resolution 661 (1990), would keep the situation regarding foodstuffs in Iraq and Kuwait under constant review, in order to determine whether such “humanitarian circumstances” had arisen.

During debates held in August and September 1990,¹⁸³ the majority of the Council members, while acknowledging the humanitarian consequences which the sanctions regime would entail,¹⁸⁴ emphasized that it was important for the Council to show resolve in the face of Iraq’s breach of the peace.¹⁸⁵ Several speakers noted that the need for sanctions, and therefore the humanitarian problem, were a result of the Iraqi aggression, and the problem could only be solved once that aggression had been brought to an end.¹⁸⁶ Pending such a solution, it was generally believed that the humanitarian situation could be adequately addressed through the arrangements for humanitarian exemptions envisaged in resolutions 661 (1990) and 666 (1990).¹⁸⁷

However, some Council members opposed the sanctions regime, calling it inhuman,¹⁸⁸ or charged that

¹⁸⁰ Ibid., p. 44.

¹⁸¹ Cape Verde, China, India, Morocco and Zimbabwe abstained from voting on the resolution.

¹⁸² The issue of humanitarian sanctions was also addressed at the 3046th meeting of the Security Council, held at the level of Heads of State and Government on 31 January 1992 under the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”. At that meeting, the Prime Minister of India emphasized that it was incumbent on the Security Council to anticipate the consequences of its decisions, arguing that it should act decisively and in a timely manner to alleviate human suffering, once the primary purpose of economic sanctions had been fulfilled (S/PV.3046, pp. 97-98). The Minister for Foreign Affairs of Zimbabwe called upon the Council to look once more at the effect of economic sanctions upon innocent civilians living in a State whose Government they could not change, observing that such people lacked the political means to reverse the very policies that had given rise to the offence being sanctioned (ibid., pp. 124-125).

¹⁸³ 2933rd, 2938th, 2939th and 2943rd meetings.

¹⁸⁴ See, for example, the statements of the representatives of Canada (S/PV.2933, pp. 24-25) and Malaysia (ibid., p. 21). In a statement made before the Council at the 2943rd meeting, the Secretary-General drew attention to the unprecedented scale of the sanctions regime (S/PV.2943, p. 7).

¹⁸⁵ S/PV.2933, pp. 24-25 (Canada); S/PV.2938, pp. 26-31 (United States); pp. 33-36 (Canada); pp. 38-40 (Zaire); pp. 48-50 (United Kingdom); pp. 50-51 (Côte d’Ivoire); and pp. 51-52 (Ethiopia).

¹⁸⁶ See for example, the statements made by the representative of Kuwait at the 2938th meeting (S/PV.2938, p. 62), and by the Secretary of State of the United States at the 2943rd meeting (S/PV.2943, p. 27).

¹⁸⁷ See, for example, the statements of the representatives of the Soviet Union (S/PV.2939, p. 72), Finland (ibid., p. 61), Malaysia (ibid., p. 60) and Zaire (ibid., pp. 44-46).

¹⁸⁸ At the 2938th meeting, the representative of Cuba stated that “no action or decision adopted or to be adopted by this Council [could] give it the political, legal or moral authority to undertake any kind of action that is in itself inhuman” (S/PV.2938, pp. 18-21). The representative reiterated his delegation’s view at the 2943rd meeting (S/PV.2943, p. 21). See also the draft resolution (S/21742/Rev.1) proposed by Cuba at the 2939th meeting, which stipulated that “access to basic foodstuffs and adequate medical assistance is a fundamental human right to be protected under all circumstances”, and that, in accordance with that principle, no action was to be taken that might “hinder

the provisions for humanitarian exemptions were inadequate or had been interpreted in an inhumane manner.¹⁸⁹

The humanitarian impact of the sanctions regime was again discussed in March and April 1991, following the suspension of the military enforcement action against Iraq,¹⁹⁰ in connection with the adoption of resolutions 686 (1991) and 687 (1991).¹⁹¹ By those resolutions, the Council affirmed the continued application of the sanctions regime, but, in the light of the prevailing humanitarian crisis in Iraq, decided to make the exemption for supplies of foodstuffs envisaged in resolutions 661 (1990) and 666 (1990) immediately effective, and to permit the import of “materials and supplies for essential humanitarian needs”, subject to approval by the Committee.¹⁹²

the access of the civilian population and the foreign nationals in Iraq and Kuwait to basic foodstuffs, medical supplies and medical assistance”. The draft resolution was not adopted, however, as it received only 3 affirmative votes (China, Cuba, Yemen).

¹⁸⁹ See in particular the statements made by the representative of Yemen at the 2939th and 2943rd meetings (S/PV.2939, p. 11, and S/PV.2943, pp. 16-17). (Yemen abstained from voting on resolution 661 (1990) and voted against resolution 666 (1990).)

¹⁹⁰ This action had been authorized by resolution 678 (1990), adopted at the 2963rd meeting. Offensive combat operations commenced on 16 January and were suspended on 28 February 1991. The suspension of combat operations was noted in the preamble to resolution 686 (1991).

¹⁹¹ Resolution 686 (1990) was adopted at the 2978th meeting by 11 votes to 1 (Cuba), with 3 abstentions (China, India, Yemen). Resolution 687 (1990) was adopted at the 2981st meeting, by 12 votes to 1 (Cuba), with 2 abstentions (Ecuador, Yemen).

¹⁹² See resolution 687 (1991), para. 20. The Council also empowered the Committee to approve exceptions to the “prohibition against the import of commodities and products originating in Iraq”, when necessary to ensure that Iraq possessed sufficient financial resources to purchase humanitarian supplies (see resolution 687 (1991), para. 23). In accordance with the same resolution (para. 26), the Secretary-General developed guidelines to facilitate full international implementation of the sanctions imposed against Iraq. Under these guidelines, the Committee established pursuant to resolution 661 (1990) was required to advise States and international organizations on whether goods and supplies proposed to be exported to Iraq in accordance with permitted exemptions constituted items with potential for diversion or conversion to military use (“dual-use items”) (see S/22660, annex, paras. 13 and 15).

While most Council members believed that these provisions appropriately addressed the humanitarian problems of the civilian population,¹⁹³ a number of speakers expressed the belief that all restrictions relating to the civilian needs of the Iraqi population should be lifted forthwith.¹⁹⁴ However, a proposal submitted by one delegation to declare null and void all restrictions regarding trade in foodstuffs and other essential civilian products did not find the required majority.¹⁹⁵

In order to generate the funds required for the purchase of humanitarian supplies exempted under resolutions 661 (1990) and 666 (1990), the Council, by resolution 706 (1991), adopted on 15 August 1991,¹⁹⁶ authorized States to permit the import of certain quantities of petroleum and petroleum products from Iraq, on the condition that the purchase price for each such petroleum import was to be paid into an escrow account to be administered by the Secretary-General.¹⁹⁷

¹⁹³ See, for example, the statements made by the representatives of France (S/PV.2981, p. 94), the Soviet Union (*ibid.*, p. 103) and Belgium (*ibid.*, pp. 130-131).

¹⁹⁴ See the statements made by the representatives of Yemen (S/PV.2981, p. 47), Zimbabwe (*ibid.*, p. 57), India (*ibid.*, p. 76) and China (*ibid.*, p. 97).

¹⁹⁵ See the amendments contained in documents S/22315 and S/22316, submitted by Cuba. The amendments formed part of a set of 18 amendments proposed by Cuba during the meeting (S/22300-S/22317). The representatives of Yemen (S/PV.2978, p. 26) and Ecuador (*ibid.*, p. 82) agreed with the Cuban position that the resolution should have included provisions providing for the end of the sanctions regime for humanitarian reasons.

¹⁹⁶ 3004th meeting.

¹⁹⁷ The authorization was limited to a period of six months and to a value to be determined by the Council, but not to exceed US\$ 1.6 billion. Each petroleum purchase was to be approved by the Committee. Petroleum imports also remained subject to the approval by the Council of a scheme for the purchase of humanitarian supplies. In addition to purchases of humanitarian supplies, the proceeds of sale were to be used to finance war reparations, and costs incurred by the United Nations in carrying out specific tasks mandated by the Security Council. Provisions aimed at the implementation of resolution 706 (1991) are contained in resolution 712 (1991). Both resolutions 706 (1991) and 712 (1991) were adopted by 13 to 1 (Cuba), with 1 abstention (Yemen).

While most Council members were confident that this arrangement would help to meet the essential humanitarian needs of the Iraqi civilian population,¹⁹⁸ individual Council members believed that it would not be sufficient to alleviate the humanitarian crisis.¹⁹⁹ Some concern was also expressed with regard to the limitations that the administration of the scheme by the United Nations would impose on Iraq's sovereignty.²⁰⁰ Other speakers emphasized, however, that effective supervision and monitoring by the United Nations would be essential for the equitable distribution of humanitarian supplies.²⁰¹

The proposed arrangement failed to be implemented, however, owing to its rejection by Iraq.²⁰² In the light of Iraq's refusal to cooperate and the resulting lack of funds to implement the envisaged arrangement, the Security Council decided in October 1992 that all States in which there were funds from Iraqi petroleum or petroleum products, paid for after 6 August 1990, were to transfer such funds to the escrow

account established by the United Nations in accordance with resolution 706 (1991).²⁰³

Case 13

Items relating to the Libyan Arab Jamahiriya

By resolution 748 (1992) of 31 March 1992, the Council imposed a ban on all international air travel to and from the Libyan Arab Jamahiriya, a general embargo on all sales of arms and military equipment to that country, and certain restrictions on Libyan diplomatic and consular personnel. With regard to the ban on air travel, the resolution provided that exemptions would be granted for flights approved on grounds of significant humanitarian need.²⁰⁴

At the open debate held in connection with the adoption of that resolution,²⁰⁵ the sponsors of the draft resolution²⁰⁶ emphasized that the scope of the measures imposed against the Libyan Arab Jamahiriya had been tailored precisely to those areas that could be used to support international terrorism.²⁰⁷ They were not, therefore, aimed at the Libyan people, who were not responsible for the actions of their leaders.²⁰⁸ In this context, the sponsors also emphasized that the resolutions specifically provided for humanitarian exemptions from the flight ban, and noted that it was

¹⁹⁸ See for example the statements by the representatives of the United States (S/PV.3004, p. 79; and S/PV.3008, p. 16), Belgium (S/PV.3004, p. 92), Ecuador (S/PV.3004, p. 101) and the Soviet Union (S/PV.3008, p. 19). See also the statement by the representative of India, who believed that resolution 706 (1991) tried to meet humanitarian concerns "to some extent", but noted that his delegation "would have preferred a clear and unambiguous approach to this issue" (S/PV.3004, pp. 94-97).

¹⁹⁹ For relevant statements by the representative of Cuba, see S/PV.3004, pp. 65-68; and S/PV.3008, p. 13. For the views expressed by the representative of Yemen, see S/PV.3004, pp. 52-55. Both resolutions 706 (1991) and 712 (1991) were rejected by Cuba. Yemen abstained from voting in both instances.

²⁰⁰ See in particular the statement by the representative of China, who emphasized that, in the implementation of the resolution, it would be necessary to respect the sovereignty of Iraq, and to allow it to play its proper role in the purchase and distribution of the food, medicine and other materials required to meet essential civilian needs (S/PV.3004, pp. 81-82).

²⁰¹ See for example the statements by the representatives of the United States (S/PV.3004, p. 79; and S/PV.3008, p. 18), the United Kingdom (S/PV.3004, p. 84) and Belgium (S/PV.3004, p. 92).

²⁰² Iraq rejected the arrangement on the grounds that, while the proposed scheme would require Iraq to concede its sovereignty over its oil resources, it would be inadequate to deal with the humanitarian situation (S/PV.3004, pp. 23-36; and S/PV.3008, pp. 6-7).

²⁰³ See resolution 778 (1992), adopted at the 3117th meeting. The resolution also envisaged that States in which there were Iraqi petroleum or petroleum products were to purchase or arrange for the sale of such petroleum or petroleum products at fair market value, and thereupon to transfer the proceeds to the escrow account.

²⁰⁴ According to resolution 748 (1992), exemptions were to be approved by the Committee established pursuant to that resolution, which would "consider and decide upon expeditiously any application by States for the approval of flights on the grounds of significant humanitarian need" (see resolution 748 (1992), paras. 4 (a) and 9 (e)).
²⁰⁵ 3063rd meeting.

²⁰⁶ France, the United Kingdom and the United States.

²⁰⁷ The measures were for example described as "measured, precise and limited" by the representative of the United States (S/PV.3063, p. 67), and as "selective and fitting" by the representative of France (*ibid.*, p. 74). See also the statements by the representatives of the United Kingdom (*ibid.*, p. 69) and Belgium (*ibid.*, p. 81).

²⁰⁸ S/PV.3063, p. 74 (France).

the Council's intention that such exemptions would include pilgrims wishing to go to Mecca.²⁰⁹

Some speakers nevertheless expressed concern about the potential humanitarian impact which the measures imposed by that resolution would have on the Libyan people.²¹⁰

Case 14

Items relating to the situation in the former Yugoslavia

By resolution 757 (1992) of 30 May 1992, the Council imposed a general ban on international trade with the Federal Republic of Yugoslavia (Serbia and Montenegro). Exemptions were, however, envisaged for "supplies intended for strictly medical purposes and foodstuffs", which were to be notified to the Committee established pursuant to resolution 724 (1991). Those exemptions were subsequently expanded by resolution 760 (1992), so as to include "commodities and products for essential humanitarian need", subject to approval by the Committee.

The potential humanitarian impact of the sanctions regime was discussed both in connection with its imposition by resolution 757 (1992) and in connection with the adoption of measures aimed at its enforcement in November 1992.²¹¹ During the debates speakers acknowledged the adverse impact of the sanctions regimes on the civilian population,²¹² but generally agreed that the Council had to display determination to enforce the measures it had adopted under Chapter VII of the Charter.²¹³

Individual speakers expressed the view, however, that continued negotiations would be preferable to the

²⁰⁹ See the statements made by the representatives of France (S/PV.3063, p. 70) and the United Kingdom (*ibid.*, p. 74).

²¹⁰ S/PV.3063, pp. 36-37 (Iraq); and p. 52 (Zimbabwe).

²¹¹ For further details, see the records of the debates held in connection with the adoption of resolution 787 (1992) on 16 November 1992 (S/PV.3134-3137).

²¹² See for example the statements made by the representatives of the United States (S/PV.3082, p. 34) and France (*ibid.*, France, p. 40).

²¹³ See for example the statement by Lord Owen, co-Chairman of the International Conference on Yugoslavia, who acknowledged: "sanctions are a blunt instrument which hit the innocent often harder than the guilty"; but noted that they were "the only peaceful instrument the world has" (S/PV.3134, p. 27).

imposition of sanctions, which would only add to the suffering of the civilian population.²¹⁴

Other speakers emphasized that the right balance would have to be struck so that sanctions served as a political tool without disproportionately affecting the most vulnerable strata of the civilian population.²¹⁵

3. Employment of force in the implementation of measures under Article 41

In connection with the measures imposed against Iraq and Yugoslavia,²¹⁶ the Council, by resolutions 665 (1990) and 787 (1992) respectively, authorized States to use "such measures commensurate with the specific circumstances as may be necessary" to halt maritime shipping in order to inspect and verify cargoes and destinations, and to ensure strict implementation of the respective embargo regimes.²¹⁷

The debates held in connection with the adoption of those resolutions touched on the question whether such implementing measures might include the use of

²¹⁴ Such concerns were formulated in particular by the representatives of China and Zimbabwe (S/PV.3082, pp. 9-10 (China) and pp. 13-14 (Zimbabwe)). Both countries abstained from voting on resolutions 757 (1992) and 787 (1992). See also the statement by the representative of Yugoslavia, who demanded the lifting of the sanctions for humanitarian reasons (S/PV.3137, pp. 76-77).

²¹⁵ See in particular the statement by the United Nations High Commissioner for Refugees, who had been invited to brief the Council members at the 3134th meeting (S/PV.3134, pp. 34-35). See also the statement by the representative of France, who noted that France was determined that the sanctions should not lead to the "total isolation of the populations involved" (S/PV.3082, p. 40).

²¹⁶ Reference is made to the general trade embargoes imposed by resolutions 661 (1990) and 757 (1992) against Iraq and the Federal Republic of Yugoslavia, respectively, and the arms embargo imposed by resolution 713 (1991) against the former Yugoslavia.

²¹⁷ In addition to those decisions, the Council, by resolution 794 (1992), called upon States to use "such measures as may be necessary" to ensure the strict implementation of the arms embargo imposed against Somalia. However, the debate held in connection with the adoption of that resolution did not specifically focus on that provision of the resolution. This may partly be due to the fact that the same resolution also authorized the use of "all necessary means" to establish a secure environment for humanitarian relief operations, which was the main focus of the debate (see S/PV.3145).

force, and whether Article 41 could be deemed to permit implicitly a “minimum use of force” to ensure the effective implementation of embargo regimes.²¹⁸ The arguments advanced by Member States in relation to this question are briefly summarized below.

Case 15

Measures imposed against Iraq

One week after the adoption of resolution 661 (1991),²¹⁹ the United States informed the President of the Security Council that it had deployed military forces to the Gulf region.²²⁰ At a meeting held on the same day,²²¹ the representative of the United States explained that the increase of the United States presence in the region was in accordance with the right of collective self-defence under Article 51 of the Charter, but also noted that the action had been taken “in consistency with Article 41 and resolution 661 (1990)”.²²² This view was shared by the representative of the United Kingdom, who announced that his Government had agreed “to contribute forces to a multinational force for the collective defence of the territory of Saudi Arabia and other threatened States in the area”, and also stated that his Government saw “the close monitoring of maritime traffic as a key element in making the embargo effective”.²²³

The representative of Iraq contended at a later meeting that the United States had “arrogated to itself the right to impose a maritime blockade against Iraq without calling it by that name”. He believed that the conduct of the United States and the United Kingdom

constituted “aggression against Iraq”.²²⁴ The representative of Cuba expressed the view that the action taken by the United States military forces to guarantee the implementation of resolution 661 (1990) constituted “not only a violation of the Charter but a violation of resolution 661 (1990) itself”. The representative contended that resolution 661 (1990) did not authorize anyone “to implement the resolution by military means”, noting that resolution 661 (1990) was clearly based on Article 41 of the Charter, which refers to measures “not involving the use of force”.²²⁵

At a meeting held on 25 August 1990,²²⁶ the Council adopted resolution 665 (1990), by which it expressly authorized Member States cooperating with Kuwait to use “such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes and destinations, and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990)”.

During the deliberations in connection with the adoption of that resolution,²²⁷ the representative of the United States explained that the Council had been forced “to tighten the application of the sanctions regime”, owing to Iraq’s defiance of the Council and its resolution 661 (1990). The representative emphasized that his country, along with all the other members of the Council, intended to ensure that its resolutions and its actions had meaning and were observed. Noting that naval forces had initially been deployed “at the request of the legitimate Government of Kuwait, in accordance with the inherent right of individual and collective self-defence under Article 51 of the Charter”, the representative stated that resolution 665 (1990) provided “an additional and most welcome basis under United Nations authority for actions to secure compliance with the sanctions mandated by resolution 661 (1990)”.²²⁸

The representative of France noted that the resolution provided for “appropriate measures” to ensure respect for the embargo, “including the minimum use of force”, but stressed that such

²¹⁸ Article 41 envisages only the adoption of “measures not involving the use of armed force”.

²¹⁹ By resolution 661 (1990), the Council had imposed a general trade embargo against Iraq.

²²⁰ S/21492.

²²¹ 2934th meeting. At that meeting, the Council adopted resolution 662 (1992), declaring the annexation of Kuwait by Iraq null and void.

²²² S/PV.2934, p. 7.

²²³ *Ibid.*, p. 18. See also the letter dated 13 August 1990 from the representative of the United Kingdom to the President of the Security Council, officially informing the President of the deployment (S/21501); and the letter dated 12 August 1990 from the representative of Kuwait (S/21498), informing the President of the Security Council that his country had “requested some nations to take such military or other steps as are necessary to ensure the effective and prompt implementation of Security Council resolution 661 (1990)”.

²²⁴ S/PV.2937, pp. 42-46.

²²⁵ *Ibid.*, pp. 28-31.

²²⁶ 2938th meeting.

²²⁷ See S/PV.2938.

²²⁸ S/PV.2938, pp. 26-31.

measures had to be applied only as “a last resort” and that they ought to be “limited to what is strictly necessary”. The resolution could not be understood, therefore, “as a blanket authorization for the indiscriminate use of force”. The representative also believed that, in each case, the use of coercion would require “notification of the Security Council”.²²⁹

The representative of the Union of Soviet Socialist Republics, while noting that the resolution was “intended to expand the array of means available for implementing the sanctions”, emphasized that measures taken ought to be “commensurate to the circumstances” and that “political and diplomatic methods should be employed to the maximum degree possible”.²³⁰

The representative of China, while voting in favour of the resolution, held a different view with regard to the interpretation of its text and expressed strong reservations with regard to its adoption. He contended that the resolution did not contain the concept of using force and recalled that the reference to a “minimum use of force” had been intentionally deleted from the draft resolution. He argued that the measures authorized by the resolution had to be taken within the framework of resolution 661 (1990), which did not provide for the use of force and would not allow force to be used for its implementation.²³¹

The representative of Yemen, who voted against the resolution, believed that the Council was moving “too quickly towards the use of force to impose the provisions of the Security Council resolutions on the embargo”.²³² The representative of Cuba, who also voted against the resolution, expressed the view that Article 41 precluded the use of force to give effect to economic measures imposed by the Council.²³³ Similar views were expressed by the representative of Iraq, who had been invited to participate in the debate.²³⁴

Reservations were also expressed by the representative of Colombia, who believed that, by adopting the resolution, the Council was in fact establishing a naval blockade and therefore acting pursuant to Article 42 of the Charter. He also criticized the proposed resolution for not clearly defining the role of the Security Council and its powers to supervise any action taken by States.²³⁵

Case 16

Measures imposed against the Federal Republic of Yugoslavia

In the debates leading up to the adoption of resolution 787 (1992),²³⁶ by which the Council called upon States to use “such measures commensurate with the specific circumstances as may be necessary” to ensure that maritime shipping and shipping on the Danube did not contravene the provisions of resolutions 713 (1991) and 757 (1992), several Council members stated why they believed those measures to be necessary.

The representative of the United Kingdom stated that the measures were necessary to ensure that sanctions were not “breached by way of the Danube or the Adriatic”, adding that the authorities in Belgrade and the Bosnian Serbs had to be “made to realize that the cost of their policies [was] economic ruin and the status of a pariah in world affairs”.²³⁷ This view was shared by the representative of the United States, who believed that the resolution would help to prevent the Adriatic and the Danube “from being used to circumvent the embargo”, and stated that “sanctions-busters [would] be stopped and turned back”.²³⁸ The representative of Ecuador felt that the measures aimed at the surveillance and control of maritime shipping were “very important elements” that would make it possible for the sanctions to achieve their objectives.²³⁹

Several States non-members of the Council also expressed support for the measures envisaged in

²²⁹ Ibid., p. 32.

²³⁰ Ibid., p. 43; similar views were expressed by the representatives of Malaysia (ibid., pp. 37-38) and Finland (ibid., p. 47).

²³¹ S/PV.2938, p. 53.

²³² Ibid., p. 7. The representative also stated that, by the resolution, “unclear powers” were being granted “to undertake unspecified actions without a clear definition of the Security Council’s role and powers of supervision over those actions”.

²³³ S/PV.2938, p. 17.

²³⁴ Ibid., pp. 67-70.

²³⁵ Ibid., p. 21. In spite of these reservations, Colombia voted in favour of the resolution.

²³⁶ 3134th to 3137th meetings.

²³⁷ S/PV.3135, pp. 8-9.

²³⁸ Ibid., pp. 11-12.

²³⁹ S/PV.3136, pp. 14-15. See also the statements made by the representatives of Belgium (S/PV.3134, p. 67); France (S/PV.3135, p. 17); the Russian Federation (S/PV.3136, p. 6); and Hungary (S/PV.3137, p. 13).

resolution 787 (1992), and hoped they would help to ensure the implementation of the embargo.²⁴⁰

The representative of China, who abstained from voting on the draft resolution, argued that the use of force would “only complicate the situation, sharpen the differences, intensify the hatred and make it more difficult to solve the problem”. He further noted that China was “not in favour of the use of force in any form in the settlement of the conflict in Bosnia and Herzegovina”.²⁴¹ The question whether Article 41 could be deemed to permit implicitly the use of force to ensure the effective implementation of measures adopted under that Article was not addressed directly during the debates.

4. Duration of measures imposed under Article 41

While the measures adopted in accordance with Article 41 were generally imposed for an unspecified period, most decisions imposing such measures either set out concrete conditions for the termination of these measures,²⁴² or provided for review periods or mechanisms.²⁴³

²⁴⁰ Pakistan expressed the hope that the draft resolution would result in “effective and complete enforcement of the sanctions” (S/PV.3136, p. 33). Canada expressed its strong support for the provision of the draft resolution calling upon all States to use necessary measures to ensure strict application of the sanctions regime, and noted that it had participated in the naval task force monitoring traffic on the Adriatic coast and was participating in sanctions monitoring in neighbouring countries (S/PV.3136, p. 47). Italy, speaking in its capacity as Chairman of the Western European Union, noted that the resolution would “greatly enhance the effectiveness of the embargo” and would help the naval forces of the Western European Union and NATO in the Adriatic Sea to discover and defeat any attempt by sea to “violate or circumvent” the embargo (S/PV.3137, p. 16). Ukraine argued that the draft resolution should envisage “all the necessary steps” to strengthen the effectiveness of the sanctions (S/PV.3137, p. 86). Bangladesh also argued that the sanctions must be “strictly enforced” (S/PV.3137, p. 111).

²⁴¹ S/PV.3135, p. 16.

²⁴² See resolutions 661 (1990), 748 (1992) and 757 (1992).

²⁴³ Resolution 713 (1991) envisaged that the arms embargo against the former Yugoslavia would apply until the Council decided otherwise following consultations between the Secretary-General and the Government of Yugoslavia. By resolution 748 (1992), para. 13, the Council decided that it would, every 120 days or sooner,

In connection with the measures imposed against Iraq, States expressed different views with regard to the concrete conditions and the appropriate time for the termination of those measures after the withdrawal of the Iraqi forces from Kuwait. In connection with the arms embargo imposed against the former Yugoslavia, questions with regard to its continued application against Bosnia and Herzegovina were raised after Bosnia and Herzegovina had seceded from Yugoslavia and become an independent State. In connection with the measures imposed against the Libyan Arab Jamahiriya, questions were raised with regard to the evidence required for that State’s compliance with the demands contained in resolution 748 (1992).

Case 17

Measures imposed against Iraq

At the 2977th meeting of the Council, the representative of the Union of Soviet Socialist Republics said that recent talks held in Moscow between the Soviet leadership and a special representative of Iraq, Mr. Tariq Aziz, had succeeded “in making more specific the readiness expressed by the Iraqi leadership to withdraw their troops from Kuwait on the basis of the decisions of the Security Council”. Accordingly, the representative of the Union of Soviet Socialist Republics believed that “immediately after the completion of the withdrawal of troops from Kuwait, the reason for the adoption of other Security Council resolutions would have lapsed, and those resolutions would thus cease to be in force”.²⁴⁴

In response, the representative of the United States noted that the steps the Iraqis were considering “would constitute a conditional withdrawal and would

should the situation so require, “review the measures imposed by paragraphs 3 to 7 in the light of the compliance by the Libyan Government with paragraphs 1 and 2 of the resolution taking into account, as appropriate, any reports by the Secretary-General on his role as set out in paragraph 4 of resolution 731 (1992)”. By resolution 757 (1992), para. 16, the Council decided “to keep under continuous review the measures imposed by paragraphs 4 to 9 with a view to considering whether such measures might be suspended or terminated following compliance with the requirement of resolution 752 (1992)”.

²⁴⁴ S/PV.2977 (Part II) (closed-resumption 3), p. 296. This view was for example shared by the representative of Cuba (*ibid.*, pp. 318-321).

also prevent the full implementation of relevant United Nations Security Council resolutions”. He noted that the world first had to make sure that Iraq had in fact “renounced its claim to Kuwait and accepted all relevant Security Council resolutions”. Accordingly, only the Security Council “could agree to lift sanctions against Iraq”, and the world needed “to be assured in concrete terms of Iraq’s peaceful intentions” before such action could be taken.²⁴⁵ He stated, therefore, that his Government could not accept the idea of declaring that Security Council resolutions somehow ceased to exist, were null and void or without effect. He cautioned that the Council “must not dismantle at the stroke of a pen” what the Council had built since 2 August until it had “reached agreement on how to restore peace and security to the area”.²⁴⁶ Similar views were expressed by the representatives of the United Kingdom,²⁴⁷ France,²⁴⁸ Romania,²⁴⁹ Kuwait²⁵⁰ and Egypt.²⁵¹

The representative of India urged the Union of Soviet Socialist Republics and the United States “to try to work out the differences between their plans of action”, and suggested to Council members “to sit together and find some way out” of what appeared to be an impasse.²⁵² The representative of China, referring to Iraq’s “positive response to the peaceful initiative of the Soviet Union”, believed that the Council should “fulfil its responsibilities by considering and adopting an appropriate plan for the peaceful settlement of the Gulf crisis”.²⁵³

The representative of Cuba believed that, as a result of the agreements reached in Moscow, the Council was obliged “to get down to work immediately to determine the specific steps and actions it should take to make it possible for a plan for a peaceful settlement of the conflict to be carried out as speedily as possible”. He argued that there was a “direct cause and effect relationship between economic sanctions as decided upon by the Council and Iraq’s failure to comply with the terms of paragraph 2 of resolution 660

(1990) — that is to say, fully to withdraw from Kuwait.”²⁵⁴

At the 2978th meeting, on 2 March 1991, following the suspension of the military operations which an alliance of States had conducted against Iraqi forces in accordance with resolution 678 (1990),²⁵⁵ several speakers again questioned the reasons for the continued application of the measures imposed by resolution 661 (1990). The representative of India noted that Iraq had “officially confirmed its willingness to comply with all relevant Security Council resolutions”, and stated that it would like the Council “to begin an early examination of the question of sanctions”.²⁵⁶ The representative of Yemen, noting that the draft resolution did “not mention the end of the embargo against Iraq”, recalled that, “when the Council adopted resolution 661 (1990) and imposed a stringent embargo regime against Iraq ..., it was because it was believed that the sanctions would lead to Iraq’s withdrawal and implementation of resolution 660 (1990)”. Accordingly, the representative believed that a reference to the end of the embargo, in particular in relation to food supplies, should have been included.²⁵⁷

The representative of the United States, on the other hand, stressed that Iraq had “much to account for”, and that there was “much yet to be done to fulfil the resolutions of the Council and the requirements of international law”. The representative emphasized that “the price of aggression and its defeat” had been too high to allow it to recur.²⁵⁸ The representative of France agreed that the Organization first had to “consolidate effectively the cessation of hostilities and then ... define the conditions for the lasting restoration of peace and security in the region”.²⁵⁹ The representative of Belgium cautioned that the Council ought to “avoid a situation in which Iraq might again gain an offensive military potential”. Accordingly, it

²⁴⁵ Ibid., pp. 300-301.

²⁴⁶ Ibid., pp. 304-305.

²⁴⁷ Ibid., pp. 312-313.

²⁴⁸ Ibid., p. 322.

²⁴⁹ Ibid., pp. 332-335.

²⁵⁰ Ibid., pp. 337-341.

²⁵¹ Ibid., pp. 345-346.

²⁵² Ibid., p. 311.

²⁵³ Ibid., p. 306.

²⁵⁴ Ibid., pp. 318-320.

²⁵⁵ The suspension of offensive combat operations was noted in the preamble to resolution 686 (1991), which was adopted at the same meeting.

²⁵⁶ S/PV.2978, pp. 76-77. (India abstained from voting on the draft resolution.)

²⁵⁷ Ibid., pp. 22-26. (Yemen abstained from voting on the draft resolution.)

²⁵⁸ Ibid., pp. 41-46.

²⁵⁹ Ibid., p. 53. Similar views were expressed, inter alia, by the representative of the United Kingdom (ibid., pp. 68-72).

would be necessary “to maintain a military embargo against Iraq”.²⁶⁰

At the same meeting, the Council adopted resolution 686 (1991), by which it affirmed that all previous resolutions, including resolution 661 (1990), continued to have full force and effect.²⁶¹

At its 2981st meeting, on 3 April 1991, the Council discussed and adopted the text of resolution 687 (1991), by which it linked the termination of the measures imposed against Iraq by resolution 661 (1990) to, *inter alia*, compliance by Iraq with certain disarmament requirements.²⁶²

Prior to the adoption of resolution (687 (1991), the representative of Iraq stated that his Government believed “that maintaining the land, sea and air blockade and the freeze of assets — in spite of ... the fact that Iraq has accepted the implementation of all 13 Security Council resolutions on the issue and removed all the reasons that prompted the Security Council to adopt resolution 661 (1990) ... — would be in contravention of the Charter of the United Nations and could be viewed as an economic aggression and a clear violation of the Charter of Economic Rights and Duties of States and human rights covenants, foremost among which are the rights to life, dignity and freedom”.²⁶³

The representative of Cuba stated that the Council had “the obligation of eliminating all economic sanctions imposed against Iraq”, because these sanctions had been established on the basis of certain conditions that had ceased to exist. He believed that the Council had “persistently ignored the fact that the economic sanctions were established in order to ensure compliance with one paragraph of resolution 660 (1990), which called for the unconditional withdrawal of Iraqi troops from the territory of Kuwait”. Accordingly, he said, the Security Council, by adopting the proposed resolution, would “continue and confirm a sanctions regime that was not only

unjustified, but also the cause of the ongoing problems and suffering of the Iraqi people.”²⁶⁴

The representatives of China, India, Yemen and Ecuador agreed that, in the light of the development of the situation, the measures imposed against Iraq by resolution 661 (1990) ought to be lifted.²⁶⁵

Speaking after the vote, the representative of the United States emphasized that, after having acted “to bring an end to aggression and lawlessness”, the international community, acting through the United Nations, now had to act to restore international peace and security.²⁶⁶ He believed that the resolution created a “dynamic and flexible process “which linked the removal of sanctions to the implementation of the resolution, which would be an “incentive to implement fully the resolution as soon as possible”. He stated that “upon implementation of the provisions dealing with weapons of mass destruction and the compensation regime”, the sanctions against Iraq’s exports would also be lifted.²⁶⁷

The representative of the United Kingdom explained that, just as the Security Council had the primary responsibility to reverse the aggression, so it also had the responsibility “to lay sound foundations for the future” and to ensure that it would not be again “confronted with such a ruthless and comprehensive challenge to international law”. The representative

²⁶⁰ *Ibid.*, p. 58.

²⁶¹ The resolution was adopted by 11 votes to 1 (Cuba), with 3 abstentions (China, India, Yemen). The preamble to that resolution refers to “the need to be assured of Iraq’s peaceful intentions and the objective expressed in resolution 678 (1990) of restoring international peace and security in the region”.

²⁶² See resolution 687 (1991), para. 22. The resolution was adopted by 12 votes to 1 (Cuba), with 2 abstentions (Ecuador, Yemen).

²⁶³ S/PV.2981, p. 33.

²⁶⁴ *Ibid.*, pp. 63-67. (Cuba voted against the draft resolution.)

²⁶⁵ China, which voted in favour of the draft resolution, noted that the resolution included “some unnecessary restriction of the lifting of economic sanctions on Iraq”. Accordingly, China believed that the Security Council should “ease and lift economic sanctions as soon as possible, so as to bring the economy of all the countries in the region back to normality at an early date” (*ibid.*, p. 97). India, which also voted in favour of the resolution, believed that “all non-military sanctions against Iraq should be lifted” as soon as Iraq conveyed acceptance of the draft resolution (*ibid.*, p. 76). Yemen, which abstained from voting, believed that “the insistence of the sponsors of the draft resolution that the embargo be continued with regard to the needs of the Iraqi civilians would hurt only the Iraqi people” (*ibid.*, p. 47). Ecuador, which also abstained from the vote, considered “that the Council must approve the lifting of the sanctions, which are affecting the civilian population of Iraq” (*ibid.*, p. 108).

²⁶⁶ S/PV.2981, pp. 83-85.

²⁶⁷ *Ibid.*, p. 88.

added that that was the “objective of the resolution, and the yardstick by which it should be measured”.²⁶⁸

At the 3004th meeting, at which the Council, *inter alia*, adopted resolution 706 (1991), the representative of Iraq claimed that Iraq had satisfied all conditions set out in resolution 687 (1991) for the lifting of the measures imposed against it by resolution 661 (1991). According to the representative, “a small minority in the Council” prevented the Council from deciding that those conditions had been met.²⁶⁹ The representative also claimed that, “for all intents and purposes”, the draft resolution was “aimed at keeping the embargo in place indefinitely”, which, in his view, only affirmed “that this alliance had the sole aim of destroying Iraq as an effective Arab force influential in determining the fate of the region”.²⁷⁰

Iraq’s demand that the embargo be lifted was supported by Yemen and Cuba. The representative of Yemen, noting that all Council members had affirmed that they were “not against the Iraqi people”, asked why then some insisted on the continuation of its suffering, and why they did not lift from its shoulders the embargo that was harming and weakening Iraqi society day by day.²⁷¹ The representative of Cuba believed that the sanctions against Iraq should have been eliminated at the moment when the causes which were argued in justification of it had disappeared.²⁷²

The representative of Kuwait, however, insisted that the measures imposed by resolution 661 (1990) needed to remain in effect until the Iraqi regime ceased “its actions intended to deceive the international community and violate its resolutions”.²⁷³ In particular, he noted that the lifting of the sanctions was closely linked to the return of prisoners to Kuwait in accordance with paragraphs 21 and 30 of resolution 687 (1991),²⁷⁴ as well as Iraq’s cooperation in the area of disarmament.²⁷⁵ Several Council members similarly emphasized that Iraq had not complied with its international obligations under relevant resolutions, in particular its obligations relating to the elimination of

its weapons of mass destruction, as required by resolution 687 (1991).²⁷⁶

Case 18

Measures imposed against the Libyan Arab Jamahiriya

Resolution 748 (1992), by which the Council imposed a broad range of measures against the Libyan Arab Jamahiriya, provided that those measures were to apply until the Council had decided that the Libyan Government had (a) complied with the demand made in resolution 731 (1992) that the Libyan Arab Jamahiriya “cooperate fully in establishing responsibility for the terrorist acts against Pan Am flight 103 and UTA flight 772”, and (b) committed itself definitely “to cease all types of terrorist action and all assistance to terrorist groups”.²⁷⁷

At the Council’s 3063rd meeting, on 31 March 1992, at which the text of resolution 748 (1992) was discussed and adopted, the representative of the Libyan Arab Jamahiriya observed that the conditions for the termination of the measures envisaged in that resolution left his country in a position in which it did not know when the Security Council would decide that it had complied, so that the measures could be lifted. In particular, the Libyan Arab Jamahiriya believed that the provisions requiring it to renounce terrorism contained “unspecified demands”.²⁷⁸

The representative of the United Kingdom, however, believed that the members of the Council would understand why, in the case of the Libyan Arab Jamahiriya, a simple verbal commitment to renounce terrorism by itself was not adequate, noting that Council members had heard such statements from Colonel Qaddafi in the past, and that the Libyan authorities, by their own admission, had continued afterwards to give direct assistance to terrorists.²⁷⁹

²⁶⁸ *Ibid.*, p. 112.

²⁶⁹ S/PV.3004, p. 31.

²⁷⁰ *Ibid.*, pp. 35-36.

²⁷¹ *Ibid.*, p. 60.

²⁷² *Ibid.*, p. 68.

²⁷³ *Ibid.*, p. 21.

²⁷⁴ *Ibid.*, p. 12.

²⁷⁵ *Ibid.*, p. 16.

²⁷⁶ *Ibid.*, in particular the statements made by the representatives of France (pp. 72-78); the United States (pp. 78-82); the United Kingdom (pp. 85-86); Austria (pp. 87-88); and the Soviet Union (p. 91).

²⁷⁷ According to resolution 748 (1992), such a commitment was to be demonstrated by concrete actions. The resolution was adopted by 10 votes to none, with 5 abstentions (Cape Verde, China, India, Morocco, Zimbabwe).

²⁷⁸ S/PV.3063, p. 21.

²⁷⁹ *Ibid.*, p. 71.

The representative of Austria reminded Council members that Austria had always stressed the necessity of establishing objective criteria for the provisions on the termination of sanctions. He welcomed the fact that resolution 748 (1992) envisaged that the Council, in reviewing the compliance of the Libyan Arab Jamahiriya, was to take into account the Secretary-General's reports on his role in seeking that State's cooperation.²⁸⁰

The representative of India, on the other hand, noting the importance of an appropriate definition of the circumstances under which the sanctions would be lifted, regretted that, although the non-aligned members of the Council, as had indeed several other delegations, had explored with the sponsors the injection of more precision in the relevant paragraphs, it had not been possible to remove the vagueness from the draft resolution on that particular point.²⁸¹

Case 19

Arms embargo imposed against the former Yugoslavia

By resolution 727 (1992), adopted on 8 January 1992 after the disintegration of the Socialist Federal Republic of Yugoslavia, the Council reaffirmed that the arms embargo, which it had imposed against that State by resolution 713 (1991), would continue to apply to all areas that had been part of Yugoslavia, any decisions on the question of the recognition of the independence of certain republics notwithstanding.²⁸²

During the open debates of the Council held from 13 to 16 November 1992,²⁸³ the representative of Bosnia and Herzegovina argued that, through the indiscriminate continuation of the arms embargo, it was effectively denied its right of self-defence. The representative of Bosnia and Herzegovina also

contended that the cause of peace would be furthered if the embargo were selectively lifted, so that it would no longer apply to Bosnia and Herzegovina, and that through effective self-defence peace could be made a reality, rather than an uncertain and far-off goal.²⁸⁴

This view was supported by the representatives of several States non-members of the Council, including Turkey,²⁸⁵ Pakistan,²⁸⁶ the Islamic Republic of Iran²⁸⁷ and Afghanistan.²⁸⁸

Other speakers, including the Foreign Minister of the Federal Republic of Yugoslavia,²⁸⁹ the co-Chairmen of the Steering Committee of the International Conference on Yugoslavia²⁹⁰ and several Council members,²⁹¹ expressly warned however that a selective lifting of the arms embargo would only fuel the conflict, lead to an increase in hostilities throughout the Balkan region, and jeopardize the

²⁸⁴ S/PV.3134, pp. 54-55.

²⁸⁵ S/PV.3135, p. 25 (a-z).

²⁸⁶ S/PV.3136, pp. 33-34.

²⁸⁷ *Ibid.*, p. 73.

²⁸⁸ S/PV.3137, pp. 56-57. In addition to the arguments pertaining to Bosnia and Herzegovina's right of self-defence, the representative of Afghanistan questioned the legality of the continued application of the arms embargo, insofar as it related to Bosnia and Herzegovina, in the light of the original purpose for which the measures had been imposed. Afghanistan argued that resolution 713 (1991) had been designed to address the conflict between Croatia and Serbia and Montenegro and that "in no legal or technical sense" did that resolution pertain to Bosnia and Herzegovina, for it had been adopted in September 1991, while the conflict in Bosnia and Herzegovina had arisen in April 1992. Afghanistan further argued that, from the legal standpoint, it seemed "senseless to contend that the sovereign State of Bosnia and Herzegovina should be subject to an arms embargo and sanctions because it was once part of the Socialist Federal Republic of Yugoslavia".

²⁸⁹ See S/PV.3137, p. 75: "We cannot but warn, with profound concern, of the unforeseeable harmful effects of the continued sending of mercenaries, violations of the arms embargo and the ever more evident prospects of this conflict turning into a full-scale religious war."

²⁹⁰ S/PV.3134, p. 29 (Lord Owen); and p. 17 (Mr. Vance).

²⁹¹ See for example the statements made by the representatives of the United Kingdom and Ecuador at the 3135th and 3136th meetings respectively. (S/PV.3135, p. 9; S/PV.3136, pp. 13-15).

²⁸⁰ The representative specifically referred to paragraphs 12 and 13 of resolution 748 (1992) (S/PV.3063, p. 78).

²⁸¹ The Indian delegation, which abstained from voting on the draft resolution, acknowledged, however, that the sponsors had showed readiness to work with it on this aspect (S/PV.3063, p. 57). See also the statement made by the representative of Iraq, who queried whether the measures to be imposed were "designed to become sanctions for an unspecified period" (*ibid.*, p. 36).

²⁸² See resolution 727 (1992), para. 6, and the report of the Secretary-General referred to therein (S/23363, para. 33).

²⁸³ 3134th to 3137th meetings.

effectiveness of the United Nations peacekeeping operation.²⁹²

5. Obligations of States non-members of the United Nations to apply measures under Article 41

Article 41 provides that the Security Council may call upon the Members of the United Nations to apply the measures envisaged in that Article. However, in its resolutions creating or modifying State obligations in relation to the implementation of the measures imposed against Iraq,²⁹³ Yugoslavia,²⁹⁴ Somalia,²⁹⁵ the Libyan Arab Jamahiriya²⁹⁶ and Liberia,²⁹⁷ the Council consistently called upon “all States”²⁹⁸ to comply with the relevant obligations, and in several instances explicitly referred to “all States, including States non-members of the United Nations”.²⁹⁹

Replies received from States in response to requests for information sought by the Security Council³⁰⁰ or the Secretary-General³⁰¹ in relation to

their compliance with relevant obligations included communications from Switzerland and the Republic of Korea.³⁰² The communications received from these States, which, at that time, were not Members of the United Nations, either confirmed that measures had been taken to implement the relevant Council resolutions, or that measures corresponding in substance to the requirements of those resolutions were in existence or had been taken independently.

²⁹² As the arguments advanced by Member States in relation to Bosnia and Herzegovina’s right of self-defence are closely linked to the provisions of Article 51 of the Charter, details of those arguments are set out in part IX of the present chapter.

²⁹³ See resolutions 661 (1990), paras. 3-4; 670 (1990), paras. 3-6; 687 (1991), paras. 24, 29; and 778 (1992), paras. 1, 2 and 4.

²⁹⁴ Reference is made to both the former Yugoslavia and the Federal Republic of Yugoslavia; see resolutions 713 (1991), para. 6; 724 (1991), para. 5; 727 (1992), para. 6; 740 (1992), para. 8; 757 (1992), paras. 3-9 and 11-14; 760 (1992); and 787 (1992), paras. 9-15.

²⁹⁵ See resolutions 733 (1992), para. 5; 751 (1992), para. 11; and 794 (1992), para. 16.

²⁹⁶ See resolution 748 (1992), paras. 3-6.

²⁹⁷ By resolution 788 (1992), the Council decided that “all States” should immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Liberia.

²⁹⁸ Occasionally, the Council merely called on “States”. See for example resolution 794 (1992), by which the Council called upon States to use such measures as might be necessary to ensure strict implementation of the arms embargo which it had previously imposed against Somalia by resolution 733 (1992).

²⁹⁹ See for example resolutions 661 (1990), para. 5; 748 (1992), para. 7; and 757 (1992), para. 11.

³⁰⁰ By resolution 700 (1991), para. 4, the Council requested “all States” to report to the Secretary-General within 45 days on the measures they had instituted to meet the obligations set out in paragraph 24 of resolution 687

(1991). By resolution 748 (1992), para. 8, the Council requested “all States” to report to the Secretary-General by 15 May 1992 on the measures they had instituted for meeting their obligations relating to the sanctions imposed against the Libyan Arab Jamahiriya. By resolution 757 (1992), para. 12, the Council requested all States to report to the Secretary-General by 22 June 1992 on the measures they had instituted for meeting their obligations relating to the sanctions imposed against the Federal Republic of Yugoslavia (Serbia and Montenegro).

³⁰¹ In connection with the measures imposed against Iraq, see, for example, the note dated 8 August 1990 from the Secretary-General to the Ministers for Foreign Affairs of all States (S/21536, annex I), requesting them to report on measures taken to implement resolution 661 (1990); the note verbale dated 3 July 1991 from the Secretary-General to the Ministers for Foreign Affairs of all States (not issued as a United Nations document), requesting them to submit information on the measures taken to implement paragraph 4 of resolution 700 (1991). In carrying out his responsibility to report on the implementation of the sanctions imposed by resolution 713 (1991) against Yugoslavia, the Secretary-General addressed a note verbale to all States on 16 December 1991, requesting them to submit to him information on the measures instituted by them to meet their obligations relating to the implementation of the embargo (see S/23358, para. 4). In connection with the situation in Somalia, see the Secretary-General’s note verbale to all States dated 23 January 1992 (S/23693 and Corr.1, paras. 5 and 7).

³⁰² In connection with the situation between Iraq and Kuwait, see the communications from the Republic of Korea (S/21487, S/21617) and Switzerland (S/21585) relating to the implementation of measures imposed under resolution 661 (1990); and the communications from Switzerland (S/22958) and the Republic of Korea (S/23016) relating to the implementation of sanctions established in paragraph 24 of resolution 687 (1991). A communication relating to the requirements under that resolution was also received from the Holy See (S/22802). See also the communications sent by Switzerland in relation to measures imposed against the former Yugoslavia, Somalia and the Libyan Arab Jamahiriya (S/23338, S/23612, S/23938 and S/24160).

However, in one of its responses to the Secretary-General, Switzerland noted that, as a non-member of the United Nations, it was “not in fact legally bound by the decisions of the Security Council”.³⁰³

³⁰³ S/21585.

Part IV

Other measures to maintain or restore international peace and security in accordance with Article 42 of the Charter

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Note

During the period under review, the Security Council did not invoke Article 42 explicitly in any of its decisions. The Council did, however, adopt a number of resolutions by which it called upon States to take “all measures necessary”³⁰⁴ to enforce demands related to the restoration of international peace and security, and which are therefore of relevance to the interpretation of Article 42. These include, in particular, resolution 678 (1990), authorizing States cooperating with the Government of Kuwait to use all necessary means to enforce the withdrawal of the Iraqi forces from the territory of Kuwait³⁰⁵ (see section A below).

³⁰⁴ “All measures necessary” was the precise wording used in resolution 770 (1992), para. 2. In resolutions 665 (1990), para. 1, 787 (1992), para. 12, and 794 (1992), para. 16, reference was made to “such measures (commensurate to the specific circumstances) as may be necessary”, and in resolutions 678 (1991), para. 2, and 794 (1992), para. 10, to “all necessary means”.

³⁰⁵ In his report entitled “An Agenda for Peace”, however, the Secretary-General expressed the view that, in the situation between Iraq and Kuwait, the Security Council had not actually made use of the option envisaged in Article 42, as the Council had chosen to authorize Member States to take measures on its behalf. More

Section B below describes the Council’s decisions calling upon States to take measures necessary to ensure the strict implementation of sanctions previously imposed on Iraq,³⁰⁶ Yugoslavia³⁰⁷ and Somalia.³⁰⁸ Section C deals with decisions authorizing States to use all necessary means to facilitate the delivery of humanitarian aid to Bosnia and Herzegovina and Somalia.³⁰⁹

generally, the Secretary-General stated his belief that, while action under Article 42 should be taken only when all peaceful means had failed, the option of taking it was “essential to the credibility of the United Nations as a guarantor of international security” (see S/24111, paras. 42-44).

³⁰⁶ By resolution 665 (1990), the Council called upon Member States to use “such measures commensurate with the specific circumstances as may be necessary” to ensure the strict implementation of the sanctions imposed against Iraq by resolution 661 (1990).

³⁰⁷ The term “Yugoslavia” is intended to refer to both the former Socialist Federal Republic of Yugoslavia and the Federal Republic of Yugoslavia (Serbia and Montenegro), as, by resolution 713 (1991), the Council had imposed an arms embargo against the Socialist Federal Republic of Yugoslavia and, by resolution 757 (1992), had imposed a general trade embargo against the Federal Republic of Yugoslavia. By resolution 787 (1992), the Council called upon Member States to use “such measures commensurate with the specific circumstances as may be necessary” to ensure the strict implementation of resolutions 713 (1991) and 757 (1992).

³⁰⁸ By resolution 794 (1992), the Council called upon States to use “such measures as may be necessary” to ensure the strict implementation of the arms embargo imposed against Somalia by resolution 733 (1992).

³⁰⁹ See resolutions 770 (1992) and 794 (1992). While measures to facilitate the delivery of humanitarian assistance are not primarily adopted with the aim of maintaining or restoring international peace and security, as envisaged in Article 42, they are believed to be

Section D briefly examines aspects of two peacekeeping operations established during the period under review, which are believed to have a bearing on the interpretation of Article 42 of the Charter.³¹⁰

A. Military enforcement action necessary to maintain or restore international peace and security

The situation between Iraq and Kuwait

By resolution 678 (1990),³¹¹ the Council reiterated its demand that Iraq comply fully with resolution 660 (1990) and all subsequent resolutions, and decided “to allow Iraq one final opportunity, as a pause of goodwill, to do so”; and authorized Member States cooperating with the Government of Kuwait, unless Iraq fully implemented all relevant Council resolutions on or before 15 January 1991, “to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area”.³¹²

During the Council’s deliberations in connection with the adoption of resolution 678 (1990),³¹³ most members agreed that there remained no alternative to authorizing the use of “all necessary means”, as Iraq’s aggression could not be tolerated.³¹⁴ Most speakers

relevant to the interpretation and application of Article 42 insofar as they are typically adopted in the context of existing threats to the peace and closely connected to the broader efforts to restore peace and security in the affected regions.

³¹⁰ As peacekeeping operations are typically deployed with the consent of the Governments involved, they are clearly different from enforcement action under Article 42. It has been thought useful, however, in connection with the consideration of such enforcement action, to draw attention to the establishment of UNIKOM under Chapter VII of the Charter, and the incorporation of certain enforcement powers in the mandate of UNPROFOR.

³¹¹ Adopted at the 2963rd meeting, on 29 November 1990, by 12 votes to 2 (Cuba, Yemen), with 1 abstention (China). At the meeting, 13 Council members were represented at the ministerial level.

³¹² See resolution 678 (1990), paras. 1 and 2.

³¹³ The draft resolution (S/21969) was sponsored by Canada, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom and the United States.

³¹⁴ S/PV.2963, p. 67 (France); p. 75 (Malaysia); p. 82

believed that the Council had already shown a great degree of patience, and emphasized that the proposed resolution gave Iraq a further period of 45 days to comply with the demands made in previous resolutions.³¹⁵ In this context it was noted that by 15 January — the date set in the resolution — the aggression would be nearly six months old.³¹⁶ Several speakers expressed confidence that the pause granted by the resolution would usher in a transition to a political settlement.³¹⁷ Other speakers emphasized the dangers of delaying the use of military force, noting that in the meantime the destruction of Kuwait and the atrocities against its people would continue.³¹⁸

However, various Council members opposed the use of force at this stage of the crisis. They cautioned that the Council should avoid taking hasty action and show patience for economic sanctions to work, bearing in mind the serious consequences that a solution through the use of force would entail.³¹⁹

The representative of Iraq asserted that, by authorizing the use of force, the Council would be acting beyond its jurisdiction. As the Council was seized of the matter, the use of force could not fall

(United Kingdom); p. 87 (Côte d’Ivoire); pp. 84-85 (Finland); p. 91 (Soviet Union); p. 103 (United States). See also the statement by the representative of Kuwait, who urged the Security Council to authorize the use of all necessary means in order to implement its previous resolutions so as to put an end to Iraq’s defiance of the will of the international community (S/PV.2963, pp. 17-18).

³¹⁵ See the statements by the representative of Kuwait (*ibid.*, p. 16), the Secretary of State for Foreign Affairs of the United Kingdom (*ibid.*, p. 82), the Minister for Foreign Affairs of the Soviet Union (*ibid.*, pp. 89-90), the Secretary of State of the United States (*ibid.*, p. 103).

³¹⁶ See the statement by the Secretary of State for Foreign Affairs of the United Kingdom (*ibid.*, p. 82).

³¹⁷ See for example the statements made by the Minister for Foreign Affairs of the Soviet Union (*ibid.*, pp. 89-90) and the Minister for Foreign Affairs of Finland (*ibid.*, pp. 83-85).

³¹⁸ See for example the statements by the Minister for Foreign Affairs of Malaysia (*ibid.*, p. 76) and the Minister for Foreign Affairs of Ethiopia (*ibid.*, p. 51).

³¹⁹ See the statements by the representative of Yemen (S/PV.2963, p. 36); the Minister for Foreign Affairs of China (*ibid.*, p. 62) and the Minister for Foreign Affairs of Cuba (*ibid.*, pp. 58-60). The latter also expressed the view that, by granting some States the authorization to use military force, the Council was acting in violation of the procedures established by the Charter (*ibid.*).

under the provisions governing the legitimate exercise of the right of self-defence. Accordingly, the Council could authorize the use of force only if sanctions adopted in accordance with Article 41 had proved ineffective or unenforceable.³²⁰

B. Measures necessary to ensure the strict implementation of decisions taken in accordance with Article 41

The situation between Iraq and Kuwait

By resolution 665 (1990),³²¹ the Council authorized Member States cooperating with Kuwait to use “such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes and destinations, and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990)”.³²²

During the deliberations in connection with the adoption of that resolution,³²³ its sponsors explained that the Council had been forced to tighten the application of the sanctions regime owing to Iraq’s defiance of the Security Council and resolution 661 (1990). While naval forces had initially been deployed at the request of the Government of Kuwait, in accordance with the inherent right of individual and collective self-defence under Article 51 of the Charter, the proposed resolution would provide an additional basis for actions to secure compliance with the sanctions mandated by resolution 661 (1990). While the authority granted in the proposed resolution was sufficiently broad to use armed force to ensure respect for the embargo, such force would be applied only as a last resort and would be limited to what was strictly necessary.³²⁴

³²⁰ S/PV.2963, pp. 19-21.

³²¹ Adopted at the 2938th meeting, on 25 August 1990, by 13 votes to none, with 2 abstentions (Cuba, Yemen).

³²² See resolution 665 (1990), para. 1.

³²³ The draft resolution (S/21640) was sponsored by Canada, Côte d’Ivoire, Finland, France, the United Kingdom, the United States and Zaire.

³²⁴ S/PV.2938, pp. 26-31 (United States); and p. 32 (France). (In this context, speakers also used the terms “minimum force” and “minimum use of force” during the debate.)

The resolution was, however, opposed by two Council members, who believed that the Council was moving too quickly towards the use of force.³²⁵ One Council member expressed the view that, if the basis for the resolution was Article 42, then, in accordance with that Article, the Council first had to determine that economic sanctions had proved insufficient before proceeding to apply measures involving the use of force.³²⁶

Other speakers, while generally supporting the proposed resolution, nevertheless cautioned that any measures taken under it ought to be proportional to the intended purposes, and that political and diplomatic methods should be employed to the maximum degree possible.³²⁷

One Council member believed that the phrase “such measures commensurate to the specific circumstances as may be necessary” used in the proposed resolution did not in fact contain the concept of using force, as measures taken under that resolution had to be taken within the framework of resolution 661 (1990), which did not allow force to be used for its implementation.³²⁸

*Items relating to the situation in the former Yugoslavia (the situation in Bosnia and Herzegovina)*³²⁹

By resolution 787 (1992),³³⁰ the Council called upon States to use “such measures commensurate with the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure

³²⁵ S/PV.2938, p. 7 (Yemen); and p. 17 (Cuba).

³²⁶ Ibid., p. 17 (Cuba). Similar arguments were advanced by the representative of Iraq (ibid., p. 71).

³²⁷ Ibid., p. 43 (Soviet Union); pp. 37-38 (Malaysia); and p. 47 (Finland).

³²⁸ Ibid., p. 53 (China). In this context, the representative of China recalled that the reference to a “minimum use of force” has been intentionally deleted from the draft resolution.

³²⁹ The reference to “Yugoslavia” is to both the Socialist Federal Republic of Yugoslavia and the Federal Republic of Yugoslavia (Serbia and Montenegro), as resolution 713 (1991) was imposed against the former and resolution 757 (1992) against the latter.

³³⁰ Adopted at the 3137th meeting, on 16 November 1992; by 13 votes to none, with 2 abstentions (China, Zimbabwe).

strict implementation of the provisions of resolutions 713 (1991) and 757 (1992); and reaffirmed “the responsibility of riparian States to take necessary measures” to ensure that shipping on the Danube was in accordance with resolutions 713 (1991) and 757 (1992), including “such measures commensurate with the specific circumstances as may be necessary to halt such shipping in order to verify cargoes and destinations and to ensure strict implementation of resolutions 713 (1991) and 757 (1992)”.³³¹

In the debates leading up to the adoption of that resolution,³³² its sponsors explained that these measures were necessary to prevent the Adriatic and the Danube from being used to circumvent the sanctions regime, and to make the authorities in Belgrade and the Bosnian Serbs realize the cost of their policies.³³³

Several States non-members of the Council also expressed support for the measures envisaged in the proposed resolution, and believed that they would help to ensure the implementation of the embargo.³³⁴

³³¹ See resolution 787 (1992), paras. 12 and 13.

³³² 3134th to 3137th meetings. The draft resolution (S/24808/Rev.1) was sponsored by Belgium, France, the Russian Federation, the United Kingdom and the United States.

³³³ See for example the statements made by the representatives of the United Kingdom (S/PV.3135, pp. 8-9); the United States (*ibid.*, pp. 11-12); Belgium (S/PV.3134, p. 67); France (S/PV.3135, p. 17); and the Russian Federation (S/PV.3136, p. 6).

³³⁴ Pakistan expressed the hope that the draft resolution would result in “effective and complete enforcement of the sanctions” (S/PV.3136, p. 33). Canada expressed its strong support for the provision of the draft resolution, calling upon all States to use necessary measures to ensure strict application of the sanctions regime, and noted that it had participated in the naval task force monitoring traffic on the Adriatic coast and was participating in sanctions monitoring in neighbouring countries (S/PV.3136, p. 47). Italy, speaking in its capacity as Chairman of the Western European Union, noted that the resolution would “greatly enhance the effectiveness of the embargo” and would help the naval forces of the Western European Union and NATO in the Adriatic Sea to discover and defeat any attempt by sea to “violate or circumvent” the embargo (S/PV.3137, p. 16). Ukraine argued that the draft resolution should envisage “all the necessary steps” to strengthen the effectiveness of the sanctions (S/PV.3137, p. 86). Bangladesh also argued that the sanctions must be “strictly enforced” (S/PV.3137, p. 111).

However, one Council member reaffirmed that it opposed the use of force in any form in the settlement of the conflict in Bosnia and Herzegovina, arguing that the use of force would only complicate the situation.³³⁵

The situation in Somalia

By resolution 794 (1992),³³⁶ the Council, acting under Chapters VII and VIII, called upon States, nationally or through regional agencies or arrangements, “to use such measures as may be necessary” to ensure strict implementation of the arms embargo imposed by resolution 733 (1992).³³⁷

No substantive issues concerning this provision were raised during the debate held in connection with the adoption of that resolution.³³⁸

C. Measures necessary to facilitate the delivery of humanitarian assistance

Items relating to the situation in the former Yugoslavia (the situation in Bosnia and Herzegovina)

By resolution 770 (1992),³³⁹ the Council, acting under Chapter VII of the Charter, called upon States “to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina”.³⁴⁰

³³⁵ See the statement by the representative of China (S/PV.3135, p. 16).

³³⁶ Adopted at the 3145th meeting, on 3 December 1992. The draft resolution (S/24880) had been prepared in the course of the Council’s prior consultations.

³³⁷ See resolution 794 (1992), para. 16.

³³⁸ The debate held at the 3145th meeting in connection with the adoption of resolution 794 (1992) was focused on the authorization, contained in that resolution, of all necessary means to facilitate the delivery of humanitarian assistance (see section C below for details of the debate).

³³⁹ Adopted at the 3106th meeting, on 13 August 1992, by 12 votes to none, with 3 abstentions (China, India, Zimbabwe).

³⁴⁰ See resolution 770 (1992), para. 2.

During the debate held in connection with the adoption of that resolution,³⁴¹ the sponsors of the resolution welcomed the fact that the resolution would allow for all necessary means, including the use of force, to achieve the provision of humanitarian assistance. While the use of force was not desirable, it might yet be necessary. In deciding whether military measures were needed, great weight would be given to the views of the United Nations and the humanitarian agencies. It was noted that the provision of humanitarian assistance was not only an urgent humanitarian concern but also an important element of the effort to restore peace and security in the region”.³⁴²

However, one Council member, while endorsing the objectives of resolution 770 (1992) in principle, stated that it could not agree to the authorization of the use of force, as it was precisely the continuous armed conflict that currently hindered the delivery of humanitarian assistance. Once Member States resorted to force, the armed conflict would surely be expanded and prolonged, thus further hampering the humanitarian relief work and the efforts aimed at a political solution.³⁴³

The situation in Somalia

By resolution 794 (1992),³⁴⁴ the Council, acting under Chapter VII of the Charter, authorized the Secretary-General and Member States cooperating “to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia”.³⁴⁵

³⁴¹ The draft resolution (S/24421) was sponsored by Belgium, France, the Russian Federation, the United Kingdom and the United States.

³⁴² United Kingdom (S/PV.3106, pp. 34-36), United States (ibid., p. 38), France (ibid., p. 47). The representative of the United States observed that the adoption of resolution 770 (1992) had demonstrated that the Council too shared the belief “that the provision of humanitarian assistance [was] not only an urgent humanitarian concern but also an important element of the effort to restore peace and security in the region” (S/PV.3106, p. 38).

³⁴³ See the statement by the representative of China (S/PV.3106, pp. 50-51).

³⁴⁴ Adopted at the 3145th meeting, on 3 December 1992. The draft resolution (S/24880) had been prepared in the course of the Council’s prior consultations.

³⁴⁵ See resolution 794 (1992), para. 10. The decision to take

During the debate held in connection with the adoption of the resolution, speakers emphasized that measures authorized by resolution 794 (1992) were aimed at achieving a secure environment for the delivery of humanitarian relief to the Somali people, and that the use of force would be endorsed only if and when necessary to accomplish that objective.³⁴⁶ It was noted that the Council’s earlier efforts to increase security had failed. Action under Chapter VII of the Charter was therefore the only way to ensure the distribution of humanitarian supplies.³⁴⁷ While there was no desire to intervene in the internal affairs of Somalia, a humanitarian crisis of the current magnitude could not be allowed to continue. The present circumstances were unique and required special measures.³⁴⁸

D. Aspects of peacekeeping operations having potential relevance to Article 42

The situation between Iraq and Kuwait

By resolutions 686 (1991)³⁴⁹ and 689 (1991),³⁵⁰ the Council established, under Chapter VII of the

action under Chapter VII was made, as noted in paragraph 7 of the resolution, pursuant to a recommendation by the Secretary-General in his letter of 29 November 1992 (S/24868).

³⁴⁶ See for example the statements by the representatives of the United States (S/PV.3145, p. 36) and France (ibid., p. 29).

³⁴⁷ See for example the statement by the representative of the United Kingdom, who noted that, in the prevailing situation, food and security were “inextricably linked” (S/PV.3145, p. 34).

³⁴⁸ China, in particular, emphasized that it saw the military operation authorized by the resolution as an exceptional action in view of the unique situation in Somalia; once a secure environment for the humanitarian relief effort in Somalia had been created, the military operation should cease (S/PV.3145, p. 17).

³⁴⁹ Adopted at the 2978th meeting, on 2 March 1991, by 11 votes to 1 (Cuba), with 3 abstentions (China, India, Yemen). The draft resolution (S/22298) was sponsored by Belgium, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom, the United States and Zaire.

³⁵⁰ Adopted unanimously at the 2983rd meeting, on 9 April 1991. The draft resolution (S/22470) had been prepared in the course of the Council’s prior consultations.

Charter, the United Nations Iraq-Kuwait Observation Mission (UNIKOM).³⁵¹

The establishment of that operation, under Chapter VII of the Charter, may be relevant to the interpretation of Article 42 insofar as it created an obligation for Iraq and Kuwait to have a military force stationed on their territory.³⁵² While the operation was deployed with the consent of both States,³⁵³ it could be terminated only by a formal decision of the Security Council, as expressly provided for in resolution 689 (1991).³⁵⁴

It should be noted however, that, while the operation was established under Chapter VII of the Charter, it was not authorized to take physical action to prevent the entry of military personnel or equipment into the demilitarized zone or assume other responsibilities that fell within the competence of the host Governments. In accordance with the concept of operations approved by the Council, UNIKOM, as an observation mission, was required to monitor and observe only.³⁵⁵

³⁵¹ By resolution 687 (1991), adopted at the 2981st meeting on 3 April 1991, the Council had established a demilitarized zone along the boundary between Iraq and Kuwait, to be monitored by a United Nations observer unit. By resolution 689 (1991), the Council approved the Secretary-General's plan in his report dated 5 April 1991 (S/22454 and Add.1 and 2) for the deployment of UNIKOM.

³⁵² According to the concept of operations approved by resolution 689 (1991), UNIKOM would be composed of military contingents provided by Member States at the request of the Secretary-General and each contingent would comprise armed and unarmed military personnel. The maximum initial strength of UNIKOM was to be approximately 1,440 all ranks, of which the infantry temporarily attached to it from other established missions would be 680. It was envisaged that a group of 300 military observers would be required initially.

³⁵³ The acceptance of the Secretary-General's proposed plan by the Governments of Iraq and Kuwait was transmitted to the Council in an addendum dated 9 April 1991 (S/22454/Add.3) to the Secretary-General's report (S/22454 and Add.1 and 2).

³⁵⁴ Paragraph 2 of resolution 689 (1991) provides that "the unit can be terminated only by a decision of the Council" and that "the Council shall therefore review the question of its termination or continuation every six months".

³⁵⁵ The responsibility for the maintenance of law and order in the demilitarized zone rested with the Governments of Iraq and Kuwait, which maintained police posts in their respective parts of the zone. Police were allowed to

Items relating to the situation in the former Yugoslavia (the situation in Bosnia and Herzegovina)

By resolution 776 (1992),³⁵⁶ the Council authorized the mandate and strength of the United Nations Protection Force in Bosnia and Herzegovina (UNPROFOR) to be expanded in implementation of paragraph 2 of resolution 770 (1992), thus linking the mandate of the Force to Chapter VII, and incorporating the authorization for the use of "all measures necessary", provided for in that paragraph, in the mandate of the Force.³⁵⁷

The sponsors of resolution 776 (1992), supported by several other speakers, particularly welcomed the fact that it fully corresponded to the goals of resolution 770 (1992), by which the Council had defined the basis for resolute intervention by the international community. The armed protection of humanitarian convoys was now absolutely essential. The resolution

carry only side arms. For further details, see the report of the Secretary-General (S/22454, para. 6).

³⁵⁶ Adopted at the 3114th meeting, on 14 September 1992, by 12 votes to none, with 3 abstentions (China, India, Zimbabwe). The draft resolution (S/24554) was sponsored by Belgium, France, the Russian Federation, the United Kingdom and the United States.

³⁵⁷ By paragraph 2 of resolution 770 (1992), the Council had called upon States "to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina". In addition to the reference to paragraph 2 of resolution 770 (1992), resolution 776 (1992) also refers more generally to functions outlined in a report of the Secretary-General on the UNPROFOR revised concept of operations, including the protection of convoys of released detainees if requested by the International Committee of the Red Cross. In that report, which was issued on 10 September 1992, the Secretary-General had inter alia recommended that, when providing "protective support" to convoys organized by the Office of the United Nations High Commissioner for Refugees, UNPROFOR troops would follow normal peacekeeping rules of engagement and would thus be authorized to use force in self-defence. The Secretary-General noted, however, that self-defence was "deemed to include situations in which armed persons attempt by force to prevent United Nations troops from carrying out their mandate" (S/24540, para. 9).

would provide UNPROFOR with the necessary tools to further its difficult mission in Bosnia and Herzegovina.³⁵⁸

However, individual Council members explained that, owing to the link established in that resolution with paragraph 2 of resolution 770 (1992), they were

not in a position to vote for the draft resolution.³⁵⁹ It was feared that linking the draft resolution with resolution 770 (1992) would change the non-mandatory nature of UNPROFOR as a United Nations peacekeeping operation, and that UNPROFOR would run the risk of plunging into armed conflict.³⁶⁰

³⁵⁸ S/PV.3114, pp. 12-13 (France); pp. 14-15 (Austria); p. 18 (United States); and p. 19 (Belgium).

³⁵⁹ See the statements made at the 3114th meeting by the representatives of China, India and Zimbabwe.

³⁶⁰ S/PV.3114, pp. 11-12 (China).

Part V Decisions and deliberations having relevance to Articles 43 to 47 of the Charter

Article 43

1. *All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.*

2. *Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.*

3. *The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory States in accordance with their respective constitutional processes.*

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. *There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.*

2. *The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the*

Committee's responsibilities requires the participation of that Member in its work.

3. *The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.*

4. *The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.*

Note

In its decisions adopted during the period under review, the Council did not explicitly refer to Articles 43 to 47. The Council did, however, adopt a decision referring to a potential role for the Military Staff Committee, in connection with measures aimed at the enforcement of sanctions imposed against Iraq.³⁶¹

The relevance of the provisions of Articles 43 to 47, in particular as they relate to the command and control of military forces acting pursuant to an authorization by the Security Council, was repeatedly discussed in the Council's deliberations, including in connection with the adoption of decisions relating to the situation between Iraq and Kuwait, the situation in Bosnia and Herzegovina and the situation in Somalia.

The significance of these provisions was also touched upon at the Council's summit meeting on 31 January 1992,³⁶² and in the Secretary-General's report entitled "An Agenda for Peace"³⁶³ submitted

³⁶¹ See resolution 665 (1990), para. 4.

³⁶² 3046th meeting, held at the level of Heads of State and Government, under the agenda item entitled "The responsibility of the Security Council in the maintenance of international peace and security". At that meeting, the President of France *inter alia* suggested an active role for the Military Staff Committee (S/PV.3046, p. 18). The Minister for Foreign Affairs of Zimbabwe expressed the view that future collective enforcement operations ought to be fully accountable to the Security Council and should be truly representative, which, in his view, could be achieved by strengthening Article 46 of the Charter (*ibid.*, pp. 126-127). For further details, see chapter VI of the present volume, which sets out details of the discussions relevant to the relationship between the Security Council and the Military Staff Committee.

³⁶³ S/24111, of 17 June 1992.

pursuant to the presidential statement³⁶⁴ adopted at the conclusion of that meeting. In his report, the Secretary-General expressed the view that the detailed approach governing the use of military force in Chapter VII of the Charter now merited the attention of all Member States. He felt that under the existing political circumstances, the long-standing obstacles to the conclusion of the special agreements foreseen in Article 43 should no longer prevail, and that, therefore, the Security Council, supported by the Military Staff Committee, should initiate negotiations in accordance with that Article.³⁶⁵ These suggestions were not, however, referred to by the Council in the presidential statements adopted following its consideration of the Secretary-General's report.³⁶⁶

The brief overview which follows gives details of the Council's pertinent decisions and deliberations in connection with the situation between Iraq and Kuwait, the situation in Bosnia and Herzegovina and the situation in Somalia.

A. Military enforcement action for the purpose of maintaining international peace and security

The situation between Iraq and Kuwait

Resolution 678 (1990),³⁶⁷ by which the Council authorized States cooperating with Kuwait "to use all necessary means" to ensure Iraq's compliance with its previous resolutions, required those States to keep the Council regularly informed on the progress of action undertaken pursuant to that authorization, but did not otherwise set out any details concerning the relationship between the Council and those States.³⁶⁸

³⁶⁴ S/23500.

³⁶⁵ S/24111, paras. 42-44.

³⁶⁶ Statements of 30 June 1992 (S/24210); 29 October 1992 (S/24728); 30 November 1992 (S/24872); and 30 December 1992 (S/25036).

³⁶⁷ Adopted at the 2963rd meeting, on 29 November 1990, by 12 votes to 2 (Cuba, Yemen), with 1 abstention (China).

³⁶⁸ See resolution 678 (1990), para. 4.

In the debates held in connection with the adoption of the resolution,³⁶⁹ some Council members criticized the resolution for not being based on any specific article of Chapter VII of the Charter, and expressed concern that the Council would have no control over the forces whose actions it had authorized.³⁷⁰ The representative of Iraq charged that the draft resolution was unlawful, as collective enforcement action could be taken only under the command and control of the Security Council, in coordination with the Military Staff Committee, as provided for in the Charter.³⁷¹

Some members also charged that the text of the resolution was so vague that it was not limited to the purpose of enforcing previous resolutions. They warned against the use of excessive force which might lead to the destruction of Iraq and to a military confrontation on a larger scale.³⁷²

Most speakers emphasized, however, that the objective of the proposed resolution was merely to enforce the implementation of previous resolutions.³⁷³

At debates held by the Council after the commencement of military operations against the Iraqi forces,³⁷⁴ several members and non-members of the Council asserted that the military operations undertaken against the Iraqi forces in implementation of resolution 678 (1990) were not being sufficiently monitored by the Council. A number of speakers deplored in particular the fact that, following the commencement of military operations, the Council had not met formally on this matter for several weeks, even

though many delegations had requested formal, open meetings to keep the situation under review.³⁷⁵

The representative of Iraq alleged that the United States and its allies were exceeding the objectives and limits of resolution 678 (1990) and violating the Charter and international humanitarian law, inter alia, by the intentional destruction of non-military targets.³⁷⁶ Several speakers expressed varying degrees of support for the Iraqi position,³⁷⁷ or more generally warned of an escalation of the military offensive that might go beyond its original objectives, and urged the allied forces to abide strictly by the humanitarian rules of war and international law.³⁷⁸

Other speakers, including in particular representatives of the sponsors of the resolution, maintained, however, that the authorization given by resolution 678 (1991) was sufficiently clear, and that the efforts of the coalition were being undertaken strictly in keeping with that resolution and the provisions of the Charter. In relation to complaints about insufficient monitoring by the Council, they emphasized that they had submitted frequent, full reports to the Council, as required under resolution 678 (1990).³⁷⁹ They asserted that the efforts of the allied forces were aimed at clear and limited objectives and

³⁶⁹ 2963rd meeting. The draft resolution (S/21969) was sponsored by Canada, France, Romania, the Union of Soviet Socialist Republics, the United Kingdom and the United States.

³⁷⁰ S/PV.2963, p. 33 (Yemen); p. 58 (Cuba); and p. 76 (Malaysia).

³⁷¹ S/PV.2963, pp. 19-21. The representative of Iraq reiterated the Iraqi position in this regard at the 2981st meeting (S/PV.2981, p. 22).

³⁷² See in particular the statements by the representative of Yemen (S/PV.2963, p. 33) and the Minister for Foreign Affairs of Malaysia (*ibid.*, pp. 76-77).

³⁷³ S/PV.2963, pp. 17-18 (Kuwait); p. 67 (France); p. 75 (Malaysia); pp. 84-85 (Finland); p. 87 (Côte d'Ivoire); p. 82 (United Kingdom); p. 91 (Soviet Union); and p. 103 (United States).

³⁷⁴ At the 2977th meeting, held from 13 February to 2 March 1991. Offensive combat operations commenced on 16 January and were suspended on 28 February 1991.

³⁷⁵ S/PV.2977 (Part I), pp. 49-51 (India); pp. 23-31 (Cuba); and p. 16 (Yemen); S/PV.2977 (Part II) (closed — resumption 1), pp. 171-172 (Malaysia); and pp. 189-190 (Islamic Republic of Iran).

³⁷⁶ S/PV.2977 (Part II) (closed), pp. 66-68; S/PV.2977 (Part II) (closed — resumption 2), pp. 278-281. At the 2981st meeting on 3 April 1991, i.e. following the suspension of offensive combat operations, the Iraqi representative reiterated those charges (S/PV.2981, pp. 22-31).

³⁷⁷ See the statements by the representatives of Malaysia (S/PV.2977 (Part II) (closed — resumption 1), pp. 171-172); the Sudan (S/PV.2977 (Part II) (closed — resumption 2), p. 216); the Islamic Republic of Iran (S/PV.2977 (Part II) (closed — resumption 1), p. 191); and Cuba (*ibid.*, p. 197).

³⁷⁸ S/PV.2977 (Part II) — (closed), p. 112 (Soviet Union); S/PV.2977 (Part II) (closed — resumption 2), p. 228 (Sweden).

³⁷⁹ United States: S/PV.2977 (Part I), pp. 46-47; United Kingdom: S/PV.2977 (Part II) (closed), p. 73; Canada: S/PV.2963, p. 73; Italy: S/PV.2977 (Part II) (closed — resumption 1), pp. 143-145. The representative of the United States also explained that the Council had not met earlier, as, in the light of Iraq's continuing refusal to acknowledge the validity of the Council's demands, an earlier meeting of the Council would not have helped to advance its objectives (S/PV.2977 (Part I), pp. 46-47).

fully in accordance with the relevant Council resolutions. They reaffirmed that those objectives did not include the destruction, dismemberment or occupation of Iraq, and that the allied forces aimed to minimize civilian casualties. It was noted that a limitation on the use of force would not facilitate the achievement of the objectives sought by all. Responding to suggestions that the fighting should be confined to the territory of occupied Kuwait, it was contended that such self-limitation would make it impossible to achieve the objectives of resolution 678 (1990), as the logistical support and resources of the Iraqi military extended far beyond the confines of Kuwait. That did not mean, however, that the allies had extended their objectives beyond those laid down in the pertinent Council resolutions, that is, Iraq's unconditional withdrawal from Kuwait and the re-establishment of Kuwait's sovereignty and independence.³⁸⁰

Following a declaration by the Iraqi leadership, on 15 February, which envisaged the possibility of an Iraqi withdrawal from Kuwait, several Member States expressed the view that offensive combat operations should be ceased or suspended forthwith,³⁸¹ or that at least options for a peaceful settlement of the conflict should be explored by the Council.³⁸² One Council member submitted two draft resolutions,³⁸³ the first of which envisaged the immediate resumption of negotiations without further resort to force, and the second of which envisaged that the Council "consider

possible formulae for halting armed actions and achieving a peaceful settlement of the conflict".³⁸⁴

Other speakers opposed a cessation or suspension of military action at this stage, arguing that such a move would be counterproductive. It was noted that a ceasefire without concrete steps by Iraq to withdraw from Kuwait would not accomplish the objectives of resolution 660 (1990) and not bring the aggression to a close. While the declaration by the Iraqi leadership did indeed envisage withdrawal from Kuwait, it had added conditions which contravened the provisions of resolution 660 (1990). For peace initiatives to succeed, a clear and unequivocal commitment from the Iraqi leadership was needed.³⁸⁵

As noted in the preamble to resolution 686 (1991), offensive combat operations were suspended following Iraq's confirmation, on 27 February 1991, of its agreement to comply fully with all previous Council resolutions, and its intention to immediately release prisoners of war.³⁸⁶

B. Measures necessary to ensure the strict implementation of decisions taken in accordance with Article 41

The situation between Iraq and Kuwait

By resolution 665 (1990),³⁸⁷ by which the Council authorized Member States cooperating with the Government of Kuwait to interdict maritime shipping in order to ensure compliance with the economic sanctions imposed by resolution 661 (1990), the Council requested the States concerned "to

³⁸⁰ United States: S/PV.2977 (Part I), p. 43; S/PV.2977 (Part II) (closed — resumption 1), p. 187; S/PV.2977 (Part II) (closed — resumption 2), pp. 267-268; United Kingdom: S/PV.2977 (Part II) (closed), pp. 73-76; S/PV.2977 (Part II) (closed), pp. 73-76; S/PV.2977 (Part II) (closed — resumption 2), p. 262; Australia: S/PV.2977 (Part II) (closed — resumption 1), p. 147; Kuwait: S/PV.2977 (Part II) (closed), p. 23.

³⁸¹ India: S/PV.2977 (Part II) (closed — resumption 1), p. 121; Pakistan: S/PV.2977 (Part II) (closed — resumption 2), p. 211; Sudan: S/PV.2977 (Part II) (closed — resumption 2), p. 216; Yemen: S/PV.2977 (Part II) (closed — resumption 2), p. 286.

³⁸² Islamic Republic of Iran: S/PV.2977 (Part II) (closed — resumption 1), pp. 192-193; Malaysia: S/PV.2977 (Part II) (closed — resumption 1), pp. 168-170; Sweden: S/PV.2977 (Part II) (closed — resumption 2), pp. 227-228.

³⁸³ S/22231 and S/22232.

³⁸⁴ The draft resolutions were submitted at the 2977th meeting, on 15 and 16 February 1991 respectively. See S/PV.2977 (Part II) (closed — resumption 1) and S/PV.2977 (Part II) (closed — resumption 2).

³⁸⁵ Kuwait: S/PV.2977 (Part II) (closed), p. 22; S/PV.2977 (Part II) (closed — resumption 2), pp. 236-237; Saudi Arabia: S/PV.2977 (Part II) (closed — resumption 2), pp. 232-235; United States: S/PV.2977 (Part II) (closed — resumption 2), pp. 264-265; United Kingdom: S/PV.2977 (Part II) (closed — resumption 2), pp. 257 and 261; France: S/PV.2977 (Part II) (closed — resumption 1), pp. 123-125; Japan: *ibid.*, p. 132; Canada: *ibid.*, pp. 137-140.

³⁸⁶ See resolution 686 (1991), fourth and fifth preambular paras.

³⁸⁷ Adopted at the 2938th meeting, on 25 August 1990, by 13 votes to none, with 2 abstentions (Cuba, Yemen).

coordinate their actions ... using, as appropriate, mechanisms of the Military Staff Committee and, after consultation with the Secretary-General, to submit reports to the Security Council and the Security Council Committee established by resolution 661 (1990) ... in order to facilitate the monitoring of the implementation of the present resolution”.³⁸⁸

During the debate held in connection with the adoption of the resolution,³⁸⁹ its sponsors expressly acknowledged the importance of the Council’s role in monitoring the use of force,³⁹⁰ and indicated their readiness to consider a role for the Military Staff Committee in coordinating the naval interdiction.³⁹¹

Some Council members criticized the proposed resolution as not clearly defining the powers of the Security Council to supervise any action taken by States.³⁹² One Council member contended that the draft resolution violated provisions of the Charter relating to the use of force, including Articles 46 and 47, as it did not make States accountable to the Security Council for the proper exercise of the

authority delegated to them, and as it did not set out how the Military Staff Committee was to assist the Council in the “employment and command of forces placed at its disposal”, as required by Article 47. It was noted that, although there was a reference to the Military Staff Committee in the draft resolution, the Committee had not been convened to draw up any plan for the deployment of forces.³⁹³

*Items relating to the situation in the former Yugoslavia (the situation in Bosnia and Herzegovina)*³⁹⁴

Resolution 787 (1992),³⁹⁵ by which the Council, inter alia, called upon States to interdict maritime shipping in order to ensure compliance with the sanctions imposed by resolutions 713 (1991) and 757 (1992), provided that such action was to be taken “under the authority of the Security Council”. The resolution also required States concerned “to coordinate with the Secretary-General on the submission of reports to the Security Council” regarding actions taken pursuant to that authorization.³⁹⁶

During the debate held in connection with the adoption of the resolution,³⁹⁷ one Council member expressed concern that the Security Council and the United Nations as a whole should retain full authority and responsibility over the execution of enforcement action authorized by the Council, but noted that the cooperation of the sponsors in amending the resolution to provide for effective coordination, through the Secretary-General, of the actions that Member States

³⁸⁸ See resolution 665 (1990), para. 4.

³⁸⁹ The draft resolution (S/21640) was sponsored by Canada, Côte d’Ivoire, Finland, France, the United Kingdom, the United States and Zaire.

³⁹⁰ See for example the statement by the representative of France, who believed that “in each case, the use of coercion [would] require notification of the Security Council” (S/PV.2938, p. 32). The representative of Finland stated that any action by the naval forces concerned would require close attention in order to ensure that such action served the purposes intended by the Security Council (ibid., p. 47).

³⁹¹ See the statements by the representatives of the United States (S/PV.2938, pp. 29-30) and the Soviet Union (ibid., pp. 41 and 43). At an earlier meeting in relation to the same item, the representative of the Soviet Union had already expressed his delegation’s readiness “to undertake consultations immediately in the Military Staff Committee, which, under the Charter of the United Nations, can perform very important functions” (S/PV.2934, p. 12).

³⁹² S/PV.2938, pp. 8-11 (Yemen); pp. 13-16 (Cuba); and pp. 21-25 (Colombia). See also the statement by the representative of Iraq, who asserted that resolution 665 (1990) vested no real authority in the Security Council, the Military Staff Committee or the Secretary-General in supervising the use of force. He contended that the Council had “no right to deprive itself of its own authority, or to delegate that authority to a number of States, unless the Charter [was] properly amended” (ibid., pp. 67-71).

³⁹³ S/PV.2938, pp. 12-17 (Cuba). See also the statement made by the representative of Iraq at the same meeting (S/PV.2938, pp. 67-70).

³⁹⁴ The reference to “Yugoslavia” is intended to relate to both the Socialist Federal Republic of Yugoslavia and the Federal Republic of Yugoslavia (Serbia and Montenegro), as resolution 713 (1991) was imposed against the former and resolution 757 (1992) against the latter.

³⁹⁵ Adopted at the 3137th meeting, on 16 November 1992, by 13 votes to none, with 2 abstentions (China, Zimbabwe).

³⁹⁶ See resolution 787 (1992), paras. 12 and 14.

³⁹⁷ The draft resolution (S/24808/Rev.1) was sponsored by Belgium, France, the Russian Federation, the United Kingdom and the United States.

might take had met this concern to a considerable extent.³⁹⁸

C. Decisions authorizing the use of all measures necessary to facilitate the delivery of humanitarian assistance

Items relating to the situation in the former Yugoslavia (the situation in Bosnia and Herzegovina)

Resolution 770 (1992),³⁹⁹ by which the Council called upon States to take all measures necessary to facilitate the delivery of humanitarian assistance to Bosnia and Herzegovina, required those States to take such action “in coordination with the United Nations”, and to report to the Secretary-General on measures they were taking in coordination with the United Nations to carry out the resolution; and furthermore required the Secretary-General to report to the Council on a regular basis on the implementation of the resolution.⁴⁰⁰

While the sponsors of the resolution⁴⁰¹ emphasized that, in accordance with those provisions, all action taken under it would be closely coordinated with the United Nations,⁴⁰² two Council members, who did not oppose the purposes of the resolution in principle, nevertheless abstained from voting on it, as they felt it would be imperative that an operation that could involve the use of force should be under the command and control of the United Nations, in strict conformity with the provisions of the Charter.⁴⁰³

³⁹⁸ See the statement by the representative of India (S/PV.3137, p. 6). China and Zimbabwe abstained from voting on the resolution as they generally opposed the measures authorized by it.

³⁹⁹ Adopted at the 3106th meeting, on 13 August 1992, by 12 votes to none, with 3 abstentions (China, India, Zimbabwe).

⁴⁰⁰ Resolution 770 (1992), paras. 2, 4 and 7.

⁴⁰¹ The draft resolution (S/24421) was sponsored by Belgium, France, the Russian Federation, the United Kingdom and the United States.

⁴⁰² S/PV.3106, p. 35 (United Kingdom); p. 40 (United States); p. 45 (Belgium); and p. 47 (France).

⁴⁰³ S/PV.3106, pp. 11-12 (India); and pp. 16-17 (Zimbabwe). China also abstained from voting on the resolution as it generally opposed the authorization of the use of force (*ibid.*, p. 50). The representatives of India and Zimbabwe reiterated their reservations in this

The situation in Somalia

By resolution 794 (1992),⁴⁰⁴ by which the Council authorized the Secretary-General and Member States cooperating “to use all necessary means to establish as soon as possible a secure environment for humanitarian relief operations in Somalia”, the Council authorized “the Secretary-General and Member States concerned to make the necessary arrangements for the unified command and control of the forces involved”.⁴⁰⁵ The Council furthermore provided that the arrangements for the unified command and control of the forces would reflect the offer by the United States to take the lead in organizing and commanding such an operation.⁴⁰⁶ By the same resolution, the Council requested the Secretary-General and, as appropriate, the States concerned to report to the Council on a regular basis, the first such report to be made no later than 15 days after the adoption of the resolution, on the implementation of the resolution and the attainment of the objective of establishing a secure environment so as to enable the Council to make the necessary decision for a prompt transition to continued peacekeeping operations.⁴⁰⁷

regard at the 3114th meeting, in connection with the adoption of resolution 776 (1992), which incorporated the authorization given by resolution 770 (1992) in the mandate of UNPROFOR; S/PV.3114, pp. 6-8 (India); and pp. 3-4 (Zimbabwe).

⁴⁰⁴ Adopted at the 3145th meeting, on 3 December 1992.

⁴⁰⁵ See resolution 794 (1992), para. 12. The decision to take action under Chapter VII was made, as noted in paragraph 7 of the resolution, pursuant to a recommendation by the Secretary-General in his letter of 29 November 1992 (S/24868). In that letter, the Secretary-General had proposed to the Council a number of options for the establishment of a secure environment for humanitarian relief operations. One of those options (the fifth option) was for the Council to mandate an “enforcement operation” under United Nations command and control.

⁴⁰⁶ See resolution 794 (1992), para. 12, which referred to an offer by the United States described in the Secretary-General’s letter of 29 November 1992. According to the letter, the United States had informed the Secretary-General that “if the Security Council were to decide to authorize Member States to use forceful means to ensure the delivery of relief supplies to the people of Somalia, the United States would be ready to take the lead in organizing and commanding such an operation, in which a number of other Member States would also participate” (see S/24868).

⁴⁰⁷ See resolution 794 (1992), para. 18.

At the debate held in connection with the adoption of the resolution,⁴⁰⁸ a number of speakers emphasized that the operational concept underlying the resolution recognized the fundamental role of the United Nations in scrutinizing the operation, as the Security Council and the Secretary-General would play an essential role throughout its duration.⁴⁰⁹

However, several other speakers, while acknowledging that the resolution incorporated

opinions expressed by many delegations regarding the strengthening of United Nations control over such an operation, noted that they would have preferred an arrangement under which the United Nations kept effective political command and control, in full conformity with the provisions of the Charter. Even though some provisions for United Nations monitoring had been made, the resolution still took the form of authorizing certain countries to take military actions, which might adversely affect the collective role of the United Nations.⁴¹⁰

⁴⁰⁸ The draft resolution (S/24880) had been prepared in the course of the Council's prior consultations.

⁴⁰⁹ S/PV.3145, p. 29 (France); pp. 13-14 (Ecuador); p. 7 (Zimbabwe); and p. 48 (Hungary).

⁴¹⁰ S/PV.3145, p. 17 (China); pp. 50-51 (India); and p. 24 (Belgium).

Part VI

Obligations of Member States under Article 48 of the Charter

Article 48

1. *The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.*

2. *Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.*

Note

During the period under review, the Council adopted one decision referring expressly to Article 48. By resolution 670 (1990), which was aimed at strengthening the sanctions regime imposed on Iraq and Kuwait, the Council expressed its determination "to ensure respect for its decisions and the provisions of Articles 25 and 48 of the Charter".⁴¹¹ By that resolution, the Council further affirmed that any acts of the Government of Iraq which were contrary to Articles 25 or 48 of the Charter were null and void.⁴¹²

In other resolutions, the Council underlined the mandatory nature of measures imposed under Chapter VII of the Charter without specifically referring to Article 48. When imposing sanctions on Iraq and Kuwait, the Libyan Arab Jamahiriya and the Federal Republic of Yugoslavia, the Council in each case expressly stated in its decisions that States were to act strictly in accordance with the provisions of the resolutions, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before the date of the resolution.⁴¹³ By the same decisions, the Council required States to report on their compliance with

present resolution by a State or its nationals or through its territory, measures directed at the State in question to prevent such evasion (para. 12).

⁴¹³ In connection with the measures imposed against Iraq and Kuwait, see resolutions 661 (1990), para. 5; 670 (1990), para. 3; and 687 (1991), para. 25. In connection with the measures imposed on the Libyan Arab Jamahiriya, see resolution 748 (1992), para. 7. In connection with the measures imposed on the Federal Republic of Yugoslavia, see resolution 757 (1992), para. 11.

⁴¹¹ See resolution 670 (1990), seventh preambular para.

⁴¹² *Ibid.*, eighth preambular para. By the same resolution, the Council decided to consider, in the event of evasion of the provisions of resolution 661 (1990) or of the

relevant prohibitions,⁴¹⁴ and provided that implementation reports received by States were to be examined by committees specifically mandated to monitor the implementation of sanctions, and to consider any information concerning violations of relevant State obligations.⁴¹⁵ In order to ensure full compliance with relevant prohibitions, the Council, by subsequent decisions, called on States to take “such measures commensurate with the specific circumstances as may be necessary” to enforce the sanctions regimes imposed on Iraq and Kuwait and the Federal Republic of Yugoslavia.⁴¹⁶

In accordance with Article 48, action required to carry out the Council’s decisions “shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine”, both

“directly and through their action in the appropriate international agencies”.

In its decisions imposing measures not involving the use of armed force, in accordance with the provisions of Article 41 of the Charter, the Council consistently called upon “all States” to comply with relevant prohibitions.⁴¹⁷ In connection with the measures imposed on Iraq and Kuwait, the Libyan Arab Jamahiriya and the Federal Republic of Yugoslavia, the Council expressly included “States non-members of the United Nations” among those to whom its decisions were addressed,⁴¹⁸ and also required international organizations to act strictly in accordance with their provisions.⁴¹⁹

While the decisions referred to above were formulated so as to achieve universal compliance and to create binding obligations for all States, decisions

⁴¹⁴ In connection with the arms embargo imposed against the former Yugoslavia, the Council, by resolution 724 (1991), para. 5, requested all States to report to the Council within 20 days on the measures they had instituted for meeting their obligations. In connection with the sanctions regime imposed on the Federal Republic of Yugoslavia (Serbia and Montenegro), the Council, by resolution 757 (1992), para. 12, requested all States to report to the Secretary-General within 23 days on the measures they had taken. In connection with sanctions imposed on Iraq and Kuwait, the Council, by resolution 700 (1991), para. 4, requested all States to report to the Secretary-General within 45 days on their compliance with the prohibitions set out in resolution 687 (1991). In connection with the measures imposed against the Libyan Arab Jamahiriya, the Council, by resolution 748 (1992), para. 8, requested all States to report to the Secretary-General within 45 days on their compliance with that resolution.

⁴¹⁵ In connection with the measures imposed on Iraq and Kuwait, see resolutions 661 (1990), para. 6 (b); and 700 (1991), para. 4. In connection with the measures imposed on the Libyan Arab Jamahiriya, see resolution 748 (1992), para. 9. In connection with the measures imposed on the Federal Republic of Yugoslavia, see resolution 757 (1992), para. 13. Attention is also drawn to resolution 751 (1992), para. 11, providing for the establishment of a sanctions committee to monitor the implementation of the arms embargo imposed on Somalia by resolution 733 (1992).

⁴¹⁶ See resolutions 665 (1990), para. 1; and 787 (1992), para. 12, relating to the enforcement of sanctions imposed on Kuwait and Iraq and the Federal Republic of Yugoslavia respectively. By resolution 794 (1992), para. 16, the Council also called on States to take measures necessary to enforce the arms embargo imposed on Somalia.

⁴¹⁷ In connection with the situation between Iraq and Kuwait, see resolutions 661 (1990), paras. 3-4; 670 (1990), paras. 1-6; and 687 (1991), paras. 24 and 29. In connection with items relating to the situation in the former Yugoslavia and in Bosnia and Herzegovina, see resolutions 713 (1991), para. 6; and 757 (1992), paras. 3-9. In connection with the situation in Somalia, see resolution 733 (1992), para. 5. In connection with items relating to the Libyan Arab Jamahiriya, see resolution 748 (1992), paras. 3-6. In connection with the situation in Liberia, see resolution 788 (1992), para. 8.

⁴¹⁸ See resolutions 661 (1990), para. 5; 748 (1992), para. 7; and 757 (1992), para. 11, calling on “all States, including States non-members of the United Nations” to act strictly in accordance with the provisions of those resolutions.

⁴¹⁹ In connection with the measures imposed on Iraq and Kuwait, see resolution 670 (1990), para. 11, by which the Council affirmed that the United Nations, the specialized agencies and other organizations in the United Nations system were required to take such measures as may be necessary to give effect to the terms of resolution 661 (1990) and that resolution. In resolutions 687 (1991), para. 25, and 700 (1991), para. 3, the Council more generally called on “all States and international organizations” to act in accordance with their provisions. In connection with the measures imposed on the Libyan Arab Jamahiriya and the Federal Republic of Yugoslavia, see resolutions 748 (1992), para. 7, and 757 (1992), para. 11, respectively, both of which require all States and international organizations to act strictly in accordance with their provisions.

providing for the use of “all measures necessary”⁴²⁰ to enforce previous resolutions of the Council rather took the form of authorizations or calls on States willing and in a position to take such action. While such authorizations or calls were often addressed to “States” in general,⁴²¹ in some instances they were more specifically addressed to “Member States cooperating”⁴²² or “Member States in a position to do

so”.⁴²³ However, one decision, adopted in connection with the implementation of sanctions imposed on the Federal Republic of Yugoslavia, explicitly affirmed the responsibility of “riparian States” to take all necessary measures to ensure that shipping on the Danube did not infringe the prohibitions previously imposed by the Council.⁴²⁴ Some of the decisions authorizing the use of all necessary measures expressly envisaged possible action through regional agencies or arrangements.⁴²⁵

⁴²⁰ “All measures necessary” was the precise wording used in resolution 770 (1992), para. 2. In resolutions 665 (1990), para. 1; 787 (1992), para. 12; and 794 (1992), para. 16, reference was made to “such measures (commensurate to the specific circumstances) as may be necessary”, and in resolutions 678 (1991), para. 2; and 794 (1992), para. 10, to “all necessary means”.

⁴²¹ See resolutions 770 (1992), para. 2; 787 (1992), para. 12; and 794 (1992), para. 16.

⁴²² By resolution 665 (1990), para. 1, the Council specifically called on “those Member States cooperating with the Government of Kuwait which are deploying maritime forces to the area” to take measures necessary to ensure the strict implementation of the measures imposed by resolution 661 (1990). By resolution 678 (1990), para. 2, the Council authorized “Member States cooperating with the Government of Kuwait” to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions. By resolution 794 (1992), para. 10, the Council authorized “Member States cooperating” to implement an offer by the United States to establish an operation to create a secure environment for the delivery of humanitarian relief supplies in Somalia.

⁴²³ By resolution 794 (1992), para. 11, the Council called on all Member States in a position to do so to provide military forces and make other contributions to an operation aimed at creating a secure environment for the delivery of humanitarian relief supplies in Somalia.

⁴²⁴ See resolution 787 (1992), para. 13.

⁴²⁵ By resolution 770 (1992), para. 2, the Council called upon States to take nationally or through regional agencies or arrangements all measures necessary to facilitate the delivery of humanitarian assistance to Bosnia and Herzegovina. By resolution 787 (1992), para. 12, the Council called upon States, acting nationally or through regional agencies or arrangements, to use such measures commensurate with the specific circumstances as might be necessary to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions of resolutions 713 (1991) and 757 (1992). By resolution 794 (1992), para. 16, the Council called upon States, nationally or through regional agencies or arrangements, to use such measures as might be necessary to ensure strict implementation of the arms embargo imposed on Somalia by resolution 733 (1992). In all of those decisions the Council indicated that it was acting under both Chapters VII and VIII of the Charter.

Part VII

Obligations of Member States under Article 49 of the Charter

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Note

During the period under review, the obligation of States to join in affording mutual assistance assumed specific relevance in connection with decisions under

Chapter VII of the Charter by which the Security Council authorized or called on Member States to take all measures necessary to enforce the Council’s resolutions. While such authorizations or calls were primarily addressed to States willing and in a position to take relevant enforcement action, the Council regularly requested all States to provide appropriate support and assistance to those States. Such requests were made by the decisions described below. The Council did not adopt any resolutions containing an explicit reference to Article 49.

By resolution 665 (1990),⁴²⁶ in which the Council called on Member States cooperating with the Government of Kuwait to use such measures as may be necessary to ensure implementation of resolution 661 (1990),⁴²⁷ the Council requested all States to provide, in accordance with the Charter of the United Nations, such assistance as might be required by the States concerned.⁴²⁸

By resolution 678 (1990),⁴²⁹ by which the Council authorized⁴³⁰ Member States cooperating with the Government of Kuwait to use all necessary means to uphold and implement resolution 660 (1990) and subsequent relevant resolutions,⁴³¹ the Council requested all States to provide appropriate support for the actions undertaken in pursuance of that authorization.⁴³²

By resolution 787 (1992), by which the Council called on States to take action under Chapter VII of the Charter to ensure strict implementation of resolutions 713 (1991) and 757 (1992),⁴³³ the Council requested

all States to provide such assistance as might be required by those States.⁴³⁴

By resolution 794 (1992),⁴³⁵ by which the Council authorized action under Chapter VII of the Charter to establish a secure environment for a humanitarian relief operation in Somalia, and called on Member States in a position to do so to provide military forces or make other contributions,⁴³⁶ the Council requested all States, in particular those in the region, to provide appropriate support for the actions undertaken by those States.⁴³⁷

In addition to the above provisions relating to the obligation of States to afford mutual assistance in connection with action involving the use of “all measures necessary”, States were reminded of their obligations under Article 49 in connection with the implementation of economic sanctions. In particular, in a statement by the President of the Council on 29 April 1991,⁴³⁸ the Council members appealed to all States to provide assistance to those States facing special economic problems as a result of their compliance with the sanctions imposed on Iraq and Kuwait by resolution 661 (1990).⁴³⁹

⁴²⁶ Adopted at the 2938th meeting, on 25 August 1990, by 13 votes to none, with 2 abstentions (Cuba, Yemen).

⁴²⁷ Resolution 661 (1990), by which the Council imposed sanctions on Iraq, was adopted at the 2933rd meeting, on 6 August 1990, by 13 votes to none, with 2 abstentions (Cuba, Yemen).

⁴²⁸ See resolution 665 (1990), para. 3.

⁴²⁹ Adopted at the 2963rd meeting, on 29 November 1990, by 12 votes to 2 (Cuba, Yemen), with 1 abstention (China).

⁴³⁰ See resolution 678 (1990), para. 2.

⁴³¹ See resolution 660 (1990), adopted at the 2932nd meeting, on 2 August 1990, by 14 votes to none, with 1 abstention member (Yemen).

⁴³² See resolution 678 (1990), para. 3.

⁴³³ See resolution 787 (1992), para. 12; 678 (1990), para. 3. Contributions were to be made in cash or in kind. Cash contributions were to be channelled to the States or operations concerned through a fund to be established by the Secretary-General.

⁴³⁴ See resolution 787 (1992), para. 15.

⁴³⁵ Adopted unanimously at the 3145th meeting, on 3 December 1992.

⁴³⁶ See resolution 794 (1992), para. 11.

⁴³⁷ *Ibid.*, para. 17.

⁴³⁸ S/22548.

⁴³⁹ For further details of decisions and deliberations relating to special economic problems arising from enforcement measures, see part VIII of the present chapter, on the Council's practice relating to Article 50.

Part VIII

Special economic problems of the nature described in Article 50 of the Charter

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Note

During the period under review, the Security Council expressly recalled the rights of States under Article 50 of the Charter in three of its decisions, adopted in connection with the imposition of sanctions on Iraq and Kuwait, the Libyan Arab Jamahiriya and the Federal Republic of Yugoslavia (Serbia and Montenegro).⁴⁴⁰

In connection with the implementation of measures imposed on Iraq and Kuwait⁴⁴¹ and the Federal Republic of Yugoslavia,⁴⁴² a number of Member States were confronted with special economic problems, and requested consultations and assistance in accordance with Article 50.⁴⁴³ Those requests were examined by the relevant sanctions committees, which transmitted their observations and recommendations to the Security Council.⁴⁴⁴

⁴⁴⁰ See resolutions 669 (1990), 748 (1992) and 757 (1992).

⁴⁴¹ See resolution 661 (1990), paras. 2-4. For subsequent modifications to the measures imposed by that resolution, see resolutions 666 (1990), para. 1; 670 (1990), paras. 3-6; 687 (1991), paras. 20, 24 and 29; and 778 (1992), paras. 1-2, 4. For further details, see part III of the present chapter.

⁴⁴² See resolution 757 (1992), paras 3-9. For subsequent modifications of the measures imposed by that resolution, see resolutions 760 (1992) and 787 (1992), paras. 9-10. For further details, see part III of the present chapter.

⁴⁴³ For details of relevant communications from affected States, see the case studies below.

⁴⁴⁴ For details of such recommendations, see in particular the report dated 18 September 1990 (S/21786) and the letters dated 19 and 21 December 1990 and 18 March 1991 (S/22021, Add.1 and 2), submitted to the Council

In response to a recommendation by the Iraq/Kuwait sanctions Committee, the Council called on all States, United Nations organizations and financial organizations to respond effectively to the problems of the most affected States.⁴⁴⁵

Questions relating to the application and interpretation of Article 50 were also considered at the 3046th meeting of the Council, which was held at the level of Heads of State and Government to consider the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”,⁴⁴⁶ and in the report of the Secretary-General entitled “An Agenda for Peace”,⁴⁴⁷ submitted pursuant

by the Iraq/Kuwait sanctions Committee.

⁴⁴⁵ See the statement by the President of the Council dated 29 April 1991 (S/22548).

⁴⁴⁶ At that meeting, the need to address economic problems arising in third countries was stressed in particular by the Prime Minister of India and the Minister for Foreign Affairs of Zimbabwe. The Prime Minister of India observed that, while some consequences of Council decisions might be unintended, they could affect those whom they were least intended to affect, such as the trading partners of a State subject to economic sanctions. Noting that, for developing countries, that impact could be catastrophic, the Prime Minister stressed that the Council needed to take speedy and parallel action to address problems arising in a third country from the implementation of its resolutions, if the Council’s decisions were to continue to command adherence and support (S/PV.3046, pp. 97-98). The Minister for Foreign Affairs of Zimbabwe remarked that, “although Article 50 was designed to give some protection to [third] States, the experience of the Gulf war had shown that some gaps need[ed] to be closed”. Noting that “the application of sanctions against Iraq [had] brought hardship to many countries in the region and beyond”, he contended that “the fact that representations continue[d] to come to the sanctions Committee from the most affected States ... demonstrated the inadequacy of Article 50”. He further observed that there was a need for “clear criteria for determining who deserved assistance and standing United Nations arrangements for the mobilization of the resources needed to assist the affected States” (ibid., pp. 123-125).

⁴⁴⁷ S/24111, para. 41.

to a request made by the Council at that meeting.⁴⁴⁸ In his report, the Secretary-General observed that it was important “that States confronted with special economic problems not only have the right to consult the Security Council regarding such problems, as Article 50 provides, but also have a realistic possibility of having their difficulties addressed”. Accordingly, the Secretary-General recommended “that the Security Council devise a set of measures involving the financial institutions and other components of the United Nations system that can be put in place to insulate States from such difficulties”, noting that such measures would be “a matter of equity and a means of encouraging States to cooperate with decisions of the Council”.⁴⁴⁹

In a statement made by the President,⁴⁵⁰ the Council expressed its determination to further consider the above-mentioned recommendation of the Secretary-General, and requested the Secretary-General in this regard to consult the heads of the international financial institutions, other components of the United Nations system and Member States.

⁴⁴⁸ In a presidential statement issued at the conclusion of the summit meeting on 31 January 1992 (S/23500), the Council had invited the Secretary-General to “report on ways of strengthening and making more efficient within the framework and provisions of the Charter the capacity of the United Nations for preventive diplomacy, for peacemaking and for peacekeeping”.

⁴⁴⁹ Prior to the submission of the report, by a letter to the Secretary-General dated 26 May 1992, a number of Member States had expressed concern that there was “no machinery guaranteeing an adequate response to requests for assistance under Article 50 of the Charter”. Accordingly it was felt that “such machinery should be set up in order to compensate for secondary effects on third States of sanctions imposed under Chapter VII of the Charter” (see S/24025 and Corr.1, annex, para. 15).

⁴⁵⁰ At the 3154th meeting, on 30 December 1992 (S/25036).

Decisions of the Security Council relating to Article 50

The following case studies set out an overview of the Council’s proceedings relevant to Article 50 of the Charter in connection with the measures imposed against Iraq and Kuwait, the Libyan Arab Jamahiriya and the Federal Republic of Yugoslavia.

Case 20

The situation between Iraq and Kuwait (in connection with the implementation of measures imposed by resolution 661 (1990))

Shortly after the adoption of resolution 661 (1990), by which the Council, imposed a general ban on all international trade with Iraq and Kuwait,⁴⁵¹ several Member States, in accordance with Article 50 of the Charter, informed the Council of the economic problems with which they were confronted as a consequence of complying with those measures, and requested consultations with a view to finding an appropriate solution.⁴⁵²

On 22 August 1990, the Council entrusted the Committee established under resolution 661 (1990) with the task of considering communications received from States confronted with such problems.⁴⁵³

⁴⁵¹ See resolution 661 (1990), paras. 2-4. For subsequent modifications to the measures imposed by that resolution, see resolutions 666 (1990), para. 1; 670 (1990), paras. 3-6; 687 (1991), paras. 20, 24 and 29; and 778 (1992), paras. 1-2, 4. For further details, see part III of the present chapter.

⁴⁵² See in particular the communication transmitted by Jordan on 20 August 1990 (S/21620).

⁴⁵³ The Committee was entrusted with this task at the Council’s consultations of the whole held on that day: see the Committee’s report dated 18 September 1992 (S/21786, para. 2). At the 2939th meeting, on 13 September 1990, a number of speakers expressed the hope that the Council would address more effectively the economic problems encountered by third States, in particular the unique economic difficulties faced by Jordan: see S/PV.2939, p. 13 (Yemen); pp. 23-30 (Cuba); p. 59 (Malaysia); p. 63 (Romania); and pp. 68-70 (Colombia). See also the statements made by France (*ibid.*, p. 51) and the United Kingdom (*ibid.*, p. 58). Other speakers emphasized, however, that these problems could be best overcome through the liberation of Kuwait: S/PV.2939, p. 72 (Soviet Union); and p. 81 (Kuwait).

The Committee transmitted to the Council a report concerning the need to address the unique economic difficulties faced by Jordan, and the problems resulting from the influx of refugees and displaced persons into its territory.⁴⁵⁴ According to the Committee's recommendations, the Secretary-General was to undertake, in cooperation with the Government of Jordan, a full assessment of the situation, with suggestions for appropriate remedies, including especially the supply of petroleum and its derivatives.⁴⁵⁵

By a letter dated 24 September 1990,⁴⁵⁶ the President of the Security Council requested the Secretary-General to implement the Committee's recommendations.

On the same day, the Council, by resolution 669 (1990), noted the fact that an increasing number of requests for assistance under Article 50 of the Charter had been received, and requested the Committee to examine those requests and make recommendations to the President of the Security Council for appropriate action.⁴⁵⁷

The Committee transmitted such recommendations by letters dated 19 and 21 December 1990 and 18 March 1991.⁴⁵⁸ In those letters, the

Committee recognized that the States concerned urgently required assistance in coping with the special economic problems resulting from their compliance with the measures imposed by resolution 661 (1990), and called on all States, the competent organs and specialized agencies of the United Nations system, as well as the international financial institutions and the regional development banks, to provide the affected States with such assistance.

By letters dated 21 December 1990 and 21 March 1991,⁴⁵⁹ the President of the Council requested the Secretary-General to implement the Committee's recommendations.

1990 (S/22021) related to requests received from Bulgaria, Tunisia, Romania, India, Yugoslavia, Lebanon and the Philippines. The letter dated 21 December 1990 (S/22021/Add.1) related to requests received from Sri Lanka, Yemen, Czechoslovakia, Poland, Mauritania, Pakistan, the Sudan, Uruguay, Viet Nam, Bangladesh and the Seychelles. The letter dated 18 March 1991 (S/22021/Add.2) related to requests received from the Syrian Arab Republic and Djibouti. For details of communications from affected States, see the following documents: Bangladesh: S/21856 (9 October 1990); Bulgaria: S/21477, S/21573, S/21576 and S/21741 (9 August, 21 August and 11 September 1990); Czechoslovakia: S/21750, S/21837 and S/22019 (13 September, 2 October and 19 December 1990); Djibouti: S/22209 (8 February 1991); India: S/21711 and S/22013 (5 September and 19 December 1990); Jordan: S/21620 (20 August 1990); Lebanon: S/21686 and S/21737 (31 August and 10 September 1990); Mauritania: S/21789 and S/21818 (18 and 24 September 1990); Pakistan: S/21776 and S/21875 (14 September and 12 October 1990); Philippines: S/21712 and S/22011 (5 September and 18 December 1990); Poland: S/21808 (21 September 1990); Romania: S/21643 and S/21990 (27 August and 7 December 1990); Seychelles: S/21891 and S/22023 (19 October and 20 December 1990); Sri Lanka: S/21627, S/21710 and S/21984 (24 August, 5 September and 6 December 1990); Sudan: S/21695 and S/21930 (4 September 1990 and 6 November 1990); Syrian Arab Republic: S/22193 (31 January 1991); Tunisia: S/21649 and S/22015 (24 August and 19 December 1990); Uruguay: S/21775 and S/22026 (13 September and 20 December 1990); Viet Nam: S/21821 and S/22004 (25 September and 15 December 1990); Yemen: S/21615 and S/21748 (23 August and 12 September 1990); Yugoslavia: S/21618, S/21642 and S/22014 (23 August, 24 August and 19 December 1990).⁴⁵⁹ S/22033 and S/22398. These letters followed the model of the President's letter dated 24 September 1990 (S/21826).

⁴⁵⁴ S/21786 dated 18 September 1990.

⁴⁵⁵ The Committee had furthermore recommended that the Secretary-General develop methods for receiving information from States about action being taken to alleviate Jordan's situation, and to appoint a Special Representative to coordinate the assistance being given to Jordan. In its report, the Committee had also appealed to all States to provide immediate technical, financial and material assistance to Jordan to mitigate the consequences of the difficulties it was facing. In addition, it had called upon the agencies, organs and bodies of the United Nations system to intensify their programmes of assistance in response to the pressing needs of Jordan.

⁴⁵⁶ S/21826.

⁴⁵⁷ Resolution 669 (1990), adopted unanimously at the 2942nd meeting, on 24 September 1990, dealt exclusively with this matter. At a Council meeting held on the following day, at which 13 Council members were represented by their Ministers for Foreign Affairs, a number of speakers touched upon the Council's responsibility under Article 50: see S/PV.2943, p. 7 (Secretary-General); pp. 21-22 (Cuba); p. 31 (United States); p. 37 (Canada); p. 51 (China); p. 62 (Malaysia); and pp. 71-72 (Romania).

⁴⁵⁸ S/22021 and Add.1 and 2. The letter dated 19 December

Following a further collective appeal from affected Member States on 22 March 1991,⁴⁶⁰ the members of the Council, in a statement by the President of the Council,⁴⁶¹ took note of efforts undertaken by United Nations bodies,⁴⁶² several Member States⁴⁶³ and international financial institutions⁴⁶⁴ to respond effectively to the needs of the most affected States, invited other Member States and international organizations to provide information on the measures they had taken, and appealed for a

positive and speedy response, in accordance with the recommendations of the Committee.

Resolution 674 (1990)⁴⁶⁵ is relevant in this context. The Council reminded Iraq that under international law it was liable for any loss, damage or injury arising in regard to Kuwait and third States, and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq.⁴⁶⁶ Resolutions 687 (1991) and 692 (1991), of 3 April 1991 and 20 May 1991 respectively, by which the Council decided to create a fund and a commission to compensate claims by foreign Governments, nationals and corporations are also relevant.⁴⁶⁷

Case 21

Items relating to the Libyan Arab Jamahiriya (in connection with the implementation of measures imposed by resolution 748 (1992))

In resolution 748 (1992), by which the Council imposed a broad range of enforcement measures against the Libyan Arab Jamahiriya,⁴⁶⁸ the Council expressly recalled “the right of States, under Article 50 of the Charter, to consult the Security Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures”.⁴⁶⁹

The resolution also provided that the Committee entrusted with the task of monitoring the implementation of the enforcement measures was “to give special attention to any communications in accordance with Article 50 of the Charter of the United

⁴⁶⁰ See S/22382. The affected Member States noted that the appeals launched by the Secretary-General pursuant to the recommendations of the Committee had not evoked responses commensurate with their urgent needs (S/22382, para. 4). They urged the Council to give renewed attention to their problems, with a view to finding “quick and effective solutions”, and appealed to donor States to respond urgently and effectively by providing assistance through the allocation of additional financial resources, both via bilateral channels and by supporting the actions of the competent organs and specialized agencies of the United Nations system (*ibid.*, paras. 6 and 8). In a memorandum annexed to the letter, it was noted that the economic, financial and commercial losses incurred by the Member States as a result of their full compliance with the measures imposed against Iraq had been estimated at more than \$30 billion.

⁴⁶¹ Adopted at the 2985th meeting, on 29 April 1991 (S/22548).

⁴⁶² Efforts undertaken by the United Nations system were coordinated by the Secretary-General through the Administrative Committee on Coordination.

⁴⁶³ Official correspondence was addressed to the Secretary-General by the following States: Belgium (S/22537: letter dated 26 April 1991); Denmark (S/22538: letter dated 26 April 1991); Japan (S/21673: letter dated 29 August 1990); Luxembourg (S/22541: letter dated 26 April 1991); the Netherlands (S/22553: letter dated 29 April 1991); New Zealand (S/22296: note verbale dated 1 March 1991); and Spain (S/22539: letter dated 26 April 1991). In addition, Luxembourg submitted a communication on behalf of the European Union (S/22542: letter dated 27 April 1991). Replies received by the Secretary-General from Austria, France, Germany, Greece, Ireland, Italy, Liechtenstein, Norway, Portugal, Switzerland, the United Kingdom, the United States and the Soviet Union were made available to the Council but were not circulated as documents of the Council.

⁴⁶⁴ Reference was made in particular to communications from the President of the World Bank and the Managing Director of the International Monetary Fund, which were made available to the Council but were not circulated as documents of the Council.

⁴⁶⁵ Adopted at the 2951st meeting, on 29 October 1990, by 13 votes to none, with 2 abstentions (Cuba, Yemen).

⁴⁶⁶ Iraq rejected such liability (S/PV.2951, p. 36). The representative of Cuba questioned whether Iraq was to shoulder exclusively the responsibility for damages related to the Council’s decisions on Iraq, and whether the Council would thus be indirectly avoiding its responsibilities under Article 50 (*ibid.*, p. 61).

⁴⁶⁷ At the debate held in connection with the adoption of resolution 687 (1991), some speakers raised questions concerning the relationship between the envisaged compensation mechanism and the responsibility of the Security Council under Article 50 (S/PV.2981, p. 67 (Cuba); and p. 126 (Romania)).

⁴⁶⁸ Adopted at the 3063rd meeting, on 31 March 1992, by 10 votes to none, with 5 abstentions (Cape Verde, China, India, Morocco, Zimbabwe).

⁴⁶⁹ Resolution 748 (1992), ninth preambular paragraph.

Nations from any neighbouring or other State with special economic problems that might arise from the carrying out of the measures".⁴⁷⁰ No such communications were received during the period under review.⁴⁷¹

Case 22

Items relating to the situation in the former Yugoslavia (in connection with the implementation of measures imposed by resolution 757 (1992))

In resolution 757 (1992),⁴⁷² by which the Council imposed a broad range of measures against the Federal Republic of Yugoslavia (Serbia and Montenegro), the Council expressly recalled "the right of States, under Article 50 of the Charter, to consult the Council where they find themselves confronted with special economic problems arising from the carrying out of preventive or enforcement measures".⁴⁷³

By communications⁴⁷⁴ addressed to the Secretary-General during the period from 22 June to 14 December 1992, six States informed the Council of economic difficulties suffered as a consequence of implementing the measures imposed by resolution 757 (1992), and requested consultations under Article 50, or indicated that they might seek such consultations in due course.

In its report of 30 December 1992,⁴⁷⁵ the Security Council Committee established pursuant to resolution 724 (1991)⁴⁷⁶ observed that the effective implementation of the sanctions had had an adverse impact on the economies of a number of countries, particularly those neighbouring the territory of the former Socialist Federal Republic of Yugoslavia, some of which had addressed the Committee on the matter.⁴⁷⁷

⁴⁷⁰ Ibid., para. 9 (f). At the 3063rd meeting, the representative of the United Kingdom observed that the reference to Article 50 had been included at the request of affected States in the region (S/PV.3063, p. 71). The representative of India argued that, in the light of past experience, the resolution should have included a clearer acknowledgement of the Council's responsibility to address the economic problems encountered by third States, with a commitment to take concrete, practical and effective measures to address urgently all such problems brought to its notice (ibid., p. 58). For other statements touching upon the Council's responsibility to address the potential consequences of the resolution for third States, see S/PV.3063, p. 61 (China); p. 58 (India); p. 26 (Jordan); p. 36 (Iraq); and p. 41 (Uganda).

⁴⁷¹ However, by a letter dated 15 May 1992 to the Secretary-General (S/23939), Bulgaria indicated its intention to submit such request.

⁴⁷² Adopted at the 3082nd meeting, on 30 May 1992, by 13 votes to none, with 2 abstentions (China, Zimbabwe).

⁴⁷³ See resolution 757 (1992), sixteenth preambular paragraph. At the 3082nd meeting, several speakers touched upon the potential economic consequences for third States; see S/PV.3082, pp. 9-10 (China); p. 23 (India); and p. 17 (Hungary).

⁴⁷⁴ See the following communications addressed to the Secretary-General: letters dated 22 June and 20 July 1992 from the representative of Romania (S/24142 and Add.1); letter dated 19 June 1992 from the representative of Slovenia (S/24120); note verbale dated 22 June 1992 from the representative of Hungary (S/24147); and note verbale dated 11 August 1992 from the representative of Algeria (S/24426); see also note verbale dated 25 September 1992 from the representative of Czechoslovakia to the President of the Security Council (S/24602); and letter dated 14 December 1992 from the representative of Bulgaria to the President of the Council (S/24963).

⁴⁷⁵ S/25027.

⁴⁷⁶ The Committee, which had first been mandated to monitor the implementation of the arms embargo imposed by resolution 713 (1991), was charged by resolution 757 (1992) with the monitoring of the measures imposed by that resolution (see resolution 757 (1992), para. 13).

⁴⁷⁷ S/25027, para. 23.

Part IX

The right of self-defence in accordance with Article 51 of the Charter

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Note

During the period under review, the Security Council reaffirmed the principle set out in Article 51 in one decision relating to the armed attack by Iraq against Kuwait.⁴⁷⁸ In the Council's subsequent deliberations in connection with this matter, speakers expressed differing views, however, with regard to the measures taken by some States in reliance on the right of collective self-defence.

The Council also debated the application and interpretation of Article 51 in connection with the use of armed force by the United States in Panama, and in connection with an incident involving the downing of two Libyan aircraft by United States forces. In these instances, Council deliberations touched on the question whether the United States was justified in relying on its right of self-defence under Article 51 of the Charter.

In connection with the situation in Bosnia and Herzegovina, the Council considered Bosnia and Herzegovina's claim that, through an arms embargo imposed by the Council, Bosnia and Herzegovina was prevented from exercising its right of self-defence.⁴⁷⁹

⁴⁷⁸ Resolution 661 (1990).

⁴⁷⁹ The arms embargo had originally been imposed by resolution 713 (1991) against the former Yugoslavia. By resolution 727 (1992), the Council affirmed that the arms embargo would continue to apply to all areas that had

At a meeting held in connection with the situation relating to Afghanistan,⁴⁸⁰ the representative of Afghanistan indicated his Government's intention to rely on its right of self-defence in response to alleged interference and aggression by Pakistan.

The arguments advanced during the Council's deliberations in connection with those incidents and situations are set out in the case studies below (section A).

These case studies will be followed by a brief overview in section B of instances in which the right of self-defence was invoked in official correspondence, but which did not give rise to any constitutional discussion relevant to Article 51.

A. Constitutional discussion relating to the invocation of the right of self- defence under Article 51

In the following instances, the invocation of the right of self-defence by a Member State gave rise to a discussion relevant to the application and interpretation of Article 51.

Case 23

Incident involving the downing of Libyan reconnaissance aircraft

By a letter dated 4 January 1989,⁴⁸¹ the representative of the United States informed the Council that, in accordance with Article 51, United States forces operating lawfully above international waters of the Mediterranean sea had exercised their inherent right to self-defence in response to hostile actions by the military forces of the Libyan Arab Jamahiriya.

been part of Yugoslavia, any decisions on the question of the recognition of the independence of certain republics notwithstanding.

⁴⁸⁰ 2857th meeting. For details of Pakistan's position in relation to this matter, see the verbatim record of the 2859th meeting.

⁴⁸¹ S/20366.

By letters of the same date⁴⁸² addressed to the President of the Security Council, the representatives of the Libyan Arab Jamahiriya and Bahrain described the incident as an aggression by the United States forces, and requested that the Security Council be convened immediately.

The Security Council held its 2835th meeting on 5 January 1989 to consider this matter. The Council further discussed the incident at the 2837th and 2839th to 2841st meetings, on 6, 9 and 11 January 1989 respectively.

During the Council's deliberations, the representative of the Libyan Arab Jamahiriya alleged that the United States forces had shot down two unarmed Libyan reconnaissance aircraft on routine patrol near the Libyan coast, and that the incident had been "an act of premeditated, deliberate aggression as a prelude to a large-scale aggression".⁴⁸³ He contended that the United States had resorted to a deliberate misinterpretation of Article 51 in order to "justify aggression".⁴⁸⁴

The representative of the United States maintained that the action by the United States aircraft had been taken in response to provocation and threat from armed Libyan aircraft, in accordance with internationally accepted principles of self-defence.⁴⁸⁵ The representative stated that the United States aircraft had been operating on a routine training mission in international airspace, and that they had been tracked in a hostile manner by armed Libyan aircraft. Only after repeated futile attempts to avoid those aircraft had they shot them down in a clear and unambiguous act of self-defence.⁴⁸⁶ The representative of Canada stated that his delegation had "accepted the United States explanation for its actions during the incident".⁴⁸⁷ The representative of the United Kingdom emphasized the importance his Government attached "to upholding the freedom of ships and aircraft to operate in international waters and airspace and their inherent right to self-defence as recognized by Article 51 of the Charter".⁴⁸⁸

However, many speakers, both members and non-members of the Council, supported the position of the Libyan Arab Jamahiriya and described the action taken by the United States as an act of aggression and a violation of international law and the Charter.⁴⁸⁹ Several speakers specifically stated that attempts to justify the use of force against the Libyan Arab Jamahiriya by invoking the right of self-defence were untenable.⁴⁹⁰ The representative of the Union of Soviet Socialist Republics asserted that the reference by the United States representative to Article 51 of the Charter, relating to self-defence, was "absolutely unfounded". He noted that nobody had attacked the aircraft or ships of the United States and that if arbitrary action, further armed clashes and utter anarchy in international airspace were to be avoided, the military aircraft of one State could not be entitled to open fire on the aircraft of another State simply because those aircraft had come too close to them in international airspace.⁴⁹¹ The representative of the League of Arab States asserted that there was no justification for intercepting and destroying those Libyan aircraft, which were flying above international waters.⁴⁹² The representative of the Syrian Arab Republic alleged that the incident was a link in a series of aggressive measures and actions which the United States Administration had been taking against the Libyan Arab Jamahiriya since 1981, when the United States Navy downed two Libyan aircraft near the Libyan coast.⁴⁹³ The representative of Finland warned that "in an age of military high technology, the resort to so-called pre-emptive self-defence without warning [could] have very dangerous consequences."⁴⁹⁴ The

⁴⁸² S/20364 and S/20367.

⁴⁸³ S/PV.2835, p. 12.

⁴⁸⁴ S/PV.2841, p. 51.

⁴⁸⁵ S/PV.2835, pp. 14-15.

⁴⁸⁶ S/PV.2835, pp. 14-16; S/PV.2836, p. 47; S/PV.2841, p. 47.

⁴⁸⁷ S/PV.2841, pp. 38-40.

⁴⁸⁸ *Ibid.*, p. 41.

⁴⁸⁹ S/PV.2835, pp. 18-20 (Bahrain); p. 26 (League of Arab States); pp. 36-37 (Syrian Arab Republic); pp. 41-42 (Cuba); S/PV.2836, pp. 12-20 (Soviet Union); pp. 23-27 (Madagascar); pp. 28-32 (Nicaragua); pp. 34-36 (Lao People's Democratic Republic); p. 41 (Afghanistan); p. 43 (Democratic Yemen); S/PV.2837, p. 11 (Algeria); pp. 18-22 (Islamic Republic of Iran); pp. 22-28 (Zimbabwe); p. 31 (Pakistan); S/PV.2839, pp. 11-15 (Ethiopia); pp. 21-22 (Sudan); S/PV.2840, p. 28 (German Democratic Republic); p. 33 (Czechoslovakia); pp. 42-46 (Yemen); S/PV.2841, p. 22 (Bulgaria); pp. 29-31 (Mongolia).

⁴⁹⁰ See for example S/PV.2836, p. 7 (Uganda); S/PV.2837, pp. 18-20 (Islamic Republic of Iran); S/PV.2841, p. 26 (Byelorussian Soviet Republic).

⁴⁹¹ S/PV.2836, pp. 12-15.

⁴⁹² S/PV.2835, p. 26.

⁴⁹³ *Ibid.*, p. 36.

⁴⁹⁴ S/PV.2839, p. 7.

representative of Czechoslovakia pointed out that the exercise of the right of self-defence pursuant to Article 51 of the Charter was contingent on the objective existence of circumstances provided by the Charter, not to be confused with the subjective perceptions of military commanders. He added that otherwise the provisions of Article 51 on self-defence would cease to be a mere exception to the general ban on the use of armed force and become, conversely, an instrument of complete and irreversible destruction of this ban.⁴⁹⁵

At the Council's 2841st meeting, seven Member States⁴⁹⁶ jointly submitted a draft resolution⁴⁹⁷ by the adoption of which the Council would have deplored the downing of the two Libyan reconnaissance aircraft and called upon the United States to suspend its military manoeuvres off the Libyan coast. The draft was put to the vote but was not adopted, owing to the negative votes of three permanent members.⁴⁹⁸

Case 24

The situation relating to Afghanistan

By a letter to the President of the Security Council dated 3 April 1989,⁴⁹⁹ the Minister for Foreign Affairs of Afghanistan requested the convening of an emergency meeting to consider "Pakistan's military aggression and its overt and covert interference in the internal affairs of the Republic of Afghanistan".⁵⁰⁰

During the Council's deliberations on this matter,⁵⁰¹ Afghanistan reiterated its allegations against Pakistan, claiming, inter alia, that peace, stability and security in South-West Asia were threatened, and drawing attention to the "dangerous implications of the aggression by Pakistan for peace and security in the region and in the world".⁵⁰² Afghanistan claimed that if

⁴⁹⁵ S/PV.2840, pp. 34-35.

⁴⁹⁶ Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.

⁴⁹⁷ S/20378.

⁴⁹⁸ The draft resolution received 9 votes in favour and 4 against (Canada, France, United Kingdom, United States), with 2 abstentions (Brazil, Finland).

⁴⁹⁹ S/20561. For further details, see the letter dated 28 March 1989 from the representative of Afghanistan to the Secretary-General (S/20545).

⁵⁰⁰ These allegations were denied by Pakistan in a letter to the President of the Council dated 7 April 1989 (S/20577).

⁵⁰¹ 2852nd to 2860th meetings, from 11 to 26 April 1989.

⁵⁰² S/PV.2852, p. 6.

the Security Council failed "to adopt necessary measures for defusing the present tense situation, and Pakistani aggression and intervention" against Afghanistan continued, Afghanistan would have no choice but to rely on its right of self-defence.⁵⁰³

The representative of Pakistan, on the other hand, asserted that the situation in Afghanistan was a purely internal matter, and that there was no threat to regional or international peace and security. He contended that the developments in Afghanistan represented the resistance of the Afghan people against the rule of an illegal and unrepresentative regime that had been imposed on them by external military intervention.⁵⁰⁴

Case 25

The situation in Panama

By a letter dated 20 December 1989,⁵⁰⁵ the representative of the United States informed the President of the Security Council, in accordance with Article 51 of the Charter, that United States forces had exercised their "inherent right of self-defence under international law by taking action in Panama in response to armed attacks by forces under the direction of Manuel Noriega".

By a letter of the same date,⁵⁰⁶ the representative of Nicaragua requested the President of the Security Council to convene the Council urgently "to consider the situation following the invasion of the Republic of Panama by the United States".

The Council held its 2899th meeting on 20 December 1989 to consider the matter. The representative of Nicaragua asserted that the United States had committed "an act of aggression" against Panama, which constituted a "threat to international peace and security", and for which international law could "provide no justification".⁵⁰⁷ In a similar vein, the representative of the Union of Soviet Socialist Republics considered that the invasion of Panama by

⁵⁰³ S/PV.2857, p. 74.

⁵⁰⁴ See for example S/PV.2859, p. 42. In a letter dated 6 July 1989 from the representative of Afghanistan to the Secretary-General, Afghanistan again indicated that it would need to make "necessary use" of the right of self-defence against alleged interference and aggression from Pakistan (see S/20716).

⁵⁰⁵ S/21035.

⁵⁰⁶ S/21034.

⁵⁰⁷ S/PV.2899, pp. 3-17.

United States troops was “a flagrant violation of the elementary norms of international law and the Charter”. The representative believed that statements to the effect that Panama had been threatening the national interests of the United States were unsubstantiated.⁵⁰⁸ The Chinese delegation expressed “its utmost shock and strong condemnation of that aggressive action of the United States”.⁵⁰⁹

The representative of the United States, on the other hand, asserted that the United States had resorted to military action “only after exhausting the full range of available alternatives,” and had done so “in a manner designed to minimize casualties and damage”.⁵¹⁰ He recalled that General Noriega had declared a state of war against his country and that, in implementation of that declaration, an unarmed American serviceman had been killed and others had been threatened. He contended that the Noriega regime had in fact declared war considerably earlier through its drug-trafficking activities, which threatened democratic societies as surely as the use of conventional military forces.⁵¹¹

The representatives of the United Kingdom and Canada agreed with the position expressed by the United States that, after the failure of numerous attempts to resolve the situation peacefully, the United States had been justified in using force, as a last resort, against a regime that had itself turned to force.⁵¹²

The Council continued its discussion of this matter at its 2900th to 2902nd meetings. During the deliberations, several speakers, representing both members⁵¹³ and non-members⁵¹⁴ of the Council, deplored or condemned the military intervention and, in some instances, explicitly rejected the argument that

the United States had acted in self-defence. The representative of Cuba asserted that “the armed aggression by the United States against Panama, in flagrant violation of United Nations principles and norms, [had] no justification whatsoever”.⁵¹⁵ The representative of the Libyan Arab Jamahiriya described the invocation of Article 51 as a “fallacious legal pretext”.⁵¹⁶ The representative of Algeria argued that the action taken by the United States “was fraught with a potential threat to the security of small States through an abusive and erroneous interpretation of the provisions of the Charter”.⁵¹⁷

At the 2902nd meeting, a draft resolution submitted by seven Member States⁵¹⁸ was voted upon but was not adopted owing to the negative votes of three permanent members.⁵¹⁹ Under that draft resolution, the Council would have, among other things, strongly deplored the intervention in Panama by the armed forces of the United States, which constituted a flagrant violation of international law and of the independence, sovereignty and territorial integrity of States; and demanded the immediate cessation of the intervention and the withdrawal of the United States armed forces from Panama.⁵²⁰

Case 26

The situation between Iraq and Kuwait

By resolution 661 (1990) of 6 August 1990, by which the Council imposed a general trade embargo on Iraq in order to secure the withdrawal of its forces from the territory of Kuwait, the Council affirmed “the inherent right of individual or collective self-defence,

⁵⁰⁸ Ibid., pp. 17-18.

⁵⁰⁹ Ibid., pp. 21-22.

⁵¹⁰ Ibid., p. 36.

⁵¹¹ S/PV.2902, pp. 8-13. For further relevant comments, see the statement made by the representative of the United States at the 2905th meeting, in connection with the item concerning the letter dated 3 January 1989 from the representative of Nicaragua to the President of the Security Council (S/PV.2905, p. 24).

⁵¹² S/PV.2899, p. 26 (United Kingdom); and pp. 27-30 (Canada).

⁵¹³ Algeria, Brazil, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia, see the relevant statements made at the 2900th and 2902nd meetings.

⁵¹⁴ Cuba, Libyan Arab Jamahiriya and Peru; see the relevant statements made at the 2900th meeting.

⁵¹⁵ S/PV.2900, pp. 23-33. In this context, the representative of Cuba also cited from a letter which his Government had transmitted to the President of the Council and the Secretary-General on 21 December 1989 (see S/PV.2900 and S/21038, annex).

⁵¹⁶ S/PV.2900, p. 41.

⁵¹⁷ Ibid., p. 18.

⁵¹⁸ S/21048, sponsored by Algeria, Colombia, Ethiopia, Malaysia, Nepal, Senegal and Yugoslavia.

⁵¹⁹ The draft resolution received 10 votes in favour and 4 against (Canada, France, United Kingdom, United States), with 1 abstention (Finland).

⁵²⁰ S/21048, paras. 1 and 2.

in response to the armed attack by Iraq against Kuwait, in accordance with Article 51 of the Charter".⁵²¹

At the 2934th meeting, the representatives of the United States and the United Kingdom stated that, at the request of Governments in the region, they had deployed forces to the area, in order to help protect Saudi Arabia and other threatened States in the area. Both representatives emphasized that the action was taken in accordance with Article 51, noting that the application of that Article to the situation between Iraq and Kuwait had been expressly affirmed by resolution 661 (1990).⁵²² The representative of the United States further stated that the Iraqi invasion of Kuwait and the large Iraqi military presence on the Saudi frontier had created "grave risks of further aggression in the area". His Government and others were therefore "sending forces with which to deter further Iraqi aggression".⁵²³ The representative of the United Kingdom observed that the presence of British forces, particularly naval forces, in the area would "be of added advantage in the context of securing the effective implementation of resolution 661 (1990)".⁵²⁴

The representative of the Union of Soviet Socialist Republics, on the other hand, while not directly commenting on the deployments, stated that his Government was "against reliance on force and against unilateral decisions". He added that, in his delegation's view, the surest, wisest way to act in a conflict situation was "to make collective efforts and to make full use of the machinery of the United Nations". He further emphasized that it was important "to reject actions which might pour oil on the fire", and indicated that his delegation was prepared to undertake consultations immediately in the Military Staff Committee, which, under the Charter of the United

Nations, could perform very important functions.⁵²⁵ The representative of China, while reiterating that the sovereignty and independence of Kuwait needed to be restored and respected, called upon "all concerned parties to exercise restraint and refrain from any actions that might further complicate the situation".⁵²⁶ The representative of Cuba asserted that certain Powers were taking "unilateral measures which were not in accordance with the decisions taken by the Council", adding that an "arbitrary interpretation of the right to self-defence" could not be used to justify war and interventionism in the Middle East.⁵²⁷

By a letter dated 12 August 1990,⁵²⁸ the representative of Kuwait informed the President of the Security Council that, in the exercise of its inherent right of individual and collective self-defence and pursuant to Article 51 of the Charter, his country had "requested some nations to take such military or other steps as ... necessary to ensure the effective and prompt implementation of Security Council resolution 661 (1990)". By a letter of the same date,⁵²⁹ the representative of Saudi Arabia informed the Council that his country had "exercised its legitimate right, as enshrined in Article 51 of the Charter" and had "welcomed the forces of fraternal and other friendly States which [had] expressed their willingness to support the Saudi Arabian armed forces in the defence of the Kingdom".⁵³⁰

⁵²⁵ Ibid., p. 12.

⁵²⁶ Ibid., p. 22.

⁵²⁷ Ibid., p. 23.

⁵²⁸ S/21498.

⁵²⁹ S/21554.

⁵³⁰ In a letter dated 27 August 1990 to the Secretary-General, the representative of Egypt noted that a resolution adopted at the Extraordinary Arab Summit Conference held at Cairo on 10 August 1990 had recommended "to comply with the request of the Kingdom of Saudi Arabia and the other Arab States of the Gulf that Arab forces should be deployed to assist their armed forces in defending their soil and territorial integrity against any external aggression" (S/21664, para. 6). In a letter dated 17 January 1991 to the Secretary-General, the representative of Egypt also noted that the Iraqi invasion of Kuwait had created a situation which "impelled Saudi Arabia and some of the Gulf States, in exercise of their inherent right of legitimate self-defence, to request the aid and military assistance of their brothers and friends" (S/22113). However, the Libyan Arab Jamahiriya, in a letter dated 15 August 1990 to the Secretary-General, claimed that

⁵²¹ See resolution 661 (1990), preamble. In addition, the resolution expressly provides that, notwithstanding the provisions on embargo measures contained in the resolution, "nothing in the present resolution shall prohibit assistance to the legitimate Government of Kuwait" (para. 9).

⁵²² S/PV.2934, pp. 7-8 (United States) and pp. 17-18 (United Kingdom). The deployment was subsequently confirmed by letters dated 9 August (S/21492) and 13 August 1990 (S/21501) addressed to the President of the Security Council, from the representatives of the United States and the United Kingdom respectively.

⁵²³ S/PV.2934, p. 8.

⁵²⁴ Ibid., p. 18.

By a letter dated 16 August 1990,⁵³¹ the United States informed the Council that, in accordance with Article 51, and at the request of the Government of Kuwait, its military forces had joined that Government in taking actions to intercept vessels seeking to engage in trade with Iraq and Kuwait in violation of the sanctions imposed by resolution 661 (1990). These actions were being taken by the United States “in the exercise of the inherent right of individual and collective self-defence, recognized in Article 51 of the Charter”. The letter also stated that the military forces of the United States would use force “only if necessary and then only in a manner proportionate to prevent vessels from violating such trade sanctions contained in resolution 661 (1990)”.

At the 2937th meeting of the Council, a number of speakers expressed concern about the resort to military action in reliance on Article 51. The delegation of China believed that the military involvement by the great Powers was “not conducive to the settlement of the present crisis”, and called once again on the parties concerned “to exercise restraint, so as to avoid any action that could cause a further deterioration of the situation”.⁵³² In a similar vein, the representative of the Union of Soviet Socialist Republics felt that it was important “to stop military activities, to prevent them from spreading to other countries and to restore respect for international law”. The representative noted that his Government intended “to act exclusively within the context of collective efforts for the settlement of this conflict”.⁵³³

The representative of Iraq asserted that the United States, followed by the United Kingdom, had “arrogated to itself the right to impose a maritime blockade against Iraq without calling it by that name”, and that those two States were attempting “to impose a certain interpretation of Article 51 of the Charter”.⁵³⁴ The representative of Yemen contended that the “utilization of this military blockade by one State

without taking into consideration the role assumed by the Security Council for the safeguarding of international peace and security [was] an act that [was] not defensive in character”.⁵³⁵ The representative of Cuba asserted that the terms of the Charter were being twisted and implemented unilaterally, noting that Article 51 recognized the right of self-defence only “until the Security Council has taken measures necessary to maintain international peace and security”.⁵³⁶

In response to these comments, the representative of the United States cited the text of a letter which he had submitted to the Council on 9 August, informing the Council that the United States had deployed forces in the area “in exercise of the inherent right of self-defence, recognized in Article 51, in response to developments and requests from Governments in the region, including requests from Kuwait and Saudi Arabia, for assistance”.⁵³⁷

At its 2938th meeting, the Council adopted resolution 665 (1990), by which it called upon “those Member States cooperating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990)”.

In connection with the adoption of resolution 665 (1990), the representatives of the United States and the United Kingdom maintained that the resolution only provided an additional basis of authority, as sufficient legal authority to take such measures had already existed under Article 51.⁵³⁸ More specifically, the representative of the United States asserted that resolution 665 (1990) did not diminish the legal authority of Kuwait and other States to exercise their inherent right of self-defence.⁵³⁹

At the 2963rd meeting, the Council adopted resolution 678 (1990), by which it authorized Member

there was “absolutely no justification for invoking Article 51 of the Charter in the current situation” (S/21529). Iraq, in a letter dated 13 November 1990 to the Secretary-General, asserted that the purpose of the “American military build-up” was an attack on Iraq rather than the defence of Saudi Arabia (S/21939).

⁵³¹ S/21537.

⁵³² S/PV.2937, pp. 13-15.

⁵³³ *Ibid.*, pp. 18-20.

⁵³⁴ *Ibid.*, pp. 45-46.

⁵³⁵ *Ibid.*, p. 6.

⁵³⁶ *Ibid.*, pp. 29-33.

⁵³⁷ S/21492. See also S/PV.2937, pp. 33-35.

⁵³⁸ S/PV.2938, pp. 29-31 (United States and p. 48 (United Kingdom)).

⁵³⁹ *Ibid.*, p. 31.

States “to use all necessary means to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area”.

During the deliberations held at that meeting, the representative of Iraq argued that the resolution was not justified under any Charter provisions and that it could not be justified under Article 51, as, under that Article, “the use of force [was] limited to the period until the Security Council [was] seized of the matter”, beyond which point “any use of force [had to] be deemed to be an aggression”.⁵⁴⁰

The representative of Malaysia, while expressing support for resolution 678 (1990), underlined that his delegation had not agreed to any attempt to apply Article 51 of the Charter unilaterally once the Council was seized of the matter. Thus, any proposed use of force had to be brought before the Council for its prior approval, in accordance with the specific provisions of Chapter VII of the Charter. The representative expressed regret that this point was not clearly reflected in resolution 678 (1990).⁵⁴¹

Case 27

The situation in Bosnia and Herzegovina

At its 3028th meeting, the Council unanimously adopted resolution 727 (1992), by which it affirmed that the arms embargo previously imposed against the Socialist Federal Republic of Yugoslavia would continue to apply to “all areas that ha[d] been part of Yugoslavia, any decisions on the question of the

recognition of the independence of certain republics notwithstanding”.⁵⁴²

At the 3134th meeting, held on 13 November 1992, after the disintegration of the former Yugoslavia, the representative of Bosnia and Herzegovina asserted that the continued application of the arms embargo against his country prevented it from exercising its inherent right of self-defence under Article 51. He argued that, if the Security Council would not take any direct steps to protect his country, then it should yield and fully recognize his country’s “sovereign and absolute right to self-defence”. The representative also maintained that, “from the victim’s perspective, self-defence does not increase conflict, but rather reduce the brutal and murderous consequences of aggression directed at civilians”. He contended that “self-defence through legitimate and lawful authorities or through international mechanisms ... makes peace a reality rather than an uncertain and far-off goal”.⁵⁴³

The discussion of this matter was resumed at the Council’s 3135th to 3137th meetings, at which a number of States non-members of the Council supported Bosnia and Herzegovina’s position.⁵⁴⁴

⁵⁴⁰ S/PV.2963, pp. 19-20. Previously, at the Council’s 2951st meeting, on 29 October 1990, the representative of Iraq had similarly argued that no State had the right to unilaterally use force against his country, as the Security Council was seized of the situation (S/PV.2951, pp. 13-17).

⁵⁴¹ S/PV.2963, p. 76. At a subsequent meeting, held on 15 February 1991, the representative of Malaysia stated his understanding that the military action against Iraq was a “United Nations-authorized international enforcement action under Chapter VII of the Charter, not a result of Article 51 and certainly not a war between any of the allied countries and Iraq per se”. The representative added that no country, however powerful, could “arrogate to itself the right to conduct the war entirely on the basis of its own imperatives and interests” (S/PV.2977 (Part II) (closed — resumption 1), p. 171).

⁵⁴² Resolution 727 (1992), para. 6. A recommendation to this effect had been made by the Secretary-General in his report dated 5 January 1992 (S/23363, para. 33). The arms embargo against the former Yugoslavia had been imposed by resolution 713 (1991).

⁵⁴³ S/PV.3134, pp. 53-55. For additional details of the views expressed by the representative of Bosnia and Herzegovina on this matter, see the letters dated 30 June, 30 July, 10 September, 29 September, 6 October and 28 December 1992 addressed to the President of the Security Council or the Secretary-General (S/24214, S/24366, S/24543, S/24601 and S/24622 and S/25021).

⁵⁴⁴ See for example S/PV.3135, p. 25 (Turkey); p. 33 (Malaysia); p. 41 (Egypt); S/PV.3136, pp. 33-34 (Pakistan); p. 58 (Indonesia); pp. 72-73 and 76-77 (Islamic Republic of Iran); S/PV.3137, pp. 18-21 (Qatar); pp. 27-28 (Comoros); p. 36 (Lithuania); p. 43 (Croatia); p. 51 (Kuwait), pp. 54-60 (Afghanistan); p. 66 (Tunisia); p. 79 (Morocco); p. 92 (United Arab Emirates); p. 112 (Bangladesh); pp. 114-116 (Senegal). For Member States’ views expressed in correspondence, see the letters addressed to the President of the Council dated 10 and 13 August 1992 from the representative of the Islamic Republic of Iran (S/24410 and S/24432); 13 August 1992 from the representative of Pakistan (S/24437); 13 August 1992 from the representative of Egypt (S/24438); 17 August and 9 December 1992 from the representative of Saudi Arabia (also addressed to the

The representative of Turkey suggested that “if the Bosnian Government had adequate means to defend itself, this would deter the aggressor from pursuing a policy based on the use of force and perhaps induce it to resort to dialogue to overcome differences”.⁵⁴⁵ Similarly, the representative of the Islamic Republic of Iran asserted that the selective lifting of the arms embargo was “the only effective means to stop the aggression, short of international military action”.⁵⁴⁶ The representative of the Comoros questioned whether the Council, as the organ entrusted with the maintenance of peace and security, had any moral justification to “withhold from the weak, aggressed people of Bosnia and Herzegovina the right to defend themselves”, and whether it did not have “the moral responsibility and obligation to give a fighting chance to the victim of aggression”.⁵⁴⁷ The representative of Lithuania believed that if the international community could not provide effective defence, it could not “morally deny the right of self-defence to the people of Bosnia and Herzegovina”. He contended that it was “morally and legally unacceptable” to continue “to impose a stranglehold on a victim engaged in a life or death struggle”.⁵⁴⁸ The representative of Qatar asserted that “the application of the embargo to victim and aggressor alike [was] cynical and preposterous and [went] against the human conscience”. Claiming that

the continuation of the arms embargo amounted to “support for the aggressor”, he believed that the international community was “duty-bound to enable Bosnia and Herzegovina to defend itself as long as [it was] unable to ward off the Serbian aggression by recourse to the provisions of the Charter”.⁵⁴⁹

The representative of the United Kingdom stated, on the other hand, that the introduction of more arms into the region “could only lead to more killing, more suffering and the jeopardizing of efforts to deliver humanitarian supplies to those in need”.⁵⁵⁰ The representative of Ecuador agreed that the lifting of the embargo against Bosnia and Herzegovina would not contribute to the cause of peace, as “violence [would] not be eliminated by increasing the flow of arms”.⁵⁵¹

The Minister for Foreign Affairs of the Federal Republic of Yugoslavia warned of the “unforeseeable harmful effects of the continued sending of mercenaries, violations of the arms embargo and the ever more evident prospects of this conflict turning into a full-scale religious war”.⁵⁵²

These views were shared by Mr. Cyrus Vance and Lord Owen, co-Chairmen of the International Conference on Yugoslavia, who argued that the cause of peace would be best served by maintaining the embargo. Mr. Vance believed that lifting the arms embargo would only increase hostilities in Bosnia and Herzegovina and could spread the conflict throughout the Balkan region.⁵⁵³ Lord Owen observed that “prohibiting arms sales tends to dampen conflict while pushing arms sales deepens conflict”.⁵⁵⁴

At the 3137th meeting, the Council adopted resolution 787 (1992), by which it reaffirmed resolution 713 (1991) and all subsequent relevant resolutions, and thereby the continued application of the arms embargo to all parties to the conflict.⁵⁵⁵

Secretary-General) (S/24460 and S/24930); the letter dated 30 September 1992 from the representative of Turkey to the Secretary-General (S/24604); the letter dated 19 October 1992 from the representatives of Saudi Arabia, Egypt, the Islamic Republic of Iran, Pakistan, Senegal and Turkey to the President of the Council (S/24678); the letter dated 12 November 1992 from the Permanent Observer of Palestine to the President of the Council (S/24799); the letter dated 9 December 1992 from the representative of Malaysia to the President of the Council (S/24928); and the letter dated 24 December 1992 from the representative of the United Arab Emirates to the Secretary-General (S/25020). See also the letter dated 2 September 1992 from the President of the General Assembly to the President of the Council, reminding the latter that the General Assembly in resolution 46/242 had reaffirmed Bosnia and Herzegovina’s right of self-defence, and expressing the hope that the Security Council would find it appropriate to take urgent action on that resolution (S/24517, paras. 2 and 3).

⁵⁴⁵ S/PV.3135, p. 25.

⁵⁴⁶ S/PV.3136, p. 73.

⁵⁴⁷ S/PV.3137, pp. 27-28.

⁵⁴⁸ *Ibid.*, p. 36.

⁵⁴⁹ *Ibid.*, pp. 18-21.

⁵⁵⁰ S/PV.3135, p. 9.

⁵⁵¹ S/PV.3136, p. 14.

⁵⁵² S/PV.3137, p. 75.

⁵⁵³ S/PV.3134, pp. 16-17.

⁵⁵⁴ *Ibid.*, p. 28.

⁵⁵⁵ Resolution 787 (1992), the draft of which had been submitted by Belgium, France, Hungary, Morocco, the United Kingdom and the United States, was adopted by 13 votes to none, with 2 abstentions (China, Zimbabwe). While the resolution contains no direct reference to Article 51, the Council, in the third preambular

B. Invocation of the right of self-defence in other instances

In the following instances, Member States invoked the right of self-defence in correspondence which did not give rise to any significant constitutional discussion with direct relevance to Article 51.

The situation between Iran and Iraq

By a letter dated 7 January 1989 addressed to the Secretary-General,⁵⁵⁶ the representative of Iraq, referring to the alleged non-compliance of the Islamic Republic of Iran with the ceasefire concluded five months earlier, asserted that Iraq was “fully willing to defend itself”.

In response, the representative of the Islamic Republic of Iran, by a letter dated 23 January 1989 addressed to the Secretary-General,⁵⁵⁷ claimed that Iraq was relying on its right of self-defence merely in order “to justify its preparations to launch yet another war of aggression against the Islamic Republic of Iran”.

The situation in the Middle East

By a letter dated 29 May 1992 from the representative of Israel addressed to the Secretary-

paragraph, expressed its deep concern “at the threats to the territorial integrity of the Republic of Bosnia and Herzegovina, which, as a State Member of the United Nations, enjoys the rights provided for in the Charter of the United Nations”.

⁵⁵⁶ S/20376.

⁵⁵⁷ S/20413.

General,⁵⁵⁸ Israel asserted its right of self-defence “by engaging in operations against the terrorist organizations operating from the territory of Lebanon”.⁵⁵⁹

The situation relating to Nagorny-Karabakh

By a letter dated 20 August 1992 from the representative of Armenia to the President of the Security Council,⁵⁶⁰ Armenia requested an urgent meeting of the Security Council, alleging that Azerbaijan had launched “attacks of aggression” against Armenia.

By a letter dated 25 August 1992 from the representative of Azerbaijan addressed to the President of the Security Council,⁵⁶¹ Azerbaijan asserted that Armenia was “openly continuing its armed aggression against Azerbaijan”, and stated it had been “compelled to take the necessary measures to exercise its right of self-defence and re-establish its sovereignty and territorial integrity”.

⁵⁵⁸ S/24032.

⁵⁵⁹ See also for example the letter dated 27 January 1992 from the representative of Israel to the Secretary-General, in which Israel alleged that the Government of Lebanon was unwilling to take action against Hizbullah’s activities against Israel (S/23479). See also Israel’s statement at the 3151st meeting, held on 18 December 1992 under the agenda item “The situation in the occupied Arab territories”. At that meeting Israel asserted its right of self-defence against “the forces of terrorism”, referring in particular to recent attacks by organizations such as Hamas and Islamic Jihad (S/PV.3151, p. 24).

⁵⁶⁰ S/24470.

⁵⁶¹ S/24486.

Chapter XII

Consideration of the provisions of other Articles of the Charter

Contents

	<i>Page</i>
Introductory note	945
Part I. Consideration of the provisions of Article 1, paragraph 2, of the Charter	946
Part II. Consideration of the provisions of Article 2 of the Charter	952
A. Article 2, paragraph 4	952
B. Article 2, paragraph 5	962
C. Article 2, paragraph 6	964
D. Article 2, paragraph 7	967
Part III. Consideration of the provisions of Article 24 of the Charter	977
Part IV. Consideration of the provisions of Article 25 of the Charter	982
Part V. Consideration of the provisions of Article 26 of the Charter	989
Part VI. Consideration of the provisions of Chapter VIII of the Charter	990
A. General consideration of the provisions of Chapter VIII	991
B. Encouragement by the Security Council of efforts undertaken by regional organizations in the pacific settlement of disputes	992
C. Challenges to the appropriateness of Security Council action in the light of Article 52	997
D. Authorization by the Security Council of the use of force by regional organizations	998

Introductory note

Chapter XII covers the consideration by the Security Council of Articles of the Charter not dealt with in the preceding chapters. It consists of six parts: parts I and II deal with consideration of the purposes and principles of the United Nations, particularly with regard to Article 1 (2) in part I and various provisions of Article 2 in part II, parts III, IV and V deal with consideration by the Council of the provisions of Articles 24, 25 and 26, respectively, which relate to the functions and powers of the Council. Part VI focuses on the consideration of the provisions of Chapter VIII of the Charter regarding regional arrangements.

Part I

Consideration of the provisions of Article 1, paragraph 2, of the Charter

Article 1, paragraph 2

[The purposes of the United Nations are:]

To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.

Note

During the period under review, there were no explicit references to Article 1, paragraph 2, of the Charter contained in any of the resolutions or other decisions adopted by the Security Council. However, the Council adopted a number of decisions in support of the principle of self-determination. In the case of Namibia, which, in 1989, was the last remaining colony on the African continent, the Council's decisions helped to pave the way towards national independence and sovereignty (case 1). In connection with the situation concerning Western Sahara, the Council worked towards the holding of a referendum by which the people of Western Sahara would be able to choose between independence and integration with Morocco (case 2).¹ With respect to Cambodia, the Council actively supported a political settlement which would enable the Cambodian people to exercise its right to self-determination through free and fair elections (case 3).² In connection with the situation in the occupied Arab territories, the Council reiterated its position that a just and lasting solution to the Israeli-Arab conflict must take into account the legitimate

¹ Resolutions 658 (1990) of 27 June 1990, second preambular para.; 690 (1991) of 29 April 1991, first preambular para. and para. 2; and 725 (1991) of 31 December 1991, paras. 1 and 2; and letter dated 3 June 1992 from the President of the Security Council to the Secretary-General (S/24059).

² Resolutions 668 (1990) of 20 September 1990, sixth preambular para.; 717 (1991) of 16 October 1991, third preambular para.; 745 (1992) of 28 February 1992, fourth preambular para.; and 792 (1992) of 30 November 1992, sixth preambular para.

political rights of the Palestinian people (case 4).³ In connection with the status of the Trust Territory of the Pacific Islands, the Council noted that three constituent parts of the Trust Territory had opted to exercise their right of self-determination. Accordingly, the Council declared that the Trusteeship Agreement had terminated with respect to those entities (case 5).⁴

In addition to these cases, the principle of self-determination was discussed or referred to during the Council's deliberations in connection with the situation relating to the former Yugoslavia, the situation in Cyprus, the situation relating to Afghanistan and the question of South Africa.

In connection with the situation in the former Yugoslavia, a number of Council members, while stressing the need for a peaceful settlement of the crisis, emphasized that any political solution needed to be based on the principle of self-determination.⁵

³ Resolution 672 (1990) of 12 October 1990, second preambular para., and presidential statement of 20 December 1990 (S/22027).

⁴ Resolution 683 (1990), adopted at the 2972nd meeting on 22 December 1990.

⁵ See for example S/PV.3009, pp. 23-26 (Austria), pp. 65-67 (France); S/PV.3082, pp. 17-20 (Ecuador); and S/PV.3106, pp. 31-33 (Hungary). The Security Council, by resolution 724 (1991), para. 7, urged all States and parties not to impede a negotiated solution which would "permit all the peoples of Yugoslavia to decide upon and to construct their future in peace". (A similar paragraph had already been included in resolution 713 (1991), para. 7, but in that resolution reference had been made to "all Yugoslavs" rather than "all the peoples of Yugoslavia". By resolution 752 (1992), adopted on 15 May 1992, the Council urged the three communities in Bosnia and Herzegovina to constructively continue their discussions on constitutional arrangements for Bosnia and Herzegovina, and demanded that all interference from outside Bosnia and Herzegovina cease immediately. On 18 and 20 May 1992, the Council recommended the admission as sovereign States of three of the former constituent republics, namely Croatia, Slovenia and Bosnia and Herzegovina (see resolutions 753 (1992) and 754 (1992), of 18 May 1992, and 755 (1992), of 20 May 1992). The status of the former Yugoslav Republic of Macedonia and of the Federal Republic of Yugoslavia (Serbia and Montenegro)

During the Council's debates held in connection with the situation in Cyprus, the representative of the Turkish Cypriot side, supported by the representative of Turkey, argued that any negotiated settlement would have to be based on the political equality of the two peoples in the island, and would require a genuine commitment to the right of self-determination for both peoples.⁶ The representative of Cyprus, supported by the representative of Greece,⁷ rejected the suggestion that the Turkish Cypriot community were a people entitled to a separate right of self-determination,⁸ and maintained that a solution to the conflict should be based on the territorial integrity of Cyprus, in accordance with relevant Security Council resolutions.⁹

remained unresolved at the end of 1992.

⁶ Turkish Cypriot side: S/PV.2898, p. 33; and S/PV.2928, pp. 31-35; Turkey: S/PV.2868, pp. 28-29; S/PV.2898, p. 36; and S/PV.2969, pp. 35-37.

⁷ S/PV.3022, p. 28. For further details on the position of Greece, see S/PV.2898, p. 17.

⁸ S/PV.2928, pp. 17-18; and S/PV.3022, pp. 21-23.

⁹ S/PV.2868, pp. 8-11; S/PV.2898, p. 9; S/PV.2969, pp. 12-15; and S/PV.2992, p. 38. The Security Council, in its decisions adopted during the period under review, called upon the leaders of the two communities to pursue their efforts to reach freely a mutually acceptable solution providing for the establishment of a bi-communal and bi-zonal federation, and reaffirmed its position that the fundamental principles of a settlement were the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus (see in particular resolutions 649 (1990) of 12 March 1990; 716 (1991) of 11 October 1991, para. 4; 750 (1992) of 10 April 1992, para. 2; and 774 (1992) of 26 August 1992, para. 2). See also the statement made by the President of the Council on 23 December 1991 (S/23316). In this context, it may be interesting to note the Secretary-General's comments in his report dated 8 March 1990 (S/21183): the Secretary-General recalled that, in drawing up the mandate for his mission of good offices in Cyprus, the Council had envisaged a solution based on the existence of one State of Cyprus comprising two communities. Noting that in the course of recent discussions, the representative of the Turkish Cypriot side had stated that the term "communities" should be used synonymously with the term "peoples", each having a separate right to "self-determination", the Secretary-General stated that he had informed the two parties that any change in terminology could alter the conceptual framework to which all had so far adhered. See also the Secretary-General's report dated 19 December 1991 (S/23300), submitted to the Council, pursuant to resolution 716 (1991).

During the Council's deliberations in connection with the situation relating to Afghanistan, the representative of Afghanistan, supported by the representative of the Union of Soviet Socialist Republics and several other speakers, argued that Pakistan's alleged support for the creation of an "interim government" on its territory amounted to interference in the internal affairs of Afghanistan, and a violation of the Afghan people's right to self-determination.¹⁰ The representative of Pakistan, however, supported by a number of other speakers, expressed the view that it was not foreign interference which prevented the Afghan people from exercising their right to self-determination, but rather "the unrepresentative regime which [had been] imposed as a result of foreign military intervention".¹¹

In connection with the question of South Africa, a number of speakers described the struggle against

¹⁰ For relevant statements by the representative of Afghanistan, see for example S/PV.2852, pp. 6-11 and 19-25; S/PV.2857, pp. 32, 43 and 71-74; and S/PV.2860, p. 3. For relevant comments by other speakers, see for example S/PV.2853, p. 22 (German Democratic Republic); p. 28 (Cuba); p. 33 (Mongolia); and p. 43 (Democratic Yemen); S/PV.2855, p. 3 (India); pp. 32, 49-51 and 63 (Soviet Union); S/PV.2856, p. 6 (Lao People's Democratic Republic); p. 11 (Nicaragua); p. 16 (Ethiopia); p. 21 (Viet Nam); p. 33 (Bulgaria); and p. 38 (Angola); S/PV.2857, p. 3 (Czechoslovakia); p. 16 (Yugoslavia); p. 18 (Ukrainian Soviet Socialist Republic); and pp. 28-32 (Congo); S/PV.2859, p. 7 (Algeria); p. 11 (Hungary); p. 20 (Poland); and p. 31 (Byelorussian Soviet Socialist Republic); and S/PV.2860, pp. 22 and 62 (Soviet Union).

¹¹ S/PV.2859, p. 42 (Pakistan). See also S/PV.2852, pp. 26-31 and 37-39 (Pakistan); S/PV.2853, pp. 6-11 (Organization of the Islamic Conference (OIC)); pp. 11-16 (Saudi Arabia); pp. 17-20 (Malaysia); pp. 21-22 (Syrian Arab Republic); pp. 38-41 (Turkey); pp. 42-43 (Japan); and pp. 51-53 (United States); S/PV.2855, pp. 8-11 (United Republic of Tanzania); pp. 12-13 (China); pp. 13-18 (United Kingdom); pp. 18-21 (France); pp. 21-23 (Canada); pp. 23-28 (Madagascar); and pp. 28-31 (Finland); S/PV.2856, pp. 27-30 (Comoros); pp. 31-33 (Iraq); and pp. 38-42 (Angola); S/PV.2857, pp. 11-12 (Bangladesh); pp. 12-15 (Nepal); pp. 16-18 (Yugoslavia); and pp. 28-32 (Congo); and S/PV.2859, p. 7 (Burkina Faso); pp. 16-17 (Somalia); p. 31 (Libyan Arab Jamahiriya); and pp. 38-42 (United States).

apartheid as a fight for self-determination by the indigenous majority against a white minority regime.¹²

Case 1

The situation in Namibia

By resolutions 629 (1989) and 632 (1989),¹³ the Security Council emphasized its determination to ensure the early independence of Namibia through free and fair elections under the supervision and control of the United Nations, in accordance with a settlement plan which it had first approved by its resolution 435 (1978), adopted more than a decade earlier.¹⁴

By resolution 643 (1989),¹⁵ the Council reaffirmed its commitment to carrying out the continuing legal responsibility over Namibia until its independence “to ensure the unfettered and effective exercise by the people of Namibia of their inalienable rights to self-determination and genuine national

independence in accordance with resolutions 435 (1978) and 640 (1989)”.¹⁶

In accordance with the above-mentioned decisions, elections for a constituent assembly were held from 7 to 11 November 1989, and certified by the Special Representative of the Secretary-General as having been free and fair.¹⁷

On 20 November 1989,¹⁸ the members of the Security Council, in a statement by the President of the Council,¹⁹ welcomed the successful conclusion of the elections in Namibia, and reaffirmed the continuing important role of the United Nations in ensuring the implementation of the settlement plan, in particular with a view to the adoption of a constitution by the constituent assembly.

The constitution was adopted on 9 February 1990, and entered into force on 21 March 1990, which day marked the accession of Namibia to independence in accordance with Council resolution 435 (1978).²⁰

On 17 April 1990,²¹ the Council unanimously adopted resolution 652 (1990), recommending to the General Assembly that the Republic of Namibia be admitted to membership in the United Nations.²²

After the resolution was adopted, speakers welcomed the historic occasion represented by the achievement of independence by the last colony on the African continent, and commended the positive role that had been played by the United Nations in that

¹² Reference to the right to self-determination was, for example, made by the following speakers: Mr. Nelson Mandela, President of the African National Congress of South Africa. (S/PV.3095, pp. 17-20); the President of the Pan Africanist Congress of Azania (ibid., p. 104); and the representative of the United Republic of Tanzania (ibid., pp. 183-185). The Security Council, in its decisions adopted during the period under review, supported a peaceful transition towards a democratic, non-racial and united South Africa (resolutions 765 (1992) of 16 July 1992, seventh preambular para. and paras. 4 and 8; 772 (1992) of 17 August 1992, third preambular para. and para. 9; and the presidential statement of 10 September 1992 (S/24541)).

¹³ Adopted unanimously at the Council’s 2842nd and 2848th meetings respectively. At the latter meeting, the President of the Council underlined the historic importance of resolution 632 (1989), noting that it had set in motion the process of Namibia’s transition towards independence through free and fair elections under the supervision of and control of the United Nations, marking the last major step towards decolonization in Africa (S/PV.2848, p. 3).

¹⁴ By the same decisions, the Council also authorized the emplacement of the United Nations Transition Assistance Group, which had already been envisaged in resolution 435 (1978). By resolution 640 (1989), adopted at the 2882nd meeting on 29 August 1989, the Council reaffirmed its commitment to the decolonization of Namibia through the holding of free and fair elections under the supervision and control of the United Nations.

¹⁵ Adopted at the 2886th meeting, on 31 October 1989.

¹⁶ See resolution 643 (1989), para. 4.

¹⁷ This was noted in the Secretary-General’s report dated 14 November 1989, on the implementation of resolution 435 (1978) on the question of Namibia (S/20967). See also S/20967/Add.1 of 29 November 1989.

¹⁸ 2893rd meeting.

¹⁹ S/20974.

²⁰ See the reports of the Secretary-General dated 16 and 28 March 1990 (S/20967/Add.2 and S/21215).

²¹ 2918th meeting.

²² Resolution 652 (1990), operative paragraph.

process.²³ Commenting specifically on the role of the Security Council, the Secretary-General stated that it was a source of great satisfaction that ultimately a solution to the question of Namibia had been reached on the basis of a settlement plan that had been adopted by the Council 12 years earlier.

Case 2

The situation concerning Western Sahara

On 18 June 1990, the Secretary-General submitted to the Council a report on the situation concerning Western Sahara,²⁴ containing the text of a settlement plan that had been accepted in principle by the parties to the conflict.²⁵ He noted that the main elements of the settlement plan were a ceasefire and the holding of a referendum to enable the people of Western Sahara, in the exercise of their right to self-determination, to choose between independence and integration with Morocco. The plan would thus ensure that the necessary conditions existed for the holding of a free and fair referendum. By resolution 658 (1990),²⁶ the Council approved the settlement plan contained in the Secretary-General's report.

By resolution 690 (1991),²⁷ the Council expressed its full support for the efforts of the Secretary-General for the organization and the supervision, by the United Nations in cooperation with the Organization of African Unity, of a referendum for self-determination of the people of Western Sahara, and decided to establish a United Nations Mission for the Referendum in Western Sahara.

²³ S/PV.2918, p. 6 (Ethiopia); p. 7 (Secretary-General); pp. 9-11 (Malaysia); pp. 12-13 (Democratic Yemen); pp. 13-15 (Zaire); p. 17 (Côte d'Ivoire); pp. 20-21 (United States); pp. 22-23 (France); pp. 23-25 (Soviet Union); pp. 27-28 (United Kingdom); pp. 29-31 (Finland); pp. 31-32 (China); pp. 34-35 (Colombia); pp. 36-38 (Romania); pp. 39-41 (Canada); pp. 42-43 (Cuba); pp. 47-48 (Brazil); pp. 49-52 (South Africa); pp. 54-56 (Vice-President of the United Nations Council for Namibia); pp. 57-58 (Mali); and pp. 61-62 (Ethiopia).

²⁴ S/21360.

²⁵ The Government of Morocco and the Frente Polisario had accepted the proposals in principle on 30 August 1988.

²⁶ Adopted at the 2929th meeting, on 27 June 1990.

²⁷ Adopted at the 2984th meeting, on 29 April 1991.

By its resolution 725 (1991),²⁸ the Council reiterated its support for the Secretary-General's efforts, but noted with concern "the difficulties and delays encountered in the implementation of the settlement plan regarding the question of Western Sahara".

The Council members confirmed their continued support for the implementation of the settlement plan in several letters²⁹ transmitted during the course of 1992, in response to reports of the Secretary-General on the United Nations operation in Western Sahara,³⁰ and the obstacles encountered by it.

In a letter dated 22 December 1992 to the President of the Council,³¹ the Secretary-General concluded with much regret that the considerable efforts made by his Special Representative over the past several months to reach agreements with all parties on the major aspects of the settlement plan had not achieved the desired results. He therefore felt obliged to take concrete steps towards the holding of the referendum, notwithstanding the continued absence of the agreements sought. In his forthcoming report, to be submitted in January 1993, he intended to set forth the various steps that should be taken in order to hold the referendum at the earliest possible date.

Case 3

The situation in Cambodia

By a letter dated 30 August 1990,³² the representatives of the five permanent members of the Security Council transmitted to the Secretary-General a joint statement, adopted in New York two days earlier, defining the key elements of a proposed framework for a comprehensive political settlement of the Cambodian conflict based on an enhanced United Nations role. The

²⁸ Adopted at the 3025th meeting, on 31 December 1991.

²⁹ See letters dated 25 March, 3 June, 31 August and 8 October 1992, respectively, from the President of the Council to the Secretary-General (S/23755, S/24059, S/24504 and S/24645). For further details relating to those letters, see the study on the situation in Western Sahara in chapter VIII of the present Supplement.

³⁰ Reports of the Secretary-General dated 28 February, 29 May and 20 August 1992, respectively (S/23662, S/24040 and S/24464). See also the letter dated 2 October 1992 from the Secretary-General to the President of the Council (S/24644).

³¹ S/25008.

³² S/21689, annex and appendix.

fundamental principle of the framework was “to enable the Cambodian people to determine their own political future through free and fair elections, organized and conducted by the United Nations in a neutral political environment with full respect for the national sovereignty of Cambodia”. By resolution 668 (1990),³³ the Council endorsed this framework for a comprehensive political settlement. It further noted³⁴ that the efforts of the permanent members, as well as efforts by France and Indonesia in their capacity as Co-Chairs of the Paris Conference on Cambodia,³⁵ were “aimed at enabling the Cambodian people to exercise their inalienable right to self-determination through free and fair elections organized and conducted by the United Nations in a neutral political environment with full respect for the national sovereignty of Cambodia”.

By resolution 717 (1991)³⁶ the Security Council welcomed the progress made towards a comprehensive political settlement, noting that such a settlement would enable the Cambodian people to exercise its inalienable right to self-determination through free and fair elections organized and conducted by the United Nations.

By resolution 745 (1992),³⁷ the Council again expressed its desire to contribute “to the assurance of the right to self-determination of the Cambodian people through free and fair elections”, and approved the Secretary-General’s implementation plan for the mandate envisaged in the agreements on a comprehensive political settlement.³⁸

By resolution 792 (1992),³⁹ the Council determined that elections were to be held in April/May 1993.⁴⁰

³³ Adopted at the 2941st meeting, on 20 September 1990.

³⁴ Resolution 668 (1990), sixth preambular para.

³⁵ The Council also took note with appreciation of the efforts of all participants in the Paris Conference as well as those undertaken by the countries of the Association of Southeast Asian Nations.

³⁶ Adopted at the 3014th meeting, on 16 October 1991.

³⁷ Adopted at the 3057th meeting, on 28 February 1992.

³⁸ Report of the Secretary-General on Cambodia (S/23613 and Add.1).

³⁹ Adopted at the 3143rd meeting, held on 30 November 1992.

⁴⁰ By resolution 792 (1992), the Council again recalled that, in accordance with the Agreement on a Comprehensive Political Settlement, all Cambodians had

Case 4

The situation in the occupied Arab territories

During the Council’s deliberations in connection with the situation in the occupied Arab territories, the representative of Palestine reiterated the Palestinian position that peace could not be established unless the Palestinian people was allowed to exercise its right to self-determination and to establish an independent State on its national soil.⁴¹ He requested that the Council consider deploying a United Nations observer force in the occupied Palestinian territory, which would permit the United Nations to supervise the transition towards a final settlement, and enable the Palestinian people to exercise its right to self-determination.⁴²

The representative of Israel, on the other hand, stated that his country sought to resolve the ultimate status of the territories and of the Palestinian Arab residents through direct negotiations with Israel’s neighbours and the Palestinian Arabs residing in the territories, on the basis of Security Council resolutions 242 (1967) and 338 (1973). He observed that a solution recognizing both Israel’s security needs and the Palestinians’ legitimate rights might be found if negotiations were to begin with Arab States and representatives of the Palestinians living in the territories.⁴³

A significant number of speakers reiterated their support for the right of the Palestinian people to self-determination⁴⁴ and for the establishment of a

the right to determine their own political future through the free and fair election of a constituent assembly.

⁴¹ S/PV.2910, p. 32.

⁴² S/PV.2953, p. 18.

⁴³ S/PV.2845, pp. 61-63.

⁴⁴ S/PV.2845, p. 22 (Palestine); p. 37 (Senegal); p. 48 (Jordan); pp. 51-52 and 54-55 (Egypt); S/PV.2846, p. 9 (Syrian Arab Republic); pp. 19-20 (Malaysia); p. 26 (Kuwait); p. 33 (Bahrain); p. 41 (Ethiopia); p. 47 (Zimbabwe); pp. 52 and 56 (Pakistan); S/PV.2847, pp. 7-8 (Sudan); p. 12 and 15b-z (OIC); pp. 24 and 27 (Yugoslavia); p. 32 (Turkey); p. 37 (Democratic Yemen); pp. 44-45 (Afghanistan); pp. 61-62 and 64 (Islamic Republic of Iran); pp. 66-67 and 69-70 (Japan); pp. 79-80 and 82 (Czechoslovakia); p. 87 (Ukrainian Soviet Socialist Republic); S/PV.2849, p. 6 (India); p. 8 (Morocco); p. 22 (Soviet Union); p. 26 (United Kingdom); p. 31 (China); pp. 32-33 (Finland); pp. 39-40 and 42-43 (Panama); pp. 46-47 (Lao People’s Democratic Republic); S/PV.2850, pp. 7-8 (Colombia); pp. 13-15 (Nicaragua); p. 27 (France); pp. 28-31

(Nepal); S/PV.2863, pp. 36-37 (Syrian Arab Republic); p. 43 (Senegal); p. 47 (Jordan); S/PV.2864, p. 16 (Algeria); pp. 21-22 and 24 (OIC); p. 36 (League of Arab States); 48-50 and 52 (Yemen); pp. 57 and 61-62 (Bahrain); S/PV.2865, p. 8 (Egypt); p. 17 (Qatar); pp. 41-42 (Pakistan); p. 45 (Yugoslavia); p. 52 (Kuwait); pp. 56-57 (Democratic Yemen); pp. 63-65 (Syrian Arab Republic); S/PV.2866, pp. 14-15 (Ukrainian Soviet Socialist Republic); p. 23 (Zimbabwe); S/PV.2867, p. 7 (Soviet Union); p. 12 (Finland); pp. 14-15 (France); p. 22 (China); p. 33 (Palestine); S/PV.2888, pp. 13-15 (Senegal); p. 28 (Yugoslavia); pp. 39-40 (Islamic Republic of Iran); p. 42 (League of Arab States); S/PV.2889, p. 17 (Finland); pp. 24-25 (Algeria); p. 36 (Colombia); S/PV.2910, p. 18 (Soviet Union); pp. 32-35 (Palestine); p. 46 (Malaysia); pp. 51-53 (Cuba); S/PV.2912, pp. 23-25 (Yemen); p. 37 (Syrian Arab Republic); pp. 49-51 (Indonesia); S/PV.2914, pp. 14-15 (Pakistan); pp. 19-20 (India); S/PV.2915, pp. 9-10 (France); pp. 11-12 (United Kingdom); p. 17 (Algeria); p. 27 (Iraq); pp. 46-47 (Morocco); p. 52 (Islamic Republic of Iran); p. 52 (Afghanistan); S/PV.2920, p. 22 (Palestine); pp. 34-35 (Egypt); S/PV.2923, p. 21, (Palestine); pp. 64-65 (United Kingdom); pp. 108-110 (Soviet Union); p. 121 (France); pp. 148-152 (Yemen); pp. 159-160 (Zaire); p. 173 (Senegal); p. 182 (OIC); p. 211 (Iraq); pp. 217 and 223 (Egypt); pp. 228-230 (Islamic Republic of Iran); p. 242 (Qatar); p. 271 (Morocco); p. 282 (Yugoslavia); pp. 307-308 (Turkey); S/PV.2926, p. 7 (Pakistan); S/PV.2945, p. 9-15 (Palestine); p. 48 (Senegal); S/PV.2946, pp. 24-25 and 27 (Libyan Arab Jamahiriya); pp. 44-45 (China); p. 64 (Yugoslavia); S/PV.2947, pp. 38-40 (Iraq); S/PV.2948, p. 5 (United Arab Emirates); p. 17 (Morocco); p. 31 (Côte d'Ivoire); S/PV.2949, p. 37 (Sudan); S/PV.2953, p. 18 (Palestine); S/PV.2957, p. 39 (Syrian Arab Republic); and S/PV.2970, pp. 44-45 (Cuba).

sovereign, independent Palestinian State.⁴⁵ However, a number of speakers, while recognizing the political rights of the Palestinian people, emphasized that the situation could only be resolved in the context of an overall negotiated settlement which would also have to take account of the need to guarantee the right of Israel to live within secure and recognized borders.⁴⁶

In its decisions,⁴⁷ the Council reaffirmed that a just and lasting solution to the Arab-Israeli conflict had to be based on a process which took into account the right to security for all States in the region, including

⁴⁵ S/PV.2846, p. 9 (Syrian Arab Republic); p. 26 (Kuwait); p. 47 (Zimbabwe); S/PV.2847, pp. 7-8 (Sudan); pp. 12 and 15b-z (OIC); pp. 24 and 27 (Yugoslavia); p. 37 (Democratic Yemen); pp. 44-45 (Afghanistan); pp. 61-62 and 64 (Islamic Republic of Iran); pp. 79-80 and 82 (Czechoslovakia); S/PV.2849, pp. 39-40 and 42-43 (Panama); pp. 46-47 (Lao People's Democratic Republic); S/PV.2864, p. 16 (Algeria); pp. 21-22 (OIC); pp. 36-37 (League of Arab States); pp. 48-50 and 52 (Yemen); pp. 61-62 (Bahrain); S/PV.2865, pp. 41-42 (Pakistan); p. 52 (Kuwait); pp. 56-57 (Democratic Yemen); pp. 63-65 (Syrian Arab Republic); S/PV.2866, p. 23 (Zimbabwe); S/PV.2867, p. 22 (China); S/PV.2888, pp. 13-15 (Senegal); pp. 39-40 (Islamic Republic of Iran); p. 42 (League of Arab States); S/PV.2889, pp. 24-25 (Algeria); p. 36 (Colombia); pp. 38-41 (China); S/PV.2910, p. 18 (Soviet Union); pp. 32-35 (Palestine); S/PV.2912, pp. 23-25 (Yemen); p. 46 (Syrian Arab Republic); S/PV.2914, pp. 14-15 (Pakistan); S/PV.2915, p. 17 (Algeria); pp. 46-47 (Morocco); p. 52 (Islamic Republic of Iran); p. 52 (Afghanistan); S/PV.2923, pp. 148-152 (Yemen); pp. 159-160 (Zaire); p. 173 (Senegal); p. 182 (OIC); p. 223 (Egypt); p. 242 (Qatar); p. 271 (Morocco); p. 282 (Yugoslavia); pp. 307-308 (Turkey); S/PV.2926, p. 7 (Pakistan); S/PV.2946, pp. 42-45 (China); S/PV.2948, p. 5 (United Arab Emirates); p. 17 (Morocco), p. 31 (Côte d'Ivoire).

⁴⁶ S/PV.2847, p. 27 (Yugoslavia); pp. 66-67 (Japan); S/PV.2849, p. 6 (India); p. 22 (Soviet Union); p. 42 (Panama); S/PV.2849, p. 26 (United Kingdom); S/PV.2850, p. 8 (Colombia); p. 27 (France); pp. 28-31 (Nepal); pp. 32-34 (United States); S/PV.2865, p. 45 (Yugoslavia); S/PV.2867, p. 7 (Soviet Union); p. 12 (Finland); pp. 14-15 (France); S/PV.2889, p. 17 (Finland); p. 36 (Colombia); pp. 37-38 (France); S/PV.2910, p. 18 (Soviet Union); S/PV.2914, pp. 19-20 (India); S/PV.2915, pp. 9-10 (France); S/PV.2923, pp. 64-65 (United Kingdom); p. 121 (France); S/PV.2946, p. 64 (Yugoslavia).

⁴⁷ Resolution 672 (1990), adopted unanimously at the 2948th meeting, on 12 October 1990, and the statement by the President of the Council adopted at the 2970th meeting, on 19 December 1990 (S/22027).

Israel, as well as the legitimate political rights of the Palestinian people, in accordance with resolutions 242 (1967) and 338 (1973).

Case 5

Trust Territory of the Pacific Islands

On 22 December 1990,⁴⁸ the Council considered a draft resolution⁴⁹ on the applicability of the Trusteeship Agreement for the Trust Territory of the Pacific Islands to the Federated States of Micronesia, the Marshall Islands and the Northern Mariana Islands.⁵⁰

Speaking before the vote, the representative of New Zealand recalled that, some years earlier, these three island groups had indicated their desire for independent political status. The speaker noted that the United Nations had long been guided in its approach to decolonization by the principle that the wishes of the people should be uppermost in the process of political self-determination. On the basis of the express wish of the people of the three island groups concerned, New Zealand endorsed the call for the partial termination of the Trusteeship Agreement.⁵¹

⁴⁸ 2972nd meeting.

⁴⁹ S/22001.

⁵⁰ This matter was considered under the agenda item entitled "Letter dated 7 December 1990 from the President of the Trusteeship Council addressed to the President of the Security Council".

⁵¹ S/PV.2972, pp. 9-12.

At the same meeting, the Council adopted resolution 683 (1990),⁵² by which it recalled that the Trusteeship Agreement for the Trust Territory, in conformity with Article 76 of the Charter, had obligated the Administering Authority to promote the development of the Trust Territory towards self-government or independence. Noting that the peoples of three constituent parts of the Trust Territory had freely exercised their right to self-determination through plebiscites observed by visiting missions of the Trusteeship Council, the Council determined that the objectives of the Trusteeship Agreement had been fully attained. The applicability of the Trusteeship Agreement with respect to those entities had therefore terminated.⁵³

⁵² The resolution was adopted by 14 votes to 1 (Cuba).

⁵³ By resolution 683 (1990), the Council also expressed the hope that the people of Palau would be able in due course to complete the process of freely exercising their right to self-determination. Speaking after the vote, most speakers noted that the resolution just adopted had been designed to facilitate the exercise of the right to self-determination by the peoples of the Federated States of Micronesia, the Marshall Islands and the Northern Mariana Islands, and that ending the trusteeship status would make it possible for the Territories concerned fully to implement the status that their respective peoples had freely chosen (S/PV.2972, p. 13 (France); pp. 14-16 (China); pp. 26-27 (United Kingdom); pp. 27-28 (United States); pp. 28-30 (Soviet Union); and pp. 30-31 (Ethiopia)).

Part II

Consideration of the provisions of Article 2 of the Charter

A. Article 2, paragraph 4

Article 2, paragraph 4

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Note

This note describes the action taken by the Security Council in the form of resolutions, presidential statements and other decisions in connection with Article 2 (4). It is followed by six case studies which present the discussions that arose in the Council pertaining to that Article.

During the period under review, the Council adopted one resolution which contained an explicit

reference to Article 2 (4).⁵⁴ By resolution 748 (1992), by which it imposed sanctions on the Libyan Arab Jamahiriya, the Council reaffirmed that, “in accordance with the principle in Article 2, paragraph 4, of the Charter of the United Nations, every State has the duty to refrain from organizing, instigating, assisting or participating in terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts, when such acts involve a threat or use of force”.⁵⁵

The Council also adopted 13 presidential statements,⁵⁶ in which it invoked the provisions of Article 2 (4) or the principle enshrined therein. In six presidential statements relating to the situation in the Middle East, the members of the Council reaffirmed “their commitment to the full sovereignty, independence, territorial integrity and national unity of Lebanon within its internationally recognized boundaries”. In this context, they asserted that “any State shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the United Nations”.⁵⁷ In six other presidential statements issued on the occasion of the admission to membership in the United Nations of Armenia, Azerbaijan, Croatia, Slovenia, Bosnia and Herzegovina and Georgia, respectively, the members of the Council “noted with great satisfaction” each State’s “solemn commitment to uphold the purposes and principles of the Charter of the United Nations, which include the principles relating to the peaceful settlement of disputes and the non-use of force”.⁵⁸ The statements made on the occasion of the admission of Armenia and Azerbaijan,

respectively, were recalled in a further presidential statement concerning the situation in Nagorny-Karabakh, “in particular the reference to the principles in the Charter of the United Nations relating to the peaceful settlement of disputes and the non-use of force”.⁵⁹

During the period under review, the Council adopted several resolutions and presidential statements that contained implicit references to the principle enshrined in Article 2 (4).

In connection with the situation between Iraq and Kuwait, the Council condemned the invasion and, subsequently, the continued occupation of Kuwait by the military forces of Iraq.⁶⁰ In connection with the situation in the former Yugoslavia, the members of the Council condemned publicly and unreservedly the use of force and called upon all regular and irregular military forces involved to act in accordance with this principle.⁶¹ In connection with the situation in Georgia, the members of the Council recalled the commitment by the parties not to resort to the use of force.⁶²

In a number of instances, the Council reaffirmed the principles of territorial integrity, sovereignty and political independence of States and asked that they be fully respected.⁶³ The Council also reaffirmed the

⁵⁴ Resolution 748 (1992), adopted at the 3063rd meeting on 31 March 1992 by 10 votes to none, with 5 abstentions (Cape Verde, China, India, Morocco, Zimbabwe).

⁵⁵ Resolution 748 (1992), sixth preambular para.

⁵⁶ S/21418 of 31 July 1990, S/22176 of 30 January 1991, S/22862 of 31 July 1991, S/23495 and S/23496 of 29 June 1992, S/23597 of 14 February 1992, S/23610 of 19 February 1992, S/23904 of 12 May 1992, S/23945 and S/23946 of 18 May 1992, S/23982 of 20 May 1992, S/24241 of 6 July 1992 and S/24362 of 30 July 1992.

⁵⁷ S/21418; S/22176; S/22862; S/23495; S/23610; and S/24362.

⁵⁸ S/23496; S/23597; S/23945; S/23946; S/23982; and S/24241. In the cases of Croatia, Slovenia and Bosnia and Herzegovina, the Council also noted each State’s commitment “to fulfil all the obligations contained in the Charter” (see S/23945, S/23982 and S/24241).

⁵⁹ S/23904.

⁶⁰ Resolutions 660 (1990), para. 1; 670 (1990), second preambular para.; and 674 (1990), third preambular para.

⁶¹ Presidential statement of 24 April 1992 (S/23842).

⁶² Presidential statement of 8 October 1992 (S/24637).

⁶³ In connection with the situation in the Middle East, see resolutions 630 (1989), para. 2; 639 (1989), para. 2; 648 (1990), para. 2; 659 (1990), para. 2; 684 (1991), para. 2; 701 (1991), para. 2; 734 (1992), para. 5; and 768 (1992), para. 2; and the statements of 31 March 1989 (S/20554); 15 August 1989 (S/20790); 20 September 1989 (S/20855); 7 November 1989 (S/20953); 22 November 1989 (S/20988); and 27 December 1989 (S/21056). See also S/21418; S/22862; S/23495; S/23610; and S/24362 (see footnote 56). In connection with the situation in the occupied Arab territories, see resolution 799 (1992), para. 3. In connection with the situation between Iraq and Kuwait, see resolutions 686 (1991), eighth preambular para., and 687 (1991), third preambular para. In connection with the letter dated 2 April 1991 from the representative of Turkey to the President of the Security Council and the letter dated 4 April 1991 from the representative of France to the President of the Security Council, see resolution 688 (1991), seventh preambular para. In connection with the letter dated 17 May 1991 from the representative of Angola to the Secretary-

inadmissibility of the acquisition of territory by war,⁶⁴ the unacceptability of territorial gains or changes brought about by violence,⁶⁵ the inviolability of international boundaries,⁶⁶ and the inadmissibility of any encroachment upon the principle of territorial integrity.⁶⁷ In connection with the situation between Iraq and Kuwait, the Council decided that “annexation of Kuwait by Iraq under any form and whatever pretext has no legal validity, and is considered null and void”, and further called upon all States, international organizations and agencies “not to recognize that annexation, and to refrain from any action or dealing that might be interpreted as an indirect recognition of the annexation”.⁶⁸ In connection with the situation in the former Yugoslavia, the Council demanded that all parties and others concerned in Bosnia and Herzegovina cooperate with efforts to bring about urgently a negotiated political solution respecting the principle that any change of borders by force is not acceptable”.⁶⁹

The Council also reaffirmed that the taking of territory by force or any practice of “ethnic cleansing” is unlawful and unacceptable, and would not be

General and the report of the Secretary-General on the United Nations Angola Verification Mission, see resolution 696 (1991), third preambular para. In connection with the situation in the former Yugoslavia, see resolutions 752 (1992), para. 3; 757 (1992), fourth preambular para.; and 770 (1992), fourth preambular para.

⁶⁴ In connection with the situation in the occupied Arab territories; see resolution 681 (1990), second preambular para.

⁶⁵ In connection with the situation in the former Yugoslavia; see resolutions 713 (1991), eighth preambular para.; 752 (1992), para. 1; and 757 (1992), third preambular para.

⁶⁶ In connection with the situation between Iraq and Kuwait, see resolutions 687 (1991), paras. 2 and 4; and 773 (1992), para. 4; and the presidential statements of 17 June 1992 (S/24113); 11 March 1992 (S/23699); and 23 November 1992 (S/24836). In connection with the situation in the former Yugoslavia, see resolution 757 (1992), third preambular para. In connection with the situation in Georgia, see the statement of 10 September 1992 (S/24542).

⁶⁷ In connection with the situation in Georgia; see the statements of 10 September 1992 (S/24542) and 8 October 1992 (S/24637).

⁶⁸ Resolution 662 (1990), paras. 1-2. See also resolutions 661 (1990), para. 9 (b), and 664 (1990), para. 3.

⁶⁹ Resolution 752 (1992), para. 1.

permitted to affect the outcome of the negotiations on constitutional arrangements for the Republic of Bosnia and Herzegovina.⁷⁰ It further called on all parties and others concerned to respect strictly the territorial integrity of the Republic of Bosnia and Herzegovina and affirmed that any entities unilaterally declared or arrangements imposed in contravention thereof would not be accepted.⁷¹ The Council also expressed concern about possible developments which could undermine confidence and stability in the former Yugoslav Republic of Macedonia or threaten its territory.⁷²

In connection with the situation in the former Yugoslavia, the Council demanded that all forms of interference from outside Bosnia and Herzegovina, including by units of the Yugoslav People’s Army as well as elements of the Croatian Army, cease immediately, and that Bosnia and Herzegovina’s neighbours take swift action to end such interference and respect the territorial integrity of Bosnia and Herzegovina.⁷³ In a number of cases, the Council appealed for an end to interference from outside States in the form of “foreign military assistance”,⁷⁴ including through “support for irregular forces”,⁷⁵ overt or covert “supply of aid to irregular forces or insurrectional movements”,⁷⁶ and “infiltration of irregular units and personnel”.⁷⁷ In connection with the situation in Angola, the Council stressed the importance of all States refraining from taking any actions which could undermine the peace agreement there.⁷⁸ In connection

⁷⁰ Resolution 787 (1992), para. 2.

⁷¹ *Ibid.*, para. 3.

⁷² Resolution 795 (1992), fourth preambular para.

⁷³ Resolution 752 (1992), para. 3. See also resolution 757 (1992), fourth preambular para.

⁷⁴ In connection with the situation in Cambodia; see resolution 717 (1991), fifth preambular para.

⁷⁵ In connection with the item entitled “Central America: efforts towards peace”; see resolution 637 (1989), second preambular para.

⁷⁶ In connection with the item entitled “Central America: efforts towards peace”; see resolution 637 (1989), para. 4.

⁷⁷ In connection with the situation in the former Yugoslavia; see resolution 787 (1992), para. 5. See also resolutions 752 (1992), para. 3; and 757 (1992), third preambular para.; and the presidential statement of 24 April 1992 (S/23842).

⁷⁸ In connection with the letter dated 17 May 1991 from the representative of Angola to the Secretary-General and the report of the Secretary-General on the United Nations Angola Verification Mission, see resolution 696 (1991), third preambular para.

with the situation in Liberia, the Council also called on the parties to the conflict to respect and implement the various accords of the peace process ..., including refraining from actions which endanger the security of neighbouring States,⁷⁹ and, conversely, called on Member States to exercise self-restraint in their relations with all parties to the Liberian conflict and to refrain from any action that would be inimical to the peace processes.⁸⁰ In other instances, the Council called upon all States and/or parties in neighbouring countries to refrain from any action which might contribute to increasing tension, to inhibiting the establishment of an effective ceasefire and to impeding or delaying a peaceful and negotiated outcome to the conflict.⁸¹ The Council also deplored “the false alarm by South Africa ... concerning the alleged movement of forces of the South West Africa People’s Organization across the Namibia-Angola border” and called on that State to desist from any such further action.⁸²

In connection with the situation between Iraq and Kuwait, the Council considered that acts of violence committed by Iraq against diplomatic missions and their personnel, including violations of diplomatic premises and abduction of personnel enjoying diplomatic immunity as well as foreign nationals present in such premises, constitute aggressive acts and a flagrant violation of its international obligations which strike at the root of the conduct of international relations in accordance with the Charter of the United Nations and strongly condemned such acts.⁸³

In connection with the Libyan Arab Jamahiriya, the Council expressed its concern at the worldwide persistence of acts of international terrorism in all its forms, including those in which States are directly or indirectly involved, which endanger or take innocent lives, have a deleterious effect on international relations and jeopardize the security of States,⁸⁴ and expressed its conviction that the suppression of such acts is essential for the maintenance of international peace and security.⁸⁵ It decided that the Libyan Government must commit itself definitely to cease all forms of terrorist action and assistance to terrorist groups and that it must promptly, by concrete actions, demonstrate its renunciation of terrorism.⁸⁶ In connection with the situation between Iraq and Kuwait, the Council required Iraq to inform the Council that it will not commit or support any act of international terrorism or allow any organization directed towards commission of such acts to operate within its territory and to condemn unequivocally and renounce all acts, methods and practices of terrorism.⁸⁷ The Council further expressed concern at, or deplored, statements by Iraq “threatening to use weapons in violation of its obligations”, reports that “Iraq has attempted to acquire military materials for a nuclear-weapons programme contrary to its obligations”, and threats by Iraq “to make use of terrorism against targets outside Iraq and the taking of hostages by Iraq”.⁸⁸

In a number of cases, the Council called on parties to respect and maintain ceasefire agreements and condemned violations of such agreements.⁸⁹ It also called for the cessation of hostilities and/or acts of violence, including violations of international humanitarian law, and the exercise of restraint or the

⁷⁹ Presidential statement of 7 May 1992 (S/23886).

⁸⁰ Resolution 788 (1992), para. 11.

⁸¹ In connection with the situation in the former Yugoslavia; see resolutions 713 (1991), para. 7; and 724 (1991), para. 7. See also, in connection with the situation in Somalia, resolution 733 (1992), para. 6; in connection with the situation in Tajikistan, see the statement of 30 September 1992 (S/24742); in connection with the letter dated 27 November 1989 from the Representative of El Salvador to the President of the Security Council and the letter dated 28 November 1989 from the representative of Nicaragua to the President of the Security Council, see the statement of 8 December 1989 (S/21011).

⁸² In connection with the situation in Namibia; see the statement of 3 November 1989 (S/20946).

⁸³ See resolution 667 (1990), sixth preambular para. and para. 1.

⁸⁴ See resolution 731 (1992), first preambular para.

⁸⁵ See resolution 748 (1992), fourth preambular para.

⁸⁶ *Ibid.*, para. 2.

⁸⁷ In connection with the situation between Iraq and Kuwait; see resolution 687 (1991), para. 32; and the statements of 11 March 1992 (S/23699); and 23 November 1992 (S/24836).

⁸⁸ Resolution 687 (1991), eighth, fifteenth and twenty-third preambular paras.

⁸⁹ In connection with the situation in the former Yugoslavia; see resolutions 713 (1991), para. 4; 721 (1991), para. 3; 743 (1992), para. 8; 752 (1992), para. 1; 758 (1992), paras. 5-6; and 761 (1992), paras. 2-3; and the statements of 7 January 1992 (S/23389); 24 April 1992 (S/23842); 17 July 1992 (S/24307); and 24 July 1992 (S/24346).

cessation of provocative actions.⁹⁰ In some instances, the Council also called for the withdrawal of troops from foreign territory.⁹¹ In connection with the situation in the former Yugoslavia, the Council demanded that those units of the Yugoslav People's Army and elements of the Croatian Army now in Bosnia and Herzegovina must either be withdrawn, or be subject to the authority of the Government of Bosnia and Herzegovina, or be disbanded and disarmed with the weapons placed under effective international monitoring.⁹² The Council strongly condemned any violations of international humanitarian law, including those involved in the practice of "ethnic cleansing", and demanded that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, immediately cease and desist from all breaches of international humanitarian law, including from actions such as those described above.⁹³ It further called on all parties in the Republic of Bosnia and Herzegovina to fulfil their commitments to put into effect an immediate cessation of hostilities and to negotiate, continuously and in uninterrupted session, to end the blockades of Sarajevo and other towns and to demilitarize them, with heavy weapons under international supervision.⁹⁴

Similar calls for the respect and maintenance of ceasefire agreements, the cessation of hostilities, including violations of international humanitarian law, and the exercise of restraint were made in the context

of internal conflicts.⁹⁵ In connection with the situation in the former Yugoslavia, the Council called upon all parties and others concerned to ensure that forcible expulsions of persons from the areas where they lived and any attempts to change the ethnic composition of the population, anywhere in the former Socialist Federal Republic of Yugoslavia, cease immediately.⁹⁶ In another case, the Council condemned the repression of the Iraqi civilian population in many parts of Iraq, including in the Kurdish populated areas, the consequences of which threatened international peace and security in the region and demanded that Iraq, as a contribution to removing the threat to international peace and security in the region, immediately end that repression.⁹⁷

During the period under review, a number of draft resolutions that were not adopted by the Council contained explicit references to Article 2 (4) or invoked the provisions of that Article 2 (4) or the principle

⁹⁰ In connection with the situation in the former Yugoslavia, see resolutions 727 (1992), para. 4; 749 (1992), paras. 5-6; 752 (1992), para. 1; 762 (1992), para. 2; 764 (1992), para. 3; 770 (1992), para. 1; and 787 (1992), para. 6; and the statement of 13 April 1992 (S/23802). In connection with the situation in the Middle East, see the statements of 31 March 1989 (S/20554); 15 August 1989 (S/20790); and 19 February 1992 (S/23610). In connection with the situation between Iraq and Kuwait, see resolution 686 (1991), para. 3 (a). In connection with the situation relating to Nagorny-Karabakh, see the statement of 12 May 1992 (S/23904).

⁹¹ In connection with the situation between Iraq and Kuwait; see resolutions 660 (1990), para. 1; 662 (1990), third preambular para.; and 674 (1990), second preambular para. In connection with the situation in the former Yugoslavia, see resolutions 752 (1992), para. 4; 757 (1992), para. 2; 761 (1992), para. 3; 762 (1992), paras. 3-4; and 779 (1992), para. 4.

⁹² Resolutions 752 (1992), para. 4; and 757 (1992), para. 2.

⁹³ Resolution 771 (1992), paras. 2-3. See also the statement of 30 October 1992 (S/24744).

⁹⁴ Resolution 787 (1992), para. 6.

⁹⁵ In connection with the situation in Cyprus, see resolution 649 (1990), para. 5; and the statement of 19 July 1990 (S/21400). In connection with the situation in Afghanistan, see the statement of 16 April 1992 (S/23818). In connection with the situation in Cambodia, see resolutions 718 (1991), para. 5; 728 (1992), para. 3; 766 (1992), para. 3; 783 (1992), para. 7; and 792 (1992), paras. 8 and 15. In connection with the situation in Somalia, see resolutions 733 (1992), paras. 4 and 6; 746 (1992), fifth preambular para. and para. 2; 751 (1992), para. 9; 767 (1992), para. 9; 775 (1992), para. 11; and 794 (1992), paras. 1 and 4. In connection with the situation in Angola, see resolutions 785 (1992), paras. 3 and 7; and 793 (1992), para. 4; and the statements of 7 July 1992 (S/24249); 20 October 1992 (S/24683); and 27 October 1992 (S/24720). In connection with the situation in Liberia, see resolution 788 (1992), paras. 3-6. In connection with the situation in Mozambique, see resolution 797 (1992), para. 4; and the statement of 27 October 1992 (S/24719). In connection with the item entitled "Central America: efforts towards peace", see resolution 791 (1992), para. 4. In connection with the situation concerning Western Sahara, see the statement of 31 August 1992 (S/24504).

⁹⁶ Resolution 752 (1992), para. 6. See also resolution 757 (1992), fifth preambular para.

⁹⁷ In connection with the letter dated 2 April 1991 from the representative of Turkey to the President of the Security Council and the letter dated 4 April 1991 from the representative of France to the President of the Security Council, see resolution 688 (1991), paras. 1-2.

enshrined therein.⁹⁸ Other such draft resolutions contained what might be considered implicit references to the principle enshrined in Article 2 (4).⁹⁹

Case 6

The situation between Iraq and Kuwait

None of the decisions of the Security Council mentioned above concerning the situation between Iraq and Kuwait gave rise to a constitutional discussion of Article 2 (4). Pertinent arguments with reference to the provisions of that paragraph were however made in the course of the Council's deliberations on the item.

On the one hand, Kuwait described the military invasion by Iraq as "a flagrant violation of the Charter, particularly in paragraphs 3 and 4 of its Article 2", which made it incumbent on the Security Council to shoulder its responsibilities to maintain international peace and security, including the protection of Kuwait's security, sovereignty and territorial integrity. It affirmed that the existing differences between Kuwait and Iraq should be dealt with by peaceful means and negotiations, and not through the use of force, in accordance with international norms, instruments and laws, "first and foremost the Charter of the United Nations".¹⁰⁰

On the other hand, Iraq held that the events taking place in Kuwait were internal matters and that Iraq was pursuing no goal or objective in Kuwait. The Government of Iraq had acted solely on the basis of a request for assistance from the Free Provisional Government of Kuwait to establish security and order. The Iraqi forces would withdraw as soon as order had been restored, as requested by the Free Provisional Government of Kuwait.¹⁰¹

In the course of the Council's consideration of the item, Council members and non-members condemned the Iraqi invasion of Kuwait as an act of military aggression in flagrant violation of the Charter, international law and all fully accepted norms of international behaviour.¹⁰² They reaffirmed the principles of prohibition of the use or threat of force, non-interference in the internal affairs of States, and respect for territorial integrity, sovereignty and political independence,¹⁰³ emphasizing that such principles were particularly important to small States.¹⁰⁴ Further reaffirming the principle of peaceful settlement of disputes,¹⁰⁵ they condemned the acquisition of territory by force as a violation of the Charter and international law¹⁰⁶ and rejected the

⁹⁸ In connection with the situation in Panama, see S/21048, third preambular para. and para. 1. In connection with the letter dated 4 January 1989 from the representative of the Libyan Arab Jamahiriya to the President of the Security Council and the letter dated 4 January 1989 from the representative of Bahrain to the President of the Security Council, see S/20378, fourth preambular para. and paras. 1 and 3. In connection with the letter dated 27 April 1992 from the representative of Cuba to the President of the Security Council, see S/23990, third preambular para.

⁹⁹ In connection with the situation in Panama, see S/21048, third preambular para. In connection with the situation between Iraq and Kuwait, see S/22231, fifth preambular para.; S/22232, first and fourth preambular paras. and para. 1; S/22232/Rev.3, first, second and fifth preambular paras.; S/22233/Rev.2, third preambular para. In connection with the letter dated 27 April 1992 from the representative of Cuba to the President of the Security Council, see S/23990, first and second preambular paras. and para. 7. See also, in connection with the situation in the occupied Arab territories, S/20463, S/20677, S/20945 and S/21933/Rev.1.

¹⁰⁰ S/PV.2932, pp. 3-10.

¹⁰¹ *Ibid.*, pp. 11-12.

¹⁰² *Ibid.*, pp. 13-15 (United States); p. 17 (Canada); p. 18 (Malaysia); and p. 22 (Finland).

¹⁰³ For relevant statements, see S/PV.2932, p. 17 (Colombia); p. 18 (Malaysia); p. 22 (Finland); and pp. 26-27 (Yemen); S/PV.2933, p. 18 (United States); pp. 28-30 (China); p. 36 (Côte d'Ivoire); p. 37 (Cuba); pp. 48-50 (Colombia); p. 52 (Yemen); and p. 53 (Romania); S/PV.2934, p. 21 (Malaysia); S/PV.2937, pp. 53-55 (Italy); and S/PV.2963, p. 11 (Kuwait); pp. 44-45 (Zaire); p. 87 (Côte d'Ivoire); and p. 107 (Kuwait). Support for these principles was also reaffirmed with reference to the Five Principles of Peaceful Coexistence among States; see S/PV.2933, pp. 28-30 (China); and S/PV.2963, pp. 61-62 (China).

¹⁰⁴ S/PV.2932, p. 16 (Colombia); p. 18 (Malaysia); S/PV.2933, p. 6 (Kuwait); S/PV.2963, p. 87 (Côte d'Ivoire).

¹⁰⁵ S/PV.2932, pp. 24-25 (Romania); S/PV. 2933, p. 22 (Malaysia); pp. 29-30 (Soviet Union); p. 33 (Zaire); p. 53 (Romania); S/PV.2937, pp. 53-55 (Italy); S/PV.2938, p. 7 (Yemen); p. 53 (China); and S/PV.2963, pp. 61-62 (China).

¹⁰⁶ S/PV.2934, p. 22 (China); p. 28 (Finland); p. 28 (Colombia); p. 36 (Kuwait); pp. 41-42 (Oman); S/PV.2938, p. 41 (Soviet Union); pp. 49-50 (Côte d'Ivoire); p. 56 (Romania); and S/PV.2963, p. 72 (Canada).

annexation of Kuwait by Iraq as null and void and without legal effect.¹⁰⁷ Some speakers also recalled the collective security mechanism set forth in the Charter as the appropriate basis for dealing with conflict situations such as the one under consideration.¹⁰⁸

Case 7

Items relating to the situation in the former Yugoslavia

None of the decisions of the Security Council mentioned above concerning the situation in the former Yugoslavia gave rise to a constitutional discussion of Article 2 (4). Several pertinent arguments with reference to the provisions of that paragraph were however made in the course of the Council's deliberations on the item.

Council members and non-members reaffirmed the principles of prohibition of the use or threat of force,¹⁰⁹ respect for territorial integrity, sovereignty and independence, and peaceful settlement of disputes.¹¹⁰ They affirmed the unacceptability of any modification of external or internal borders or acquisition of territory through the use of force,¹¹¹ including on the basis of separatist policies¹¹² or through policies of "ethnic cleansing", genocide or

human rights abuses.¹¹³ According to one member, "all the parties to the conflict must understand that there is no alternative to a political settlement of the crisis in Bosnia and Herzegovina and that any attempts to bring about a military solution to these problems by force of arms, in particular by establishing so-called ethnically pure States, constitute a crime against their own people and against all humankind".¹¹⁴

Following the admission of Croatia and Bosnia and Herzegovina to membership in the United Nations,¹¹⁵ Council members reaffirmed the principles of non-interference in the internal affairs of States, and respect for territorial integrity, sovereignty and political independence of States,¹¹⁶ as well as their opposition to aggression against a Member State, including through military support from outside to irregular or insurrectionist forces in materiel and personnel.¹¹⁷ On the other hand, it was also argued that

¹⁰⁷ For relevant statements, see S/PV.2934, p. 7 (United States); p. 11 (France); p. 15 (Canada); pp. 18-20 (Ethiopia); p. 21 (Malaysia); p. 22 (China); p. 28 (Finland); p. 28 (Colombia); p. 36 (Kuwait); pp. 41-42 (Oman); S/PV.2937, pp. 53-55 (Italy); and S/PV.2963, pp. 61-62 (China); and p. 81 (United Kingdom).

¹⁰⁸ S/PV.2933, p. 53 (Romania); and S/PV.2934, p. 12 (Soviet Union).

¹⁰⁹ S/PV.3009, p. 22 (Belgium); p. 26 (Austria); p. 26 (Ecuador); p. 59 (United States); S/PV.3082, pp. 9-10 (China); p. 45 (Austria); and S/PV.3137, p. 119 (China).

¹¹⁰ S/PV.3009, pp. 26-27 (Ecuador); p. 66 (France); and S/PV.3082, p. 11 (China); p. 22 (India); p. 38 (Russian Federation).

¹¹¹ S/PV.3009, p. 12 (Yugoslavia); p. 22 (Belgium); p. 26 (Austria); p. 27 (Ecuador); pp. 59 and 61 (United States); S/PV.3082, p. 18 (Ecuador); S/PV.3106, p. 31 (Hungary); p. 38 (United States); S/PV.3136, p. 18 (Venezuela); pp. 29-30 (Pakistan); p. 59 (Indonesia); pp. 61-62 (Palestine); p. 67 (Jordan); and S/PV.3137, p. 11 (Hungary); pp. 67-70 (Yugoslavia); pp. 94 and 96-97 (Greece).

¹¹² S/PV.3009, p. 37 (Cuba); p. 60 (United States); and S/PV.3137, pp. 34-35 (Lithuania); pp. 45-47 (Azerbaijan); p. 94 (Greece).

¹¹³ S/PV.3082, pp. 15-16 (Hungary); p. 25 (Morocco); pp. 28-30 (Venezuela); S/PV.3106, p. 11 (India); p. 31 (Hungary); S/PV.3136, p. 5 (Russian Federation); p. 9 (Ecuador); p. 18 (Venezuela); pp. 37 and 41 (Slovenia); p. 45 (Canada); pp. 50 and 53 (Albania); and S/PV.3137, p. 32 (Norway); p. 84 (Ukraine); pp. 89-90 (United Arab Emirates); p. 94 (Greece); and pp. 109-110 (Bangladesh). On the legitimacy of the use of force on humanitarian grounds under the collective security mechanism of the Charter, see S/PV.3106, pp. 11-15 (India); pp. 16-17 (Zimbabwe); pp. 34-35 (United Kingdom); pp. 43-44 (Venezuela); p. 45 (Belgium); and p. 47 (France).

¹¹⁴ S/PV.3136, p. 5 (Russian Federation).

¹¹⁵ Bosnia and Herzegovina and Croatia were admitted to membership in the United Nations on 22 May 1992; see General Assembly resolutions 46/237 and 46/238, respectively.

¹¹⁶ S/PV.3082, p. 18 (Ecuador); p. 28 (Venezuela); p. 31 (Belgium); S/PV.3106, pp. 19-20 (Morocco); p. 33 (Hungary); S/PV.3136, p. 8 (Russian Federation); p. 41 (Slovenia); pp. 61-62 (Palestine); and S/PV.3137, p. 13 (Hungary); pp. 18-20 (Qatar); pp. 27-28 (Comoros); pp. 45-47 (Azerbaijan); p. 58 (Afghanistan); p. 84 (Ukraine); p. 92 (United Arab Emirates); p. 106 (Algeria); p. 116 (Senegal).

¹¹⁷ S/PV.3082, p. 11 (China); p. 13 (Zimbabwe); S/PV.3106, p. 24 (Austria); S/PV.3136, p. 6 (Russian Federation); p. 53 (Albania); p. 67 (Jordan); p. 68 (Islamic Republic of Iran); and S/PV.3137, pp. 49-50 (Kuwait); p. 118 (Bosnia and Herzegovina).

the situation in Bosnia and Herzegovina was “essentially a civil war”.¹¹⁸

Case 8

The situation in Central America

The decision adopted by the Security Council under this item¹¹⁹ did not give rise to a constitutional discussion of Article 2 (4). Pertinent arguments with reference to the provisions of the paragraph were however made in the course of the Council’s deliberations on the item.

On the one hand, it was argued that in its consideration of the situation in Central America, the Security Council had “adopted resolutions containing a series of principles and recommendations for all States”. They included “the right of all States of the region to live in peace and security, free from outside interference; the avoidance of any measure or attempt to destabilize or undermine other States and their institutions; respect for sovereignty and the inalienable right of peoples freely to choose their own political, economic and social system; the development of relations in accordance with the interests of the peoples, excluding outside interference, subversion, direct or indirect coercion and threats of any kind; the non-use against any State in the region of any measure that could impede the pursuit of peace, and renunciation of support for or promotion of such measures; and an immediate halt to any kind of aid, whether given openly or covertly, by any Government, within the region or outside, to irregular forces or insurgent forces operating in the region”.¹²⁰ Those principles and recommendations provided rights but they also imposed obligations on the parties concerned “so that third-party States are not provided with an opportunity to justify intervening” in the crisis.¹²¹

Specifically, the provision of assistance to “anti-democratic irregular forces” or “minority insurgent groups” in El Salvador by the Government of Nicaragua in the form of “weapons, military equipment, logistic support or sanctuary”, or “moral, propaganda and diplomatic support”, was denounced as

amounting to a “violation of the principle of non-intervention in the internal affairs of other States and the commission of acts of aggression as defined in international instruments”, including the Charter of the United Nations and the various agreements supporting the Central American peace process.¹²² With reference to the actions of the United States in Nicaragua, it was claimed that the United States had “armed and managed the counter-revolutionary forces” and that such actions could be considered “not as an external factor but as a cause of destabilization, both in the region and within each of the Central American countries”.¹²³ In particular, the United States’ decision to postpone the demobilization of the *contras* in Nicaragua was qualified as “plain interference in Nicaragua’s domestic politics” and “a clear violation” of the agreements supporting the Central American peace process.¹²⁴

In response to those arguments, it was stated that the United States had ceased all lethal aid to the Nicaraguan resistance, in compliance with the agreements supporting the Central American peace process.¹²⁵ The massive rearming of the Frente Farabundo Martí para la Liberación Nacional in El Salvador, however, had been made possible by the Governments of Nicaragua and Cuba. It was claimed that Nicaragua was aiding “an insurrectionist group whose political representatives had received less than 4 per cent of the recent vote and which had returned to fight the constitutionally elected Government [of El Salvador], in direct violation of the peace process”. Such aid was “not only military in nature but was also perpetuating the worst kind of inhumane aid — the abetting of guerrilla terrorism that resulted in the tragic loss of more lives”.¹²⁶ That was why, on the other hand, “economic, military and humanitarian assistance” was being provided by the United States to El Salvador, “as aid directed to a constitutionally elected Government in support of the peace process and used to offset guerrilla damage and attacks on the economy and infrastructure of that country”. It was argued that such continued “support of the

¹¹⁸ S/PV.3106, pp. 16-17 (Zimbabwe); S/PV.3136, p. 26 (Zimbabwe); and S/PV.3137, p. 72 (Yugoslavia).

¹¹⁹ Statement by the President of 8 December 1989 (S/21011).

¹²⁰ S/PV.2896, p. 22 (El Salvador).

¹²¹ Ibid.

¹²² Ibid., pp. 8-11 (El Salvador).

¹²³ Ibid., pp. 56-57 (Nicaragua).

¹²⁴ Ibid., p. 58 (Nicaragua).

¹²⁵ Ibid., pp. 54-56 (United States).

¹²⁶ Ibid.

democratically elected Government of El Salvador” was justified “so that democracies can survive”.¹²⁷

Case 9

The situation in Panama

The decision adopted by the Security Council under this item¹²⁸ did not give rise to a constitutional discussion of Article 2 (4). Pertinent arguments relating to the provisions of that Article were however made during the Council’s consideration of the item.

With explicit reference to Article 2 (4), the Charter of the United Nations and/or norms of international law, Council members and non-members reaffirmed the principles of peaceful settlement of dispute, non-interference in the internal affairs of States, respect for the territorial integrity, sovereignty and political independence of States, and prohibition of the threat or use of force,¹²⁹ including through policies of destabilization and coercion.¹³⁰ It was argued that the application of such principles allowed no exception¹³¹ and should not be selective,¹³² and that the use of force “[could not] be approved per se, whatever the causes”.¹³³ The view was also expressed that major Powers and/or permanent members of the Security Council were expected to assume a special responsibility in upholding those principles,¹³⁴ which

were deemed to be of particular importance to small Member States.¹³⁵

Specifically, it was stated that “the pretext of protection of American citizens used to justify intervention was the same pretext reasserted time and again by Governments and doctrines of the United States to attempt to justify what cannot be justified and legitimize acts of force and violence”.¹³⁶ No ethical or legal norm, however, could make aggression a legal act and make the use of force a moral principle.¹³⁷ Similarly, it was argued that whatever arguments the United States used to try to justify its action in Panama, it remained a flagrant violation of the elementary norms of international law and the Charter.¹³⁸ In this connection, it was explicitly stated that reliance by the United States on Article 51 of the Charter did not justify its action in Panama,¹³⁹ as it reflected “the shamelessness of those who, themselves guilty of the crime of aggression, try to pass themselves off as victims”.¹⁴⁰ It was also noted that “the military intervention undertaken by the United States in Panama was a disproportionate response”.¹⁴¹

On the other hand, it was argued that the United States action took place on the basis of Article 51 of the Charter and was “designed to protect American lives as well as to defend the integrity of the Panama Canal Treaties”.¹⁴² In this regard, it was observed that the Charter, in Article 51, did recognize a basic exception to the prohibition of the use of force and affirmed the inherent right to self-defence which was vested in Member States.¹⁴³ After examination of “all circumstances” to determine whether or not there were “compelling reasons” which justified the United States action in Panama, it was believed that such compelling reasons did exist.¹⁴⁴ It was further argued that the United States had “consulted with the democratically elected leadership of Panama” prior to its actions in

¹²⁷ Ibid.

¹²⁸ For the Council’s decision, by 14 votes to none, with 1 abstention (United States), to invite the representative of Panama to participate, without vote, in the discussion of the question, see S/PV.2901, p. 6. See also chapter III, case 1.

¹²⁹ S/PV.2899, pp. 3-17 (Nicaragua); p. 18 (Soviet Union); pp. 21-22 (China); pp. 28-30 (Canada); and S/PV.2900, pp. 6-7 (Yugoslavia); pp. 8-10 (Nepal); p. 13 (Ethiopia); p. 17 (Algeria); p. 21 (Brazil); p. 22 (Malaysia); pp. 34-36 (Peru). Support for the principles of Article 2 (4) was also affirmed with reference to General Assembly resolutions 2131 (XX) and 2625 (XXV), the opinion of the International Court of Justice in the Corfu Channel case, and the Five Principles of Peaceful Coexistence among States; see S/PV.2899, pp. 3-17 (Nicaragua); and pp. 21-22 (China).

¹³⁰ S/PV.2900, p. 26 (Cuba).

¹³¹ S/PV.2899, pp. 3-17 (Nicaragua); and S/PV.2900, pp. 6-7 (Yugoslavia); p. 13 (Ethiopia); and pp. 17-18 (Algeria).

¹³² S/PV.2899, p. 18 (Soviet Union).

¹³³ S/PV.2899, pp. 23-25 (France).

¹³⁴ S/PV.2900, pp. 8-10 (Nepal); p. 13 (Ethiopia); pp. 17-18 (Algeria); and pp. 22-23 (Malaysia).

¹³⁵ Ibid., p. 13 (Ethiopia); pp. 17-18 (Algeria); pp. 22-23 (Malaysia); and pp. 43-45 (Libyan Arab Jamahiriya).

¹³⁶ S/PV.2899, pp. 3-17 (Nicaragua).

¹³⁷ Ibid.

¹³⁸ Ibid., p. 18 (Soviet Union); and S/PV.2900, p. 13 (Ethiopia).

¹³⁹ S/PV.2900, p. 41 (Libyan Arab Jamahiriya).

¹⁴⁰ Ibid., p. 28 (Cuba).

¹⁴¹ Ibid., pp. 14-15 (Finland). See also chapter XI, part IX, on Article 51.

¹⁴² S/PV.2899, pp. 31-32 (United States).

¹⁴³ Ibid., pp. 28-30 (Canada).

¹⁴⁴ Ibid. See also chapter XI, part IX, on Article 51.

that country.¹⁴⁵ Support for the use of force undertaken by the United States was affirmed in this context “as a last resort ... against a régime which had itself turned to force to subvert the democratic process” in Panama and “with the agreement of the Panamanian leaders who had won [the last] election”.¹⁴⁶

Doubts were expressed, however, that democracy could be promoted by foreign military means.¹⁴⁷ It was argued that “any effort aimed at eliminating an authoritarian and usurping power is legitimate, provided that the foundation of international relations is not undermined. That foundation is after all but an expression in the international arena of the profound desire of the peoples of the United Nations to make democracy the sole alternative to anarchy in international relations”.¹⁴⁸ In that perspective, rejection of authoritarianism could be seen as twofold: “repudiation of the use of force against one’s own people and of the use of power politics among the peoples of the world”.¹⁴⁹

Case 10

Items relating to the Libyan Arab Jamahiriya

In the course of the Council’s consideration of this item, under which no decision was taken, pertinent arguments were made concerning the provisions of Article 2 (4).

The Libyan Arab Jamahiriya argued that the United States had committed an act of premeditated, deliberate aggression by shooting down, without any justification, two unarmed Libyan reconnaissance aircraft on routine patrol near the Libyan coast. The act was described as a prelude to a large-scale attack upon the economic and military installations in the Libyan Arab Jamahiriya and as forming part of the United States policy of aggression against that country. That policy had reached a peak under the current United States Administration, subjecting the Libyan Arab Jamahiriya to threats, provocations and acts of aggression. The Libyan Arab Jamahiriya claimed that the United States systematically conducted provocative naval and air manoeuvres in its territorial waters and in its airspace in an attempt to draw the country into

military confrontation and that a continuing campaign of disinformation to destabilize the country had paved the way for the United States’ latest aggression. It called upon the Council to condemn the American military aggression, and to take all measures to put an end to the aggression and to use whatever means were necessary to prevent its repetition. It also urged the Council to call upon the United States, to withdraw its naval fleet and to put an end to its provocative manoeuvres directed against the Libyan Arab Jamahiriya.¹⁵⁰ Indignation was also expressed on behalf of the Group of Arab States at the “unwarranted act of aggression” by the United States. The Arab States believed such acts of aggression would continue unless deterrent measures were taken to end military operations of that kind. The Council was called upon to condemn such irresponsible acts of aggression, to adopt appropriate measures to prevent their repetition against the Libyan Arab Jamahiriya and to shoulder its responsibility under the Charter for the maintenance of international peace and security in the region.¹⁵¹

The United States argued that it was the aggrieved party and not the Libyan Arab Jamahiriya, whose air force had aggressively challenged routine operations conducted by the United States well beyond the 12-mile limit of the territorial seas claimed by the Government of the Libyan Arab Jamahiriya. The action by the United States aircraft, in response to provocation and threat by two armed Libyan fighter aircraft, was fully consistent with internationally accepted principles of self-defence. The United States Government had so informed the Secretary-General and the President of the Council under Article 51 of the Charter.¹⁵²

Council members and non-members¹⁵³ characterized the action taken by the United States as

¹⁴⁵ S/PV.2899, pp. 31-32 (United States).

¹⁴⁶ *Ibid.*, pp. 26-27 (United Kingdom).

¹⁴⁷ S/PV.2900, pp. 6-7 (Yugoslavia).

¹⁴⁸ *Ibid.*, p. 37 (Peru).

¹⁴⁹ *Ibid.*

¹⁵⁰ S/PV.2835, pp. 6-13.

¹⁵¹ *Ibid.*, pp. 17-21 (Bahrain).

¹⁵² *Ibid.*, pp. 13-17 (United States). See also chapter XI, part IX, on Article 51.

¹⁵³ *Ibid.*, pp. 24-28 (Observer for the League of Arab States); pp. 32-38 (Syrian Arab Republic); pp. 39-42 (Cuba); S/PV.2836, pp. 6-10 (Uganda); pp. 23-28 (Madagascar); pp. 28-33 (Nicaragua); pp. 39-42 (Afghanistan); pp. 43-46 (Democratic Yemen); S/PV.2837, pp. 7-11 (Algeria); pp. 16-22 (Islamic Republic of Iran); pp. 22-28 (Zimbabwe); S/PV.2839, pp. 21-25 (Sudan); S/PV.2840, pp. 22-27 (United Arab Emirates); pp. 27-31 (German Democratic Republic); pp. 41-46 (Yemen); and S/PV.2841, pp. 28-31 (Mongolia).

an act of aggression in violation of international law and the Charter, which posed a threat to peace and security in the region. They rejected the claim of self-defence invoked by the United States and urged the Council to condemn the act of aggression and to take measures to prevent the recurrence of such acts. Several speakers¹⁵⁴ appealed for the exercise of restraint and the prevention of further escalation of tension, some recalling the importance of the Charter principles relating to the non-use or threat of force against territorial integrity or economic independence of any State and the peaceful settlement of disputes. It was held that the Council would not be living up to its responsibilities if it did not assert strongly that actions of States conform with international obligations in compliance with the norms regulating relations, particularly respect for sovereignty and inviolability and refraining from the threat or use of force against States.¹⁵⁵

Other speakers¹⁵⁶ accepted the explanation of the United States for its actions. One member explained that it would vote against a draft resolution before the Council on this item,¹⁵⁷ owing, inter alia, to a reference contained therein to the definition of aggression, which could imply a deliberate will on the part of the United States to create the incident.¹⁵⁸

Case 11

Items relating to the Libyan Arab Jamahiriya

The decisions adopted by the Security Council in relation to the Libyan Arab Jamahiriya¹⁵⁹ did not give rise to a constitutional discussion on Article 2 (4).

¹⁵⁴ S/PV. 2835, pp. 21-23 (Burkina Faso); pp. 28-32 (Tunisia); S/PV.2836, pp. 18-23 (Nepal); pp. 37-40 (Mali); S/PV.2837, pp. 12-13 (Colombia); pp. 28-32 (Pakistan); S/PV.2839, pp. 16-18 (Senegal); pp. 24-26 (India); pp. 27-31 (Morocco); pp. 31-33 (Bangladesh); S/PV.2840, pp. 8-12 (Malta); pp. 38-41 (Poland); and S/PV.2841, pp. 32-37 (Palestine); pp. 41-45 (Malaysia).

¹⁵⁵ S/PV.2841, pp. 41-45 (President).

¹⁵⁶ Ibid., pp. 37-40 (Canada); p. 41 (United Kingdom); pp. 44-46 (France); p. 46 (Finland).

¹⁵⁷ S/20378. The draft resolution received 9 votes in favour, 4 against (Canada, France, United Kingdom, United States), with 2 abstentions (Brazil, Finland) and was not adopted owing to the negative votes of three permanent members of the Council (see S/PV.2841, p. 48).

¹⁵⁸ S/PV.2841, pp. 44-46 (France).

¹⁵⁹ Resolutions 731 (1992) and 748 (1992).

However, pertinent arguments were made concerning the provisions of that Article during the Council's consideration of the item.

In the course of the Council's consideration of resolutions 731 (1992) and 748 (1992), members and non-members of the Council denounced and condemned acts of international terrorism,¹⁶⁰ State-sponsored terrorism¹⁶¹ or acts of terrorism in which States had been involved directly or indirectly,¹⁶² including "through material, political or moral assistance to terrorists".¹⁶³ It was held that the "logic of confrontation" which fed into terrorism in all its forms and manifestations was "in contradiction with the principles and purposes of the Charter, which in Article 2, paragraph 4, calls upon Members of our Organization to refrain in their international relations from the threat or use of force".¹⁶⁴ It was also noted, however, that resolution 731 (1992) of 21 January 1992 was "limited strictly to acts of terrorism involving State participation".¹⁶⁵ It was exceptional by its nature and could not be considered in any way as a precedent but was intended only "for those cases in which States are involved in acts of terrorism".¹⁶⁶

B. Article 2, paragraph 5

Article 2, paragraph 5

All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.

Note

During the period under review, the Security Council adopted three resolutions¹⁶⁷ containing

¹⁶⁰ S/PV.3033, pp. 24-25 (Libyan Arab Jamahiriya); pp. 43-45 (Italy); p. 47 (Canada); p. 83 (Belgium); p. 92 (Austria); and S/PV.3063, p. 59 (India).

¹⁶¹ S/PV.3033, pp. 24-25 (Libyan Arab Jamahiriya).

¹⁶² Ibid., p. 47 (Canada); p. 83 (Belgium).

¹⁶³ S/PV.3063, p. 59 (India).

¹⁶⁴ S/PV.3033, p. 51 (Mauritania).

¹⁶⁵ Ibid., p. 101 (Venezuela).

¹⁶⁶ Ibid.

¹⁶⁷ In connection with the situation between Iraq and Kuwait, see resolution 661 (1990). In connection with

provisions that may have some bearing on the principle of Article 2 (5).

By resolution 661 (1990) of 6 August 1990, the Council imposed, under Chapter VII of the Charter, a sanctions regime on both Iraq and Kuwait, as detailed in paragraphs 3 to 8 of the resolution.¹⁶⁸ In paragraph 9, however, the Council decided that “notwithstanding paragraphs 4 to 8 above, nothing in the present resolution shall prohibit assistance to the legitimate Government of Kuwait”, and it called upon all States (a) to take appropriate measures to protect assets of the legitimate Government of Kuwait and its agencies; and (b) not to recognize any regime set up by the occupying Power.¹⁶⁹

By resolution 740 (1992) of 7 February 1992, concerning the situation in the former Yugoslavia, the Council expressed its “concern at the indications that the arms embargo imposed on Yugoslavia by resolution 713 (1991) [was] not being fully observed, as noted in paragraph 21 of the report¹⁷⁰ of the Secretary-General”.¹⁷¹

By resolution 787 (1992) of 16 November 1992, the Council expressed its deep concern “about reports of continuing violations of the arms embargo imposed on Yugoslavia by its resolutions 713 (1991) and 724 (1991) of 15 December 1991”.¹⁷² By the same resolution, the Council requested “all States to provide in accordance with the Charter such assistance as may be required” by those States acting in accordance with its authorization to use such measures, commensurate with the specific circumstances, as might be necessary to halt inward and outward maritime and riparian shipping, in order to ensure the strict implementation of the arms embargo imposed by resolution 713 (1991) and the sanctions imposed by resolution 757 (1992).¹⁷³

the situation in the former Yugoslavia, see resolutions 740 (1992) and 787 (1992).

¹⁶⁸ Resolution 661 (1990), paras. 3-8. See also chapter XI, part III, on Article 41.

¹⁶⁹ Resolution 661 (1990), para. 9. See also resolution 670 (1990), para. 9.

¹⁷⁰ S/23513.

¹⁷¹ Resolution 740 (1992), seventh preambular para.

¹⁷² Resolution 787 (1992), eleventh preambular para. See also resolutions 713 (1991) and 724 (1991).

¹⁷³ For the Council’s request to all States to provide assistance in accordance with the Charter, see resolution 787 (1992), para. 15. For the Council’s authorization of States to take such action as necessary to halt maritime

Statements were made during the course of the Council’s consideration of the draft text¹⁷⁴ of resolution 787 (1992) that also have a bearing on the principle set out in Article 2 (5). Some States¹⁷⁵ called for a partial lifting of the arms embargo imposed on Yugoslavia by resolution 713 (1991), so as to allow Bosnia and Herzegovina to exercise its right of self-defence. They also referred to the need to assist Bosnia and Herzegovina to that end.¹⁷⁶ It was argued that “from the standpoint of justice and equality, a policy that would prevent Bosnia from obtaining military assistance to enable it to exercise its legitimate right to self-defence [was] untenable”.¹⁷⁷ It was up to all, therefore, including the Security Council, “to ensure that assistance of all types — military and material — be provided to Bosnia so that it could defend itself against aggression”.¹⁷⁸ The international community was called upon “to provide all necessary material, military and moral support to enable the Government of Bosnia and Herzegovina to exercise its right of self-defence”.¹⁷⁹ Furthermore, those who were in a position to and had the will to provide appropriate assistance which would “help the Bosnians to deter Serbian aggression” were requested to hasten in doing so.¹⁸⁰ In that context, the representative of Croatia noted that his Government had offered “military help to the Croats in Bosnia and Herzegovina and to the Bosnian

shipping, see para. 12 of that resolution. For the Council’s authorization of riparian States to take such action as necessary to halt shipping on the Danube, see para. 13 of that resolution. For further reference to the Council’s invocation of Chapter VII in this instance, see chapter XI, part III, of the present Supplement. For further reference to the Council’s invocation of Chapter VIII in this instance, see part VI of the present chapter.

¹⁷⁴ S/24808/Rev.1.

¹⁷⁵ S/PV.3137, p. 28 (Comoros); p. 41 (Croatia); p. 51 (Kuwait); and p. 92 (United Arab Emirates).

¹⁷⁶ See also chapter XI, part III, on Article 41, and part IX, on Article 51.

¹⁷⁷ S/PV.3137, p. 92 (United Arab Emirates).

¹⁷⁸ *Ibid.* See also the letter dated 13 August 1992 from the representative of Egypt to the President of the Security Council (S/24438), in which it is stated that it is necessary for the Council, *inter alia*, “to permit the Government of Bosnia and Herzegovina to exercise the right of self-defence within the framework of the Charter and to assist it in implementing this right by enabling it to obtain the essential defensive means necessary for that purpose”.

¹⁷⁹ S/PV.3137, p. 51 (Kuwait).

¹⁸⁰ *Ibid.*, p. 28 (Comoros).

Government forces”, in accordance with bilateral agreements.¹⁸¹

C. Article 2, paragraph 6

Article 2, paragraph 6

The Organization shall ensure that states which are not members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.

Note

There were no explicit references to the provision of Article 2 (6) in the resolutions or decisions of the Security Council. The Council did, however, adopt three resolutions¹⁸² which touched upon the provisions of Article 2 (6). Each of those resolutions contained a specific reference to the cooperation of States non-members of the United Nations in the imposition of sanctions under Chapter VII of the Charter. All three resolutions may be seen as implicitly invoking the provisions of Article 2 (6) in order to call on States non-members of the United Nations to comply with the principle enshrined in Article 2 (5).

In resolution 661 (1990) of 6 August 1990, by which the Council imposed sanctions on Iraq, the Council called upon “all States, including States non-members of the United Nations, to act strictly in accordance with the provisions of the present resolution notwithstanding any contract entered into or licence granted before the date of the present resolution”.¹⁸³

In resolution 748 (1992) of 31 March 1992, by which it imposed sanctions on the Libyan Arab Jamahiriya, the Council called upon “all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted before 15 April 1992”.¹⁸⁴

In resolution 757 (1992) of 30 May 1992, by which it imposed sanctions on the Federal Republic of Yugoslavia (Serbia and Montenegro), the Council called upon “all States, including States not members of the United Nations, and all international organizations, to act strictly in accordance with the provisions of the present resolution, notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any licence or permit granted prior to the date of the present resolution”.¹⁸⁵

In addition, the Council adopted several resolutions and presidential statements containing provisions that might be construed as implicit references to Article 2 (6). In connection with the situation in the occupied Arab territories, the Council called upon “the High Contracting Parties to the [1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War] to ensure respect by Israel, the occupying Power, for its obligations under the Convention in accordance with article 1 thereof”.¹⁸⁶ In other cases, provisions of the Council’s resolutions were addressed to “all States”. The majority of those provisions related to the application of sanctions and embargoes, the Council deciding that “all States” should take steps to impose measures in accordance with the relevant sanctions regime, or calling upon “all States” to take measures connected with the implementation or administration of

¹⁸¹ Ibid., p. 41 (Croatia).

¹⁸² In connection with the situation between Iraq and Kuwait, see resolution 661 (1990). In connection with the Libyan Arab Jamahiriya, see resolution 748 (1992). In connection with the situation in the former Yugoslavia, see resolution 757 (1992). See also part II, section B, concerning Article 2 (5), in the present chapter.

¹⁸³ Resolution 661 (1990), para. 5. During the Council’s consideration of resolution 661 (1990) in its draft form (S/21441), it was noted that “as operative paragraph 5 also makes clear, the draft resolution speaks to all States, Members and non-members alike”; see S/PV.2933, p. 18 (United States).

¹⁸⁴ Resolution 748 (1992), para. 7.

¹⁸⁵ Resolution 757 (1992), para. 11.

¹⁸⁶ Resolution 681 (1990), para. 5. On the date of adoption of the resolution, the High Contracting Parties to the Convention included Monaco, San Marino, the Holy See and Switzerland, none of which were Members of the United Nations.

sanctions.¹⁸⁷ By other provisions not directly related to the imposition, implementation or administration of sanctions, the Council requested “all States” to undertake a variety of actions, including: (i) to support peace initiatives,¹⁸⁸ including by voluntary contributions;¹⁸⁹ (ii) to contribute to international cooperation in a particular field;¹⁹⁰ (iii) to provide appropriate support to or to cooperate with a Council-mandated body or force;¹⁹¹ (iv) to provide assistance or support to the United Nations and its programmes or agencies;¹⁹² (v) to provide assistance to States acting pursuant to resolutions of the Council;¹⁹³ (vi) to take

steps to ensure the cooperation of parties to a dispute or conflict with initiatives of the United Nations;¹⁹⁴ (vii) to support humanitarian efforts;¹⁹⁵ (viii) to use political influence to achieve a certain objective;¹⁹⁶ (ix) to ratify certain international legal instruments;¹⁹⁷ (x) to refrain from recognition of a declared annexation;¹⁹⁸ and (xi) to refrain from actions which could undermine peace initiatives or increase tensions in a particular situation.¹⁹⁹

In one resolution, the Council reminded “all States” of their obligation to “observe strictly” certain specified resolutions of the Security Council.²⁰⁰ Some resolutions distinguished between obligations placed on “Member States” and obligations placed on “all States”.²⁰¹

Other resolutions adopted by the Council contained different forms of language. In resolution 670 (1990), the Council addressed a decision to “each

¹⁸⁷ In connection with the sanctions regime imposed against Iraq, see resolutions 661 (1990), paras. 5 and 7; 670 (1990), paras. 1, 7-8 and 10; 687 (1991), paras. 25 and 27; 700 (1991), paras. 3-4; 706 (1991), para. 8; and 778 (1992), paras. 3 and 13. In connection with the arms embargo imposed against the former Yugoslavia, see resolutions 724 (1991), para. 5; and 740 (1992), para. 8. In connection with the sanctions imposed against the Federal Republic of Yugoslavia (Serbia and Montenegro), see resolutions 757 (1992), paras. 11-12 and 14; and 787 (1992), paras. 11 and 15. In connection with the sanctions imposed against the Libyan Arab Jamahiriya, see resolution 748 (1992), paras. 3-8 and 10. In connection with the arms embargo imposed against Liberia, see resolution 788 (1992), para. 8.

¹⁸⁸ In connection with the item entitled “Central America: efforts towards peace”, see resolution 637 (1989), para. 4. In connection with the situation in Cambodia, see resolution 668 (1990), para. 11. In connection with the situation in Angola, see resolution 696 (1991), third preambular para.

¹⁸⁹ In connection with the situation in El Salvador, see resolution 791 (1992), para. 7.

¹⁹⁰ In connection with the item entitled “The marking of plastic or sheet explosives for the purposes of detection”; see resolution 635 (1989), third preambular para. and paras. 2, 5 and 6. In connection with the Libyan Arab Jamahiriya, see resolution 731 (1992), fourth preambular para.

¹⁹¹ In connection with the situation between Iraq and Kuwait, see resolution 692 (1991), para. 8. In connection with the situation in the former Yugoslavia, see resolution 743 (1992), para. 11. In connection with the situation in Cambodia, see resolutions 766 (1992), para. 8, and 783 (1992), para. 4.

¹⁹² In connection with the situation in Cambodia, see resolution 745 (1992), para. 9. In connection with the situation in Angola, see resolution 747 (1992), para. 7. In connection with the situation in the former Yugoslavia, see resolution 757 (1992), para. 19.

¹⁹³ In connection with the situation between Iraq and Kuwait, see resolutions 665 (1990), para. 3, and 678 (1990), para. 3. In connection with the situation in the former Yugoslavia, see resolution 770 (1992), para. 5. In connection with the situation in Somalia, see resolution

794 (1992), para. 17.

¹⁹⁴ In connection with the situation in the former Yugoslavia, see resolution 740 (1992), para. 6. In connection with the Libyan Arab Jamahiriya, see resolution 731 (1992), para. 5.

¹⁹⁵ In connection with the situation in Somalia, see resolution 733 (1992), para. 9. In connection with the situation in the former Yugoslavia, see resolution 761 (1992), para. 5.

¹⁹⁶ In connection with the question of hostage-taking and abduction, see resolution 638 (1989), para. 3. In connection with the situation between Iraq and Kuwait, see resolution 674 (1990), para. 12.

¹⁹⁷ In connection with the situation between Iraq and Kuwait, see resolution 674 (1990), para. 5.

¹⁹⁸ In connection with the situation between Iraq and Kuwait, see resolution 665 (1990), para. 2.

¹⁹⁹ In connection with the situation in Angola, see resolutions 696 (1991), third preambular paragraph, 785 (1992), para. 4, and 793 (1992), para. 8. In connection with the situation in the former Yugoslavia, see resolutions 713 (1991), para. 7, and 724 (1991), para. 7. In connection with the situation in Somalia, see resolution 733 (1992), para. 6.

²⁰⁰ In connection with the situation between Iraq and Kuwait, see resolution 667 (1990), para. 5, by which the Council reminded “all States” that they were “obliged to observe strictly resolutions 661 (1990), 662 (1990), 664 (1990), 665 (1990) and 666 (1990)”.

²⁰¹ In connection with the situation between Iraq and Kuwait, see resolutions 665 (1990), paras. 1-3, and 678 (1990), paras. 2-3. In connection with the situation in Somalia, see resolution 794 (1992), paras. 10-12 and 17.

State”²⁰² and set out the consequence of violation of the resolution by “a State”.²⁰³ In resolution 748 (1992), the Council reaffirmed the duty of “every State” to refrain from involvement in terrorism in accordance with the principle enshrined in Article 2 (4) of the Charter.²⁰⁴ In resolution 757 (1992), the Council decided that “no State” should make funds available to the authorities of or to any undertaking in the country concerned.²⁰⁵ A number of provisions in resolutions were also addressed to “States”.²⁰⁶

The Council adopted a number of resolutions during the period under review preceding the admission to membership in the United Nations of Bosnia and Herzegovina, Croatia, and the Federal Republic of Yugoslavia (Serbia and Montenegro), in which it called upon or demanded action by “all States” or “all parties and others concerned”.²⁰⁷

The Council also adopted two presidential statements in which it called for action from “all States”.²⁰⁸ It adopted five presidential statements concerning the situation in the Middle East by which it imposed a duty on “any State”; in that case, the Council asserted that “any State [should] refrain from the threat or use of force against the territorial integrity or political independence of any State or in any other manner inconsistent with the purposes of the United Nations”.²⁰⁹

None of those decisions gave rise to a constitutional discussion of Article 2 (6). On a number of occasions, however, Council members made implicit references to Article 2 (6) by calling for action from “all States”²¹⁰ or interpreting provisions of resolutions

²⁰² In connection with the situation between Iraq and Kuwait, see resolution 670 (1990), para. 5.

²⁰³ Resolution 670 (1990), para. 12, by which the Council decided “to consider, in the event of evasion of the provisions of resolution 661 (1990) or the present resolution by a State or its nationals or through its territory, measures directed at the State in question to prevent such evasion”.

²⁰⁴ In connection with the Libyan Arab Jamahiriya, see resolution 748 (1992), sixth preambular para.

²⁰⁵ In connection with the situation in the former Yugoslavia, see resolution 757 (1992), para. 5, by which the Council decided that “no State [should] make available to the authorities in the Federal Republic of Yugoslavia (Serbia and Montenegro) or to any commercial, industrial or public utility undertaking in the Federal Republic of Yugoslavia (Serbia and Montenegro), any funds or any other financial or economic resources and [should] prevent their nationals and any persons within their territories from removing from their territories or otherwise making available to those authorities or to any such undertaking any such funds or resources ...”.

²⁰⁶ In connection with the question of hostage-taking and abduction, see resolution 638 (1989), para. 6. In connection with the situation in the former Yugoslavia, see resolutions 757 (1992), para. 1; 770 (1992), paras. 2 and 4; 771 (1992), para. 5; and 780 (1992), para. 1. In connection with the situation in Bosnia and Herzegovina, see resolutions 781 (1992), para. 5, and 787 (1992), para. 12. In connection with the situation between Iraq and Kuwait, see resolutions 674 (1990), paras. 2 and 9, and 712 (1991), para. 11. In connection with the situation in Somalia, see resolution 794 (1992), para. 16.

²⁰⁷ For this and similar language, see resolution 740 (1992), paras. 6-8; 743 (1992), paras. 8-10 and 12; 749 (1992),

paras. 3-6; 752 (1992), paras. 1, 3, 6, 8, 11 and 13; 757 (1992), paras. 3-5, 7-9, 11, 12, 14, 17 and 20; 758 (1992), paras. 5-8; 761 (1992), paras. 2-5; 762 (1992), paras. 2, 5 and 11; 764 (1992), paras. 3, 5, 8 and 10; 769 (1992), para. 3; 770 (1992), paras. 1, 5 and 6; 771 (1992), paras. 1 and 3; 779 (1992), paras. 2 and 3; 786 (1992), para. 4; and 787 (1992), paras. 3, 4, 6, 11, 15 and 18. See also the presidential statement of 24 April 1992 (S/23842). For relevant statements concerning the status of the Federal Republic of Yugoslavia (Serbia and Montenegro), see S/PV.3116, p. 2 (Russian Federation); p. 12, (France); p. 12 (United States); p. 14 (China); p. 16 (Austria); p. 16 (Hungary); and S/PV.3137, p. 67 (Mr. Ilija Djukic); p. 117 (Bosnia and Herzegovina). See also resolutions 752 (1992), 757 (1992) and 777 (1992).

²⁰⁸ In connection with the situation in El Salvador, see the presidential statement of 8 December 1989 (S/21011). In connection with the situation in the former Yugoslavia, see the statement of 4 August 1992 (S/24378).

²⁰⁹ Statements of 30 January 1991 (S/22176); 30 July 1991 (S/22862); 29 January 1992 (S/23495); 19 February 1992 (S/23610); and 30 July 1992 (S/24362). See also the discussion relating to Article 2 (4) in the present chapter.

²¹⁰ In connection with the item entitled “Central America: efforts towards peace”, see S/PV.2871, p. 4 (United States). In connection with the situation between Iraq and Kuwait, see S/PV.2933, p. 18 (United States); p. 53 (Romania); S/PV.2934, p. 28 (Colombia); p. 31 (Romania); S/PV.2938, p. 56 (Romania); and S/PV.2940, p. 22 (Romania). In connection with the situation in the former Yugoslavia, see S/PV.3009, p. 36 (Yemen). In connection with the situation in Liberia, see S/PV.3138, p. 82 (Ecuador). In connection with the situation in Somalia, see S/PV.3145, p. 27 (Russian Federation).

as authorizing actions by “all States”.²¹¹ Further, several references were made to the obligation of “all States” to comply with the Council’s resolutions and the Charter.²¹² In one instance, a distinction was expressed between the respective duties of Member States and all States with regard to the situation under discussion.²¹³

D. Article 2, paragraph 7

Article 2, paragraph 7

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

Note

During the period under review, the Security Council adopted one resolution which contained an explicit reference to Article 2 (7).²¹⁴ In the Council debates in relation to the adoption of a number of resolutions, there were explicit references to paragraph 7 of Article 2, while on other occasions the principle of the Charter provision regarding the principle of non-interference in domestic affairs was referred to. A debate on the interpretation of the Article was also held in connection with the adoption of resolution 688 (1991) and in connection with the adoption of resolution 706 (1991) regarding the establishment of a programme to ameliorate the humanitarian situation in Iraq.

²¹¹ See, for example, in connection with the situation in the former Yugoslavia, S/PV.3106, p. 16 (Zimbabwe); and p. 51 (China).

²¹² In connection with the situation between Iraq and Kuwait, see S/PV.2933, p. 18 (United States); S/PV.2940, p. 21 (United States); and S/PV.2951, p. 83 (Zaire). In connection with the situation in Angola, see S/PV.3130, p. 23 (Russian Federation). In connection with the Libyan Arab Jamahiriya, see S/PV.3033, p. 91 (Hungary).

²¹³ In connection with the situation between Iraq and Kuwait, see S/PV.2938, p. 56 (Romania).

²¹⁴ Resolution 688 (1991), second preambular paragraph.

More generally, the principle enshrined in Article 2 (7) and, in particular, its impact on the Council’s ability to address situations of civil war and massive violations of human rights, was also discussed at the Council’s summit meeting on the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”.²¹⁵

Case 12

Repression of the Iraqi civilian population in parts of Iraq; resolution 688 (1991)

In response to requests from Turkey and France,²¹⁶ the President of the Security Council called an urgent Council meeting on 5 April 1991,²¹⁷ to discuss concerns with regard to the repression of the Iraqi civilian population in parts of Iraq. The Council adopted resolution 688 (1991) by which it, inter alia, condemned the repression, and demanded that Iraq, “as a contribution to removing the threat to international peace and security in the region, immediately end this repression”.

The representative of Turkey stated that his Government had requested the meeting “in view of the grave threat to the peace and security of the region posed by the tragic events taking place in Iraq”. He highlighted both the human suffering of those affected and the impact of the flow of refugees on his country.²¹⁸

The representative of the Islamic Republic of Iran, whose country was similarly affected, stated that it was evident “that the situation inside Iraq, due to its gravity and implications for the neighbouring countries, ha[d] consequences that threaten[ed] regional and international peace and security”.²¹⁹

The representative of France expressed the view that “violations of human rights such as those now being observed become a matter of international interest when they take on such proportions that they assume the dimension of a crime against humanity”. He added that “the influx of refugees, the continued fighting in the border areas [and] the increasing number of massacres [were] arousing indignation and

²¹⁵ 3046th meeting, held on 31 January 1992.

²¹⁶ Letters dated 2 and 4 April 1991 (S/22435 and S/22442).

²¹⁷ 2982nd meeting.

²¹⁸ S/PV.2982, p. 4.

²¹⁹ *Ibid.*, p. 15.

threatening international peace and security in the region".²²⁰

The representative of the United States, while reaffirming that it was "not the role or the intention of the Security Council to interfere in the internal affairs of any country", stated that it was "the Council's legitimate responsibility" to respond to concerns by Iraq's neighbours "about the massive number of people fleeing, or disposed to flee, from Iraq across international frontiers because of the repression and brutality of Saddam Hussein".²²¹

The representative of the United Kingdom reminded Council members that human rights questions, for example in South Africa, had often been found not to be "essentially domestic" matters within the meaning of Article 2 (7). The situation could not, therefore, be described as an entirely internal matter. In any event, the situation was of international concern, as "the huge surge of refugees [was] destabilizing the whole region".²²²

Several other speakers agreed that the situation constituted a threat to peace and stability in the region, in particular in view of the large-scale outflow of refugees from Iraq across international borders.²²³

The representative of Iraq, on the other hand, asserted that the refugees were in fact "saboteurs who [had] penetrated through the borders" and were now escaping to safe havens. Accordingly, he described the action to be taken by the Council as "a flagrant, illegitimate intervention in Iraq's internal affairs and a violation of Article 2 of the Charter prohibiting the intervention in the internal affairs of other States".²²⁴

The representative of India, who abstained from the vote on the draft resolution, noted that he would have preferred the Council to focus its attention "on the aspect of the threat or likely threat to peace and security in the region", and that the Council should

have left the other aspects to "other, more appropriate organs of the United Nations".²²⁵

The representative of China, while expressing sympathy for the difficulties confronting Turkey and the Islamic Republic of Iran as a result of the influx of refugees, observed that the matter was "a question of great complexity, because the internal affairs of a country [were] also involved". He reminded Council members that, according to Article 2 (7) of the Charter, the Council should "not consider or take action on questions concerning the internal affairs of any State".²²⁶

The representative of Yemen noted that, according to Article 2 of the Charter, it was "not within the Council's purview to address internal issues in any country". He stated that Yemen did not share the view that there was a problem threatening international peace and security, as there was "no conflict or war taking place across the borders of Iraq with its neighbours". Accordingly, he stated that the draft resolution was an attempt "to politicize the humanitarian issue", which could set "a dangerous precedent that would open the way to diverting the Council away from its basic functions and responsibilities for safeguarding international peace and security".²²⁷

The representative of Cuba asserted that Article 2 (7) set strict limits on Security Council authority, and that the existence of a humanitarian emergency did not permit the Council to disregard those limits, especially where the Charter empowered other organs of the United Nations to address humanitarian issues.²²⁸ A similar view was taken by the representative of Zimbabwe.²²⁹

The majority of speakers, while emphasizing that as a matter of principle they were opposed to any form of interference in the internal affairs of any country, agreed that Council action was required, and believed that the text of the draft resolution adequately addressed the situation.²³⁰

²²⁰ Ibid., p. 53.

²²¹ Ibid., pp. 57-58. The representative of the United States conceded, however, that the resolution addressed a special case following the end of the Gulf war and should not be viewed as a general precedent for future Security Council action.

²²² Ibid., pp. 64-65.

²²³ Ibid., p. 24 (Romania); p. 36 (Ecuador); p. 56 (Austria); p. 60 (Soviet Union); p. 67 (Belgium); p. 69 (Italy); p. 74 (Luxembourg); and p. 92 (Canada).

²²⁴ Ibid., p. 17.

²²⁵ Ibid., p. 63.

²²⁶ Ibid., pp. 54-55.

²²⁷ Ibid., pp. 27-30.

²²⁸ Ibid., pp. 42-52.

²²⁹ Ibid., pp. 31-32.

²³⁰ See for example S/PV.2982, pp. 6-8 (Turkey); pp. 9-10 (Pakistan); pp. 11-15 (Islamic Republic of Iran); pp. 23-25 (Romania); pp. 35-37 (Ecuador); p. 53

A number of speakers expressly welcomed the explicit reference to Article 2 (7) contained in the preamble to the resolution as acknowledging the limits of United Nations authority to intervene in the internal affairs of Member States.²³¹

In connection with proposals made at meetings in August and November 1992,²³² however, that Mr. Van der Stoel, Special Rapporteur on the situation of human rights in Iraq, be invited to give a briefing, the representatives of China and India stressed that the Council should restrict its deliberations and actions to its sphere of competence under the Charter. The Council had primary responsibility for the maintenance of international peace and security. It should exercise caution in the manner in which it interpreted that mandate. It could not discuss human rights situations per se or make recommendations in that regard. The representatives considered it inappropriate, therefore, that the Security Council should invite the Special Rapporteur to participate in the meetings of the Council.²³³ This position was supported by the delegation of Zimbabwe.²³⁴

The representative of Ecuador, on the other hand, observed that the invitation to Mr. Van der Stoel (in that case) did not affect or increase the normal authority of the Council as it fell within the scope of a resolution already adopted, and should be understood to reflect all the limitations inherent in that resolution itself. Recalling that by resolution 688 (1991) the Council had condemned the acts of repression committed by Iraq against the Iraqi civilian population in many parts of the country, and found this repression and its consequences to be a threat to peace and security in the region, the representative noted that the Special Rapporteur would thus be providing information on matters that were within the purview of the Council.²³⁵

(France); p. 56 (Austria); and p. 58 (United States).

²³¹ S/PV.2082, p. 23 (Romania); see also p. 37 (Ecuador); p. 38 (Zaire); p. 61 (Soviet Union); and pp. 79-80 (Ireland).

²³² 3105th and 3139th meetings.

²³³ S/PV.3105, pp. 6-7 (India); pp. 12-13 (China); and S/PV.3139, p. 3 (China).

²³⁴ S/PV.3105, pp. 11-12 (Zimbabwe); and S/PV.3139, pp. 4-5 (Zimbabwe).

²³⁵ S/PV.3105, pp. 7-10. At the 3139th meeting, the Council decided to extend the invitation (see S/PV.3139, p. 6). See also chapter III, case 4.

Case 13

Issues raised in connection with the establishment of a programme to ameliorate the humanitarian situation in Iraq; resolution 706 (1991)

In the deliberations held in connection with the adoption of resolution 706 (1991), by which the Council established a programme under which Iraq would be permitted to sell certain quantities of petroleum and petroleum products in order to finance the purchase of foodstuffs, medicine and supplies essential for civilian needs, issues in connection with the principle enshrined in Article 2 (7), were raised.

The representative of Iraq argued that the programme set out in resolution 706 (1991) would impinge on Iraq's national sovereignty and impose a "foreign guardianship" on the Iraqi people. It would deprive the Government of Iraq of its "powers and responsibilities with respect to its citizens and abolish its role in caring for them and providing for their livelihood, their daily need for foodstuffs and health and medical services". He alleged that the resolution involved "colonialist restrictions that would rob Iraq of its right to full sovereignty, interfere in its internal affairs, plunder its oil wealth and usurp its right to dispose of its own funds".²³⁶ He asserted that the attempt to impose a United Nations supervision system was aimed at "derogating from Iraq's sovereignty".²³⁷

The representative of Cuba stated that the establishment of the mechanism proposed by the resolution would mean "appropriating elements of Iraqi sovereignty and would seek to apply to Iraq a type of trusteeship". He contended that the Charter did not authorize the Council "to take upon itself certain functions and responsibilities, or to entrust them to the Secretary-General, which are clearly a breach of the principle of non-intervention in the internal affairs of States and of the principle of the sovereign equality of States".²³⁸

The representative of China stated that the resolution had to be implemented with full respect for the sovereignty of Iraq, which was entitled to play a role in the purchase and distribution of food, medicine and other materials to meet essential civilian needs.²³⁹

²³⁶ S/PV.3004, p. 37

²³⁷ Ibid., p. 41.

²³⁸ Ibid., pp. 68-70.

²³⁹ Ibid., p. 82.

The representative of India stated that humanitarian assistance should be provided through means consistent with the Charter, “particularly the all-important principle of non-interference in the internal affairs of countries”. It was especially important that the measures adopted did not adversely affect or undermine the sovereignty of Iraq, whose consent would therefore be of “cardinal importance”. He believed that the provisions in the resolution did not “call for arrangements of a tutelary kind that might have the effect of interfering in Iraq’s internal affairs”. That was to be borne in mind by the Secretary-General when making his recommendations on the implementation of the resolution.²⁴⁰

The representative of Ecuador considered “that supervision and monitoring by the United Nations should not lead the Organization to engage in actions at variance with permanent respect for the principles of the Charter, particularly paragraphs 1 and 2 of Article 2”.²⁴¹

The representative of Zimbabwe expressed “reservations regarding those provisions of the resolution encroaching on national sovereignty”, and believed that “monitoring arrangements could have been put in place to ensure transparency, without infringing on sovereignty”.²⁴²

A number of speakers underlined the need for strict monitoring and supervisions.²⁴³

The representative of the United States noted that the importance of vigilant monitoring of the distribution of humanitarian assistance, to deter its diversion to privileged sectors of Iraqi society or its misuse at the expense of those most in need, could not be overemphasized.²⁴⁴

The representative of France believed that “very specific modalities for the sale of Iraqi oil, for the use of the resources thus generated and for the distribution of essential goods thus purchased” were indispensable to meet the humanitarian needs of the Iraqi population as a whole, as the Government of Iraq could not be trusted.²⁴⁵

Similarly, the representative of the United Kingdom believed that, “in view of the past record of the Iraqi Government”, effective United Nations monitoring arrangements for the oil sales and the equitable distribution of humanitarian supplies were indeed essential.²⁴⁶

Case 14

Initial response to the situation in the former Yugoslavia; resolution 713 (1992)

During the debate held in connection with the adoption of resolution 713 (1992)²⁴⁷ by which the Council, inter alia, determined that the situation constituted a threat to international peace and security, and imposed a complete embargo on all deliveries of arms and military equipment to Yugoslavia, the representative of Yugoslavia emphasized his country’s historic devotion to the principle of non-interference and the sovereign right of all States to decide their own future, but acknowledged that the Council’s concern was fully justified. He observed that Yugoslavia was “in conflict with itself” and believed that the Yugoslav people were no longer capable of solving the crisis by themselves. He also expressed his belief that “the Yugoslav crisis threaten[ed] peace and security on a large scale”.²⁴⁸

Several members of the Council placed emphasis on the fact that the conflict had begun to spill over national borders and that it was, therefore, of international concern,²⁴⁹ while others emphasized that, in the light of the Charter provisions prohibiting the intervention by the United Nations in the internal affairs of any State, the explicit agreement of the Government of Yugoslavia to the Council’s involvement in the Yugoslav crisis had been a decisive

²⁴⁶ Ibid., p. 84.

²⁴⁷ Adopted at the 3009th meeting, on 25 September 1991.

²⁴⁸ S/PV.3009, pp. 6-20. See also the letter dated 24 September 1991, from the representative of Yugoslavia to the President of the Security Council, by which Yugoslavia indicated its agreement to the Council’s involvement in the crisis (S/23069).

²⁴⁹ S/PV.3009, p. 21 (Belgium); pp. 51-53 (Soviet Union); pp. 58-62 (United States); pp. 55-57 (United Kingdom); and pp. 44-48 (India).

²⁴⁰ Ibid., pp. 97-98.

²⁴¹ Ibid., pp. 101-102.

²⁴² Ibid., p. 62.

²⁴³ Ibid., pp. 73-75 (France); p. 84 (United Kingdom); p. 87 (Austria); and p. 92 (Belgium).

²⁴⁴ Ibid., pp. 79-80 (United States).

²⁴⁵ Ibid., pp. 73-75.

factor in their decision to vote for the draft resolution.²⁵⁰

Case 15

Response to the situation in Bosnia and Herzegovina; resolution 757 (1992) and 770 (1992)

During the debate held in connection with the adoption of resolution 757 (1992),²⁵¹ by which the Council determined that the situation in Bosnia and Herzegovina and in other parts of the former Socialist Federal Republic of Yugoslavia constituted “a threat to international peace and security”, Council members expressed differing views with regard to the nature of that threat. While several speakers perceived the conflict as a foreign aggression against Bosnia and Herzegovina,²⁵² others saw the threat to the peace as

emanating essentially from ethnic strife within Bosnia and Herzegovina.²⁵³

In spite of those differences, a broad majority of Council members agreed on the necessity of addressing the threat by adopting measures under Chapter VII of the Charter.²⁵⁴ The representatives of China and Zimbabwe,²⁵⁵ however, were of the view that the situation ought to be addressed by negotiations rather than action under Chapter VII of the Charter.

In the discussions held in connection with the adoption of resolution 770 (1991),²⁵⁶ by which the Council, acting under Chapter VII of the Charter, called upon States “to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina”, the representative of China stated that his delegation had voted in favour of the resolution “solely out of humanitarian considerations”. He further noted that China deemed the invoking of Chapter VII of the Charter to be inappropriate and placed China’s reservations on record. Noting that Chapter VII of the Charter could be invoked only under situations that seriously threatened international peace and security, not under other circumstances, he stated his delegation’s view that the invoking of Chapter VII in the resolution should not constitute a precedent.²⁵⁷

Most other members of the Council expressly welcomed the action taken by the Council in response

²⁵⁰ Ibid., pp. 28-32 (Zimbabwe); pp. 32-37 (Yemen); pp. 44-48 (India); pp. 49-51 (China); pp. 51-53 (Soviet Union); and pp. 55-57 (United Kingdom). Yemen and Zimbabwe, in particular, voiced the concern that the proposed draft resolution could be seen as Security Council involvement in matters essentially related to the domestic affairs of a Member State. The representative of Yemen noted the tendency of the Council to deal with new problems posed by internal conflicts “experimentally” and warned that such an approach ran counter to the principles of the Charter, including the principles of respect for sovereignty of States and non-intervention in their domestic affairs. He stressed the importance of observing Charter principles and avoiding experimentation in settling internal disputes (S/PV.3009, p. 32 (Zimbabwe); pp. 33 and 36 (Yemen)). See also the letter dated 25 September 1991, from the representative of Canada to the President of the Security Council, in which Canada stated that, although the concept of sovereignty was fundamental to statehood, the concept of sovereignty had to respect higher principles; no longer would the wanton destruction of human life be considered a matter of purely internal concern (S/23076).

²⁵¹ Adopted at the 3082nd meeting, on 30 May 1992.

²⁵² See for example the statement made by the representative of the United States: “The aggression of the Serbian regime and the armed forces it has unleashed against Bosnia and Herzegovina represent a clear threat to international peace and security” (S/PV.3082, p. 33). See also the statement made by the representative of Hungary: “To sum up, the provisions of resolution 752 (1992) are not being complied with at all, and the aggression against Bosnia and Herzegovina is raging on” (ibid., p. 15). The representative of Venezuela noted that

“Belgrade” was “waging war against other States, sovereign members of our Organization” (ibid., pp. 26-30).

²⁵³ See for example the statement made by the representative of the Russian Federation: “The expansion of the ethnic strife into a broader bloody conflict involving groups and forces from republics bordering on Bosnia and Herzegovina constitutes a real threat to the countries of the region and to international peace and security” (S/PV.3082, p. 36).

²⁵⁴ Resolution 757 (1992) was adopted by 13 votes to none, with 2 abstentions (China, Zimbabwe).

²⁵⁵ S/PV.3082, pp. 9-13.

²⁵⁶ Adopted at the 3106th meeting, on 13 August 1992.

²⁵⁷ S/PV.3106, p. 52.

to the humanitarian crisis in Bosnia and Herzegovina, or accepted the necessity of such actions.²⁵⁸

Case 16

The situation relating to Afghanistan

By a letter to the President of the Security Council dated 3 April 1989,²⁵⁹ the representative of Afghanistan requested the convening of an emergency meeting to consider “Pakistan’s military aggression and its overt and covert interference in the internal affairs of the Republic of Afghanistan”.²⁶⁰

Afghanistan reiterated its allegations against Pakistan during the Council’s debates on this matter,²⁶¹ claiming that “peace, stability and security in South-West Asia” were threatened, and drawing attention to the “dangerous implications of the aggression by Pakistan for peace and security in the region and in the world”. He requested the Security Council “to take all urgent measures within its competence” under the Charter “to stop Pakistani aggression and intervention against Afghanistan”.²⁶²

The representative of Pakistan, on the other hand, maintained that the situation in Afghanistan was a purely internal one and represented the continuing “struggle of the Afghan people to overthrow an illegal

and unrepresentative regime that [had been] imposed on them by external military intervention”.²⁶³

A number of speakers were also of the view that, following the withdrawal of Soviet troops from Afghanistan, the situation in Afghanistan was no longer an international dispute, and therefore not a matter for Council involvement.²⁶⁴

Numerous other speakers, however, contended that the continued support given by Pakistan and the United States to Afghan rebel groups in their attempt to overthrow the lawful Government of Afghanistan constituted a serious threat to international peace and security in the region. Accordingly, the situation could not be seen as an internal matter, and had been properly brought before the Security Council.²⁶⁵

Case 17

The situation in Liberia

At a meeting held on 22 January 1991,²⁶⁶ the Liberian representative recalled that his country had been trying for several months to have the Council seized with the situation in his country. He deplored the fact that the strict application of the Charter

²⁵⁸ Ibid., p. 6 (Cape Verde); p. 9 (Ecuador); p. 11 (India); p. 16 (Zimbabwe); p. 21 (Morocco); p. 21 (Japan); pp. 22-23 (Austria); p. 28 (Russian Federation); p. 32 (Hungary); p. 34 (United Kingdom); p. 38 (United States); p. 44 (Venezuela); p. 45 (Belgium); and p. 47 (France). The representative of Ecuador stated his belief that “the provision of humanitarian assistance [was] without doubt a basic condition for the restoration of peace and security in the region” (ibid., p. 9).

²⁵⁹ S/20561. See also the letter dated 28 March 1989 from the representative of Afghanistan to the President of the Security Council (S/20545).

²⁶⁰ In response, the representative of Pakistan, by a letter to the President of the Council dated 7 April 1989 (S/20577), contended that international peace and security were not endangered. Pakistan maintained that the situation inside Afghanistan was a purely internal one, in which the Afghan people were resisting the rule of an illegal and unrepresentative regime that had been imposed on them by external military intervention.

²⁶¹ 2852nd to 2860th meetings, held from 11 to 26 April 1989.

²⁶² S/PV.2852, pp. 5-25; and S/PV.2857, pp. 39-45.

²⁶³ S/PV.2852, pp. 26-27; S/PV.2859, p. 42; and S/PV.2860, p. 56.

²⁶⁴ S/PV.2853, pp. 6-11 (Organization of Islamic Conference); pp. 11-12 (Saudi Arabia); pp. 17-18 (Malaysia); pp. 42-43 (Japan); pp. 51-53 (United States); S/PV.2855, pp. 12-13 (China); pp. 13-16 (United Kingdom); and pp. 21-22 (Canada); S/PV.2856, pp. 27-30 (Comoros); S/PV.2857, pp. 11-12 (Bangladesh); and p. 12 (Nepal); S/PV.2859, pp. 13-17 (Somalia); p. 24 (Saudi Arabia); p. 38 (United States) and S/PV.2860, p. 54 (United States).

²⁶⁵ S/PV.2853, pp. 22-30 (German Democratic Republic); pp. 29-30 (Cuba); pp. 33-36 (Mongolia); and pp. 43-48 (Democratic Yemen); S/PV.2855, pp. 3-7 (India); pp. 32-33 (Soviet Union); S/PV.2856, pp. 6-7 (Lao People’s Democratic Republic); pp. 11-15 (Nicaragua); pp. 16-20 (Ethiopia); pp. 21-23 (Viet Nam); pp. 33-37 (Bulgaria); and pp. 38-41 (Angola); S/PV.2857, pp. 3-10 (Czechoslovakia); pp. 16-17 (Yugoslavia); pp. 18-22 (Ukrainian Soviet Socialist Republic); pp. 28-31 (Congo); S/PV.2859, pp. 7-8 (Algeria); pp. 11-12 (Hungary); pp. 21-22 (Poland); pp. 31-38 (Byelorussian Soviet Socialist Republic); and S/PV.2860, pp. 22-26, 41, 62 (Soviet Union).

²⁶⁶ 2974th meeting. The meeting had been requested by the representative of Côte d’Ivoire in a letter dated 15 January 1991 to the President of the Security Council (S/22076).

provisions relating to non-interference in the internal affairs of Member States had “hampered the effectiveness of the Council and its principal objective of maintaining international peace and security”. This raised the question whether it would be necessary to review, and perhaps reinterpret, the Charter provisions calling for non-interference in the internal affairs of Member States.²⁶⁷

During the debate held in connection with the adoption of resolution 788 (1992),²⁶⁸ by which the Council determined the existence of a threat to international peace and security, and imposed a general arms embargo on Liberia, the Minister for Foreign Affairs of Liberia emphasized the international dimension of the civil war, stating that the conflict, by its spillover effects, was “already a clear and present danger to neighbouring Sierra Leone”, which might be “slowly transforming West Africa into an arms market”. He insisted that the civil war had to be “perceived in the context of the Council’s responsibility for the maintenance of international peace and security”.²⁶⁹

Similar views were expressed by other speakers.²⁷⁰

²⁶⁷ S/PV.2974, p. 3.

²⁶⁸ Adopted at the 3138th meeting, on 19 November 1992.

²⁶⁹ S/PV.3138, pp. 18-20.

²⁷⁰ The representative of the Russian Federation believed that “the failure of some belligerent Liberian groups to implement the plan for a peaceful settlement in Liberia agreed to under the auspices of ECOWAS [would] lead to an exacerbation of the situation in that country and [was] fraught with danger not only to neighbouring States but also to international peace and security, particularly in West Africa” (S/PV.3138, p. 66). This view was shared by the representative of China, who felt that the conflict “had threatened the peace and security of the neighbouring States and the region as a whole” (ibid., p. 71). The representative of Cape Verde noted that the dimension that the conflict in Liberia had assumed had become “a destabilizing factor in West Africa as a whole and pose[d] a real threat to international peace and security” (ibid., p. 69). The representative of Ecuador felt that the extension of the consequences of the crisis to neighbouring countries had given the crisis an “international character” and that “the persistence of the problem threatened the peace and security of the subregion as a whole” (ibid., p. 81). The Minister for Foreign Affairs of Benin, speaking on behalf of ECOWAS, feared that there remained a great risk that the civil war would spread to the entire West

Case 18

The situation in Somalia

During the debate held in connection with the adoption of resolution 794 (1992),²⁷¹ by which the Council determined that “the magnitude of the human tragedy caused by the conflict in Somalia” constituted a threat to international peace and security,²⁷² most Council members agreed that the humanitarian situation itself necessitated the adoption of measures under Chapter VII of the Charter,²⁷³ without expressly

African subregion and that its continuation “threatened the peace and security of the West African subregion and therefore international peace and security” (ibid., pp. 8-11 and 97). The representative of Senegal believed that the war posed a “genuine threat to the peace and security of the 16 countries of ECOWAS” and was, therefore, a “destabilizing factor for the countries of the region” (ibid., p. 22). The representative of Zimbabwe noted that the conflict had now “spilled over into neighbouring countries and thus present[ed] a threat not only to the region but to international peace and security” (ibid., p. 62). The representative of Egypt agreed that the situation posed a “threat to peace and security in the region of West Africa and, therefore, [made] it incumbent upon the Security Council to act” (ibid. pp. 93-95).

²⁷¹ Adopted at the 3145th meeting, on 3 December 1992.

²⁷² By a letter dated 29 November 1992 to the President of the Security Council (S/24868), the Secretary-General had advised the Council that there was no alternative but to adopt “more forceful measures to secure the humanitarian operations in Somalia”. Noting that no government existed in Somalia that could request and allow the use of force, he observed that the Council had “to make a determination under Article 39 of the Charter that a threat to the peace existed, as a result of the repercussions of the Somali conflict on the entire region, and to decide what measures should be taken to maintain international peace and security”. In this context, it may be interesting to note, however, that resolution 794 (1992) does not contain any reference to the “repercussion of the Somali conflict on the entire region”.

²⁷³ S/PV.3145. See for example the statement made by the representative of the Russian Federation: “The Russian delegation is convinced that, at the present juncture, resolution of the crisis requires the use of international armed forces under the auspices of the Security Council to ensure the delivery and safe keeping of the humanitarian assistance and its distribution to the country’s starving population” (S/PV.3145, p. 26). See also the statement made by the representative of the United Kingdom: “The international community has no wish to intervene in the internal affairs of [Somalia], but

referring to any specific regional or international implications of the crisis.²⁷⁴

While a number of Council members emphasized the unique character of the situation in Somalia, and cautioned that the action taken by the Council should not be seen as a precedent,²⁷⁵ other members of the Council saw the new nature of the threat posed by the situation in Somalia as symptomatic for the new challenges to which the United Nations and the international community had to adapt.²⁷⁶

Case 19

The situation in the occupied Arab territories

Following the eruption of violence in the Old City of Jerusalem, which had resulted in the death of more than 20 Palestinians, the Council adopted resolution 672 (1990).²⁷⁷ The Council welcomed the

it cannot stand by and permit a humanitarian crisis of this magnitude to continue" (ibid., p. 35). The representative of France noted that, in adopting resolution 794 (1992), the Council had "demonstrated its determination to put an end to the suffering of the Somali people", adding that the commitment was "part of the principle of establishing access to victims and of the right to emergency humanitarian assistance" (ibid., p. 29).

²⁷⁴ A few such references were however made during the debate. See S/PV.3145, pp. 19-20 (Cape Verde); p. 42 (Venezuela); p. 44 (Morocco); and p. 38 (United States).

²⁷⁵ See for example S/PV.3145, p. 51 (India) and p. 17 (China). It should be noted that a reference to the "unique character" of the situation in Somalia is also contained in the preamble to resolution 794 (1992).

²⁷⁶ The representative of the United States noted that, "by acting in response to the tragic events in Somalia, the international community [was] also taking an important step in developing a strategy for dealing with the potential disorder and conflicts of the post-cold-war world" (S/PV.3145, p. 36). The representative of France believed that by the resolution the United Nations had "demonstrated its capacity to adapt to new challenges" (ibid., p. 30). The representative of Hungary felt that it would "be difficult, confronted with world public opinion, for the international community to avoid its responsibility to meet the challenges arising in hotbeds of crisis as serious as the one that [was] continuing to tear Somalia apart" (ibid., p. 48).

²⁷⁷ Adopted at the 2948th meeting, on 12 October 1990. See also the verbatim records of the 2946th and 2947th meetings held in connection with the same matter on 8 and 9 October 1990 respectively. See also the case study on the proposed fact-finding mission (chapter X,

Secretary-General's decision to send a fact-finding mission to the region, to look into the circumstances surrounding the recent tragic events in Jerusalem and other similar developments in the occupied territories, and to submit a report containing findings and recommendations to the Council on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation.²⁷⁸

Having learned of Israel's refusal to receive the proposed mission of the Secretary-General,²⁷⁹ the Council met on 24 October 1990.²⁸⁰ At that meeting, the representative of Israel explained that Israel had expressed its readiness to assist the Secretary-General in the preparation of a report on the relevant events, but emphasized that Israel, like any other sovereign State, was the exclusive authority in the territory under its control. The representative noted that Israel had appointed its own "independent commission of inquiry consisting of three prominent figures", which would "present its findings and conclusions on the chain of events, their causes and the actions of Israel's security forces".²⁸¹

Many speakers expressed regret at Israel's refusal to receive the mission of the Secretary-General, and underlined that Israel was under an obligation to comply with resolution 672 (1990).²⁸² It was also noted that Israel's sensitivities had been taken into account in the Council's approach to this matter, and that resolution 672 (1990), instead of calling for the establishment of a Council mission to investigate the

part II, case 2).

²⁷⁸ S/PV.2948, p. 27. According to the President of the Security Council, the purpose of the mission had been so stated by the Secretary-General in informal consultations. The Secretary-General had also recalled, however, "that under the Fourth Geneva Convention the principal responsibility for ensuring the protection of the Palestinians rested with the occupying power, namely Israel" (ibid.).

²⁷⁹ The relevant statement, which had been adopted by the Israeli Cabinet on 14 October 1990, was cited in the Secretary-General's report of 31 October 1990 (S/21919, para. 3).

²⁸⁰ 2949th meeting.

²⁸¹ S/PV.2949, p. 17.

²⁸² Ibid., p. 27 (Palestine); pp. 38-40 (Sudan); p. 43 (Yemen); p. 48 (Zaire); p. 52 (Malaysia); p. 54 (Colombia); and p. 56 (Cuba).

incident, had discreetly welcomed the Secretary-General's decision to send a mission to the region.²⁸³

Following further deliberations, the Council, on 24 October 1990, unanimously adopted resolution 673 (1990),²⁸⁴ by which it deplored Israel's refusal to receive the mission of the Secretary-General to the region; urged the Government of Israel to reconsider its decision; and insisted that it comply fully with resolution 672 (1990) and permit the mission to proceed in keeping with its purpose.

In his report to the Council, however, the Secretary-General noted that, owing to Israel's continued refusal to receive his mission, he had been unable to secure independent information about the circumstances surrounding the recent events.²⁸⁵

In the Council's consideration of the report, several speakers again denounced Israel's rejection of the above-mentioned resolutions.²⁸⁶ The representative of Israel, however, was of the view that the proposed mission was "not intended to ascertain facts" but rather "a transparent attempt to encroach upon Israel's sovereignty". He maintained that Israel had the sole responsibility for the occupied territories, and reiterated that Israel would "reject any encroachment on its sovereignty and authority".²⁸⁷

On 20 December 1990, the Council adopted resolution 681 (1990), by which it expressed its grave concern over the rejection by Israel of resolutions 672 (1990) and 673 (1990) and requested the Secretary-General to monitor and observe the situation regarding Palestinian civilians under Israeli occupation, and to keep the Council regularly informed.

Case 20

The responsibility of the Security Council in the maintenance of international peace and security

During the Council's summit meeting on the item entitled "The responsibility of the Security Council in

the maintenance of international peace and security",²⁸⁸ speakers discussed the question how the concept of national sovereignty and the principle of non-interference in domestic affairs could be reconciled with the need to address violations of human rights²⁸⁹ and threats posed by internal conflicts.²⁹⁰ Many speakers expressed the view that the principle of non-interference should not be interpreted in a way which would prevent the Council from addressing such threats and violations.²⁹¹

The Secretary-General observed that, in the context of changes in the global order, and in the light of new challenges to the collective security of States, the concept of State sovereignty had taken on a new meaning. It comprised not only a "dimension of right", but also a "dimension of responsibility, both internal and external". Although a violation of State sovereignty was and would remain an offence against the global order, its misuse could "undermine human rights and jeopardize a peaceful global life".²⁹²

The President of the Russian Federation believed that the protection of human rights and freedoms could not be considered an internal matter for States, as it was an obligation under the Charter and other international legal instruments. The Council was therefore called upon to underline the collective responsibility for the protection of human rights and freedoms.²⁹³

The President of the United States, noting that human dignity and human rights were not the

²⁸⁸ 3046th meeting. For the first time since its inception, the Council met at the level of Heads of State and Government.

²⁸⁹ S/PV.3046, p. 41 (Morocco); p. 46 (Russian Federation); p. 66 (Austria); pp. 69 and 73 (Belgium); pp. 114-115 (Hungary); pp. 130-131 (Zimbabwe); and pp. 136 and 139 (United Kingdom).

²⁹⁰ Ibid., p. 63 (Austria); p. 81 (Cape Verde); and p. 130 (Zimbabwe).

²⁹¹ Ibid., pp. 27-28 (Ecuador); p. 57 (Venezuela); pp. 114-115 (Hungary); and pp. 130-131 (Zimbabwe).

²⁹² S/PV.3046, p. 9. The Secretary-General also noted that "civil wars [were] no longer civil, and the carnage that they inflict [would] not let the world remain indifferent". He further observed that "the narrow nationalism that would oppose or disregard the norms of a stable international order and the micro-nationalism that resist[ed] healthy economic and political integration [could] disrupt a peaceful global existence".

²⁹³ Ibid., p. 46.

²⁸³ Ibid., for example pp. 44-45.

²⁸⁴ The resolution was sponsored by Colombia, Cuba, Malaysia and Yemen.

²⁸⁵ S/21919, para. 8.

²⁸⁶ S/PV.2953, pp. 6-22 (Palestine); pp. 22-32 (Lebanon); pp. 32-45 (Jordan); pp. 57-62 (Yemen); and pp. 63-66 (Iraq).

²⁸⁷ Ibid., pp. 52 and 56.

“possessions of the State”, but universal rights, stated that “in Asia, in Africa, in Europe [and] in the Americas, the United Nations must stand with those who seek greater freedom and democracy”.²⁹⁴

The President of Ecuador observed that “the liberty of States, which is called sovereignty, is not undermined but rather is strengthened by the establishment of international organizations”.²⁹⁵

The President of Venezuela believed that it was necessary to “adapt the traditional concept of national sovereignty, incorporating into it the transnational responsibilities implicit in the interdependence of all our nations”.²⁹⁶

The Federal Chancellor of Austria expressed the view that many items on the Council’s agenda were increasingly related to internal conflicts that, sooner or later, could affect international peace and security.²⁹⁷ He emphasized that States should not be permitted to use “outdated interpretations of legal documents as protective walls behind which human rights [could] be systematically and massively violated with total impunity”.²⁹⁸

The Prime Minister of Belgium emphasized that States had a responsibility to the international community at large to respect the human rights of their peoples. He asserted further that “the *raison d’être* of the principle of non-interference [was] to allow States to foster in freedom the well-being of their peoples”. He warned, however, that no Government should use that principle as a legal argument to condone abuses of human rights, and that State rights were subservient to human rights.²⁹⁹

The Minister for Foreign Affairs of Hungary stated that “respect for human rights and the rights of minorities [was] not merely a legal and humanitarian

question [but] also an integral part of international collective security”, and that it was “indispensable for the Security Council to take resolute action to defend and protect these rights”.³⁰⁰

The Minister for Foreign Affairs of Zimbabwe asserted that established principles governing international relations, such as that of non-interference in the internal affairs of other States, would have to accommodate efforts by the United Nations and by regional organizations to protect the basic human rights of individuals and social groups. Recalling the international concern for and action against apartheid, the Minister asserted that “[m]assive and deliberate violations of human rights” and “situations of oppression and repression” could no longer be tolerated anywhere. He cautioned, however, that the Council would have to exercise great care to avoid using such conflicts as a pretext for intervention by big Powers in the legitimate domestic affairs of small States.³⁰¹

While the speakers quoted above generally supported international action to counter gross violations of human rights, the Chinese Premier emphasized that, while human rights and fundamental freedoms should be fully respected, these matters fell within the sovereignty of each State. It was neither appropriate nor workable to demand that all States measure up to the human rights criteria or models of one country or a small number of countries. He emphasized that “such basic principles as the sovereign equality of Member States and non-interference in their internal affairs, as enshrined in the Charter of the United Nations, should be observed by all its Members without exception”. While China was ready to engage in dialogue and to cooperate on an equal footing with other countries with regard to human rights, it would oppose any interference in the internal affairs of other countries under the pretext of human rights.³⁰²

²⁹⁴ Ibid., p. 51.

²⁹⁵ Ibid., pp. 27-28.

²⁹⁶ Ibid., p. 57.

²⁹⁷ Ibid., p. 63. The representative of Cape Verde, also commenting on internal national conflicts, believed that “without interfering with the sovereignty of countries, the deployment of United Nations peacekeeping forces [could] play an important and decisive role in helping bring about a speedy peaceful outcome to national conflicts whenever no Government is really in charge and chaos sets in” (ibid., p. 81).

²⁹⁸ Ibid., p. 66.

²⁹⁹ Ibid., p. 73.

³⁰⁰ Ibid., pp. 114-115.

³⁰¹ Ibid., pp. 130-131.

³⁰² Ibid., p. 91.

Part III

Consideration of the provisions of Article 24 of the Charter

Article 24

1. *In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.*
2. *In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII and XII.*
3. *The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.*

Note

None of the resolutions adopted by the Council during the period under review contained an explicit reference to Article 24 of the Charter, but the principles contained in that Article were nevertheless reflected in a number of the Council's decisions.³⁰³ Explicit references were made to Article 24 on several

³⁰³ In connection with the situation between Iraq and Kuwait, see resolutions 661 (1990), fifth preambular para.; and 678 (1990), third preambular para. See also a draft resolution submitted by Cuba but not put to the vote (S/22232, third preambular para.). In connection with items relating to the situation in the former Yugoslavia, see resolutions 713 (1991), fifth preambular para.; 724 (1991), third preambular para.; 727 (1992), third preambular para.; 740 (1992), fifth preambular para.; 743 (1992), sixth preambular para.; 749 (1992), third preambular para.; 752 (1992), fourth preambular para.; 757 (1992), twelfth preambular para.; and 762 (1992), third preambular para. In connection with the letters dated 2 and 4 April 1991 from the representatives of Turkey and France to the President of the Security Council, see resolution 688 (1991), first preambular para. In connection with the item entitled "Central America: efforts toward peace", see the presidential statement of 23 May 1990 (S/21331). In connection with the item entitled "United Nations peacekeeping operations", see the statement of 30 May 1990 (S/21323).

occasions during the proceedings of the Council.³⁰⁴ The cases below reflect the practice of the Council touching upon the provisions of Article 24 as illustrated by its decisions and deliberations in connection with the situation between Iraq and Kuwait and the responsibility of the Security Council in the maintenance of international peace and security.

Case 21

The situation between Iraq and Kuwait

At the 2981st meeting of the Council, on 2 April 1991, some speakers contended, without invoking Article 24 explicitly, that the Security Council was assuming powers not granted to it under the Charter of the United Nations.³⁰⁵ The representative of Yemen stated that "imposition of the boundaries between Iraq and Kuwait" was counter to resolution 660 (1990), which called on the parties to negotiate to resolve their differences. The Security Council had never before set boundaries; that task had always been left to negotiations, or the International Court of Justice. Furthermore, there was "no precedent whatsoever" for the Security Council to guarantee the boundaries of any country.³⁰⁶ The representative of Cuba affirmed that international boundaries should be respected and that the Security Council had the obligation to ensure that they were not violated. He contended, however, that the Council totally lacked "the authority to demand respect for certain border lines, or to demarcate them, or to determine in what part of what region of the world those boundaries [were] violable, boundaries in respect to which it proclaim[ed] the determination to shoulder special responsibility".³⁰⁷ The representative of Ecuador argued that the case of

³⁰⁴ In connection with the situation in the occupied Arab territories, see S/PV.2949, p. 48 (Zaire); and p. 58 (Cuba). In connection with the situation between Iraq and Kuwait, see S/PV.2951, p. 6 (Iraq); S/PV.2977 (Part I), p. 23 (Cuba); and p. 62 (Zaire); and S/PV.2977 (Part II) (closed), pp. 89-90 (Austria). In connection with the letters dated 2 and 4 April 1991 from the representatives of Turkey and France to the President of the Security Council, see S/PV.2982, p. 46 (Cuba).

³⁰⁵ S/PV.2981, p. 41 (Yemen); p. 61 (Cuba); and pp. 107-108 (Ecuador).

³⁰⁶ *Ibid.*, p. 41.

³⁰⁷ *Ibid.*, p. 61.

the boundary between Iraq and Kuwait was not one of the exceptions envisaged in Article 36, the relevant provision of which provides “that legal disputes should as a general rule be referred by the parties to the International Court of Justice”. He added that Chapter VII of the Charter authorized the use of all necessary means to implement the resolutions of the Council; it could not confer on the Council more powers than those set forth in the Charter. The speaker noted with satisfaction the statement of the representative of the United States to the effect that the present case of the boundary between Iraq and Kuwait could not be considered in any way an applicable precedent and that its character as an exception was its distinguishing feature.³⁰⁸

Other speakers, on the other hand, maintained that the Council was not creating a new boundary in the case of the situation between Iraq and Kuwait.³⁰⁹ The representative of India, while emphasizing that boundaries had to be settled freely by countries in exercise of their sovereignty and could not be arbitrarily imposed by the Council, observed that the Council was not engaging itself in establishing any new boundary between Iraq and Kuwait. Rather, the draft that would become resolution 687 (1991) recognized an existing boundary that had been agreed to by the two countries in exercise of their full sovereignty, and it called upon those countries to respect the boundary’s inviolability. It was India’s understanding that the provision of the draft resolution that guaranteed the inviolability of the boundary did “not confer authority on any country to take unilateral action under any previous resolutions of the Security Council”. The sponsors of the draft resolution had explained to his delegation that, in the case of a threat to or violation of the boundary, the Council would meet to take, as appropriate, all necessary measures in accordance with the Charter.³¹⁰

The representative of the United States maintained that the task at hand, which was consistent with Chapter VII of the Charter, was to establish peace in such a way that Iraq never again threatened Kuwait’s sovereignty and integrity. For that reason, the Council in resolution 687 (1991) demanded that Iraq and

Kuwait respect their boundary as agreed upon in 1963, requested that the Secretary-General assist in arranging the demarcation of the boundary, and decided to guarantee its inviolability. The United States did not seek a new role for the Security Council as the body that determined international boundaries. Border disputes were issues to be negotiated directly between States or resolved through other pacific means of settlement.³¹¹

The representative of the Union of Soviet Socialist Republics stressed that resolution 687 (1991) aimed not only at restoring justice but also at issuing a serious warning to all those who might be inclined to embark on the path of aggression, occupation and annexation. He emphasized that the crux of the resolution was the establishment of a permanent ceasefire between Iraq and Kuwait and those States cooperating with Kuwait, after official notification by Iraq of its acceptance of the resolution. He stressed, in that regard, that the deployment on the boundary between Kuwait and Iraq of United Nations observers would create conditions for the withdrawal of multinational forces from the region. An important element in the process was the demarcation of the boundary between Iraq and Kuwait in accordance with the agreement to that effect deposited with the United Nations. It was of prime importance to observe the provision that the task of ensuring the inviolability of the boundary between Iraq and Kuwait lay with the Security Council, which, to that end, could take all necessary steps in accordance with the Charter of the United Nations.³¹²

The representative of the United Kingdom stated that rapid demarcation of the boundary, the establishment of a United Nations observer unit to monitor a demilitarized zone along the frontier and a guarantee by the Security Council to step in if ever it were violated again were a carefully integrated package designed to ensure there would be no repetition of the invasion by Iraq. The intention was not to overturn the principle that it was for the parties to negotiate and reach agreement. Naturally, the Council had a duty to respond when disputes over boundaries arose and came to threaten international peace and security.³¹³

³⁰⁸ *Ibid.*, pp. 107-108.

³⁰⁹ See for example S/PV.2981, p. 78 (India); p. 86 (United States); pp. 98-105 (Russian Federation); and p. 113 (United Kingdom).

³¹⁰ *Ibid.*, p. 78.

³¹¹ *Ibid.*, p. 86.

³¹² *Ibid.*, pp. 98-105.

³¹³ *Ibid.*, p. 113.

At the same meeting the Council adopted resolution 687 (1991) by 12 votes to 1 (Cuba), with 2 abstentions (Ecuador, Yemen). The resolution reads in part:

The Security Council,

...

2. *Demands* that Iraq and Kuwait respect the inviolability of the international boundary and the allocation of islands set out in the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters", signed by them in exercise of their sovereignty at Baghdad on 4 October 1963 and registered with the United Nations;

3. *Calls upon* the Secretary-General to lend his assistance to make arrangements with Iraq and Kuwait to demarcate the boundary between Iraq and Kuwait, drawing on appropriate material including maps transmitted with the letter dated 28 March 1991 addressed to him by the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations, and to report back to the Council within one month;

4. *Decides* to guarantee the inviolability of the above-mentioned international boundary and to take, as appropriate, all necessary measures to that end in accordance with the Charter of the United Nations;

At its 3108th meeting, on 26 August 1992, the Council again considered the demarcation of the boundary between Iraq and Kuwait. The representative of Ecuador reiterated the argument that Article 36 of the Charter did not grant the Security Council competence under Chapter VII to pronounce itself on the territorial boundary between Iraq and Kuwait, or to determine any settlement intended to demarcate that boundary. The means used to implement Security Council resolutions could not endow the Council with powers beyond those set out in the Charter itself, and moreover those means had to be in strict conformity with international law.³¹⁴ The representative of Venezuela regarded the process of demarcation in the context of the special circumstances following Iraq's invasion of Kuwait, which had posed a threat to international peace and security. The draft resolution did not establish a precedent altering the general principle expressed in Article 33 of the Charter, that the parties directly involved in disputes should negotiate in order to overcome their differences.³¹⁵ The representative of India reiterated that boundaries were

extremely sensitive issues and should be freely settled by the parties in the exercise of their sovereignty. In the present case, the Council itself was not establishing any new boundary between Iraq and Kuwait. Rather, it was simply making arrangements for the demarcation of an already agreed-upon boundary.³¹⁶ The representative of the Russian Federation observed that concluding the demarcation of the boundary in accordance with resolution 687 (1991), which guaranteed the inviolability of the boundary, was an important element in strengthening regional stability.³¹⁷

At the same meeting, the Council adopted resolution 773 (1992) by 14 votes to none, with one abstention (Ecuador). The resolution reads in part:

The Security Council,

...

Recalling in this connection that through the demarcation process the Commission is not reallocating territory between Iraq and Kuwait but is simply carrying out the technical task necessary to demarcate for the first time the precise coordinates of the boundary set out in the "Agreed Minutes between the State of Kuwait and the Republic of Iraq regarding the restoration of friendly relations, recognition and related matters", signed by them in exercise of their sovereignty at Baghdad on 4 October 1963, and that this task is being carried out in the special circumstances following Iraq's invasion of Kuwait and pursuant to resolution 687 (1991) and the Secretary-General's report on the implementation of paragraph 3 of that resolution,

...

4. *Underlines* the guarantee of the inviolability of the above-mentioned international boundary and its decision to take all appropriate measures to that end in accordance with the Charter of the United Nations, as provided for in paragraph 4 of resolution 687 (1991);

Case 22

The responsibility of the Security Council in the maintenance of international peace and security

At its 3046th meeting, on 31 January 1992, the Security Council met at the level of Heads of State and Government, to consider the responsibility of the Council in the maintenance of international peace and security.

³¹⁴ S/PV.3108, p. 3.

³¹⁵ *Ibid.*, p. 3.

³¹⁶ *Ibid.*, pp. 7-8.

³¹⁷ *Ibid.*, p. 9.

In the course of the debate, speakers underlined the need to guarantee and strengthen the system of collective security.³¹⁸ The primary task of the Council was summed up as being to prevent, in accordance with the Charter of the United Nations, crises such as war, the break-up of States and terrorism.³¹⁹ It was also held that the United Nations, through the Security Council, had to act as the guardian of the security of nations, especially of small countries, and that it should serve as a catalyst for the promotion of the primacy of the rule of law in international relations.³²⁰ It was also noted that the provisions of the Charter concerning collective security could not become operational unless all countries fully respected international law and unless the principle of equality among States was made a reality.³²¹ In addition, it was stated that the collective enforcement arrangements of the United Nations should ensure uniformity, with action being taken irrespective of the identity of the aggressor or of the victim.³²²

A number of speakers addressed the Council's decision-making and the veto. It was stated that the actions of the Security Council should flow from the "collective will" of the international community and not from the "views or predilections of a few".³²³ As the Council took decisions of major importance on behalf of the entire membership of the United Nations, its decisions should be representative of the will of the general membership.³²⁴ It was also observed that history had largely superseded the circumstances on which the veto had been based, and that the risks the veto had been designed to counter no longer existed. The time had come for the Organization to restore the basic principle underlying its validity: that of the equality of rights and obligations.³²⁵ The protection and advancement of human rights was referred to by a number of speakers. On the one hand, there were those who proposed that the principle of non-interference ought not to be invoked to condone human rights abuses and that the Security Council had a role to play in the protection of human rights. Thus, it was stated

that human rights and freedoms were not an internal matter of States, but rather that they constituted obligations under the Charter, international covenants and conventions. The Council was thus called upon to underscore the protection of human rights and freedoms.³²⁶ It was further suggested that the Security Council should deal with cases of serious violations of human rights at an early stage and support action taken elsewhere to put an end to unacceptable situations that could pose a direct threat to international peace and security.³²⁷ One speaker underlined that for his country "respect for human rights and the rights of national minorities [was] not merely a legal and humanitarian question: it [was] an integral part of international collective security". Therefore, it was indispensable for the Council to take resolute action to defend and protect those rights.³²⁸

On the other hand, a number of speakers, while affirming the importance of human rights, considered that such rights should not be defined unilaterally or be used to determine the relations between States.³²⁹ It was contended that the issue of human rights fell within the sovereignty of each country. Further, although human rights were valued, the human rights issue ought not to be used as pretext for interference in the internal affairs of other countries.³³⁰ It was stated that the established principles governing inter-State relations — such as that of non-interference in the internal affairs of States — would have to accommodate efforts by the United Nations and regional organizations to protect the basic human rights of individuals and social groups. In the future the Council would be called upon to consider an increasing number of conflicts and humanitarian situations of a domestic nature that could pose threats to international peace and stability. Great care would thus have to be taken to ensure that those domestic conflicts were not used as a pretext for the intervention of big Powers in the legitimate domestic affairs of small States, or that human rights issues were not used for the purpose of destabilizing other Governments. The question of when a domestic situation warranted international action — either by the Council or regional organizations —

³¹⁸ S/PV.3046, p. 11 (Secretary-General); p. 16 (France); p. 53 (United States); and pp. 79-80 (Cape Verde).

³¹⁹ *Ibid.*, pp. 14-15 (France).

³²⁰ *Ibid.*, p. 78.

³²¹ *Ibid.*, pp. 34-36 (Morocco).

³²² *Ibid.*, p. 126 (Zimbabwe).

³²³ *Ibid.*, p. 97 (India).

³²⁴ *Ibid.*, p. 126 (Zimbabwe).

³²⁵ *Ibid.*, p. 56 (Venezuela).

³²⁶ *Ibid.*, p. 46 (Russian Federation).

³²⁷ *Ibid.*, p. 73 (Belgium).

³²⁸ *Ibid.*, p. 115 (Hungary).

³²⁹ *Ibid.*, pp. 92-93 (China); pp. 98-99 (India); pp. 130-131 (Zimbabwe).

³³⁰ *Ibid.*, pp. 92-93 (China).

called for the establishment of principles to guide such decisions.³³¹ The need for the Council to engage in preventive action was also raised during the debate.³³² The Chancellor of Austria noted that recent crises underlined the need for an early reaction to potential conflicts. The instrument of preventive diplomacy, including by the Security Council, would have to be developed further. The Council would also have to consider the possibility of the preventive deployment of peacekeeping personnel.³³³ The Prime Minister of the United Kingdom underlined that in future the Council would have to be prepared to act before tension became conflict.³³⁴

At the close of the meeting, the President, on behalf of the members, made a statement containing several references to the responsibility of the Council in the maintenance of international peace and security.³³⁵ The statement in part reads:

...

The Security Council met at United Nations Headquarters in New York on 31 January 1992, for the first time at the level of Heads of State and Government. The members of the Council considered, within the framework of their commitment to the Charter of the United Nations, "The responsibility of the Security Council in the maintenance of international peace and security".

The members of the Council consider that their meeting is a timely recognition of the fact that there are new favourable international circumstances under which the Security Council has begun to fulfil more effectively its primary responsibility for the maintenance of international peace and security.

A time of change

This meeting of the Council takes place at a time of momentous change. The ending of the cold war has raised hopes for a safer, more equitable and more humane world. Rapid progress has been made, in many regions of the world, towards democracy and responsive forms of government, as well as towards achieving the purposes set out in the Charter of the United Nations. The completion of the dismantling of apartheid in South Africa would constitute a major contribution to these purposes and positive trends, including to the encouragement of respect for human rights and fundamental freedoms.

³³¹ Ibid., pp. 130-131 (Zimbabwe).

³³² Ibid., p. 63 (Austria); and p. 71 (Belgium).

³³³ Ibid., p. 63.

³³⁴ Ibid., pp. 137-138 (United Kingdom).

³³⁵ Statement by the President of 31 January 1992 (S/23500).

Last year, under the authority of the United Nations, the international community succeeded in enabling Kuwait to regain its sovereignty and territorial integrity, which it had lost as a result of Iraqi aggression. The resolutions adopted by the Council remain essential to the restoration of peace and stability in the region and must be fully implemented. At the same time the members of the Council are concerned by the humanitarian situation of the innocent civilian population of Iraq.

The members of the Council support the Middle East peace process, facilitated by the Russian Federation and the United States of America, and hope that it will be brought to a successful conclusion on the basis of Council resolutions 242 (1967) of 22 October 1967 and 338 (1973) of 22 October 1973.

...

The members of the Council also recognize that change, however welcome, has brought new risks for stability and security. Some of the most acute problems result from changes to State structures. The members of the Council will encourage all efforts to help achieve peace, stability and cooperation during these changes.

The international community therefore faces new challenges in the search for peace. All Member States expect the United Nations to play a central role at this crucial stage. The members of the Council stress the importance of strengthening and improving the United Nations to increase its effectiveness. They are determined to assume fully their responsibilities within the United Nations in the framework of the Charter.

The absence of war and military conflicts among States does not in itself ensure international peace and security. The non-military sources of instability in the economic, social, humanitarian and ecological fields have become threats to peace and security. The United Nations membership as a whole, working through the appropriate bodies, needs to give the highest priority to the solution of these matters.

Commitment to collective security

The members of the Council pledge their commitment to international law and to the Charter of the United Nations. All disputes between States should be peacefully resolved in accordance with the provisions of the Charter.

The members of the Council reaffirm their commitment to the collective security system of the Charter to deal with threats to peace and to reverse acts of aggression.

The members of the Council express their deep concern over acts of international terrorism and emphasize the need for the international community to deal effectively with all such acts.

...

In conclusion, the members of the Council affirm their determination to build on the initiative of their meeting in order to secure positive advances in promoting

international peace and security. They agree that the Secretary-General has a crucial role to play.

Part IV Consideration of the provisions of Article 25 of the Charter

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Note

During the period under review, the Council adopted four resolutions that explicitly invoked Article 25 of the Charter.³³⁶ By three of those resolutions the Council emphasized Iraq's obligation to comply with Council resolutions.³³⁷ By one of those three resolutions the Council also called upon all States to carry out their obligations to implement sanctions against Iraq.³³⁸ By the fourth resolution the Council recalled the provisions of Article 25 before deciding to establish the United Nations Protection Force (UNPROFOR), which was to implement the United Nations peacekeeping plan for Yugoslavia.³³⁹

In addition, Article 25 was touched upon, without being invoked explicitly, in a large number of resolutions³⁴⁰ and statements³⁴¹ made by the President

on behalf of the members of the Council, as well as in one draft resolution³⁴² that was voted upon but not adopted by the Council. Those resolutions and presidential statements were directed at Member States in particular, at States in general, or at multiple parties, not all of which were Member States.

In provisions directed at one or more Member States, the Security Council called upon, demanded or insisted that a Member State comply with Council

³³⁶ In connection with the situation between Iraq and Kuwait, see resolutions 667 (1990), 670 (1990) and 686 (1991). In connection with the situation in the former Yugoslavia, see resolution 743 (1992).

³³⁷ See resolutions 667 (1990), eighth preambular para.; 670 (1990), seventh and eighth preambular paras.; and 686 (1991), second preambular para.

³³⁸ Resolution 670 (1990), seventh and eighth preambular paras. and para. 1.

³³⁹ Resolution 743 (1992), seventh preambular para. and paras. 1-3.

³⁴⁰ In connection with the situation in Namibia, see resolutions 629 (1989), para. 4; 632 (1989), para. 4; 640 (1989), para. 1; and 643 (1989), para. 5. In connection with the situation in the Middle East, see resolutions 633 (1989), para. (a); 639 (1989), para. 3; 645 (1989), para. (a); 648 (1990), para. 3; 655 (1990), para. (a); 659 (1990), para. 3; 679 (1990), para. (a); 684 (1991), para. 3; 695 (1991), para. (a); 701 (1991), para. 3; 722 (1991), para. (a); 756 (1992), para. (a); and 790 (1992),

para. (a). In connection with the situation in the occupied Arab territories, see resolutions 636 (1989), first and second preambular paras. and para. 2; 641 (1989), first and second preambular paras. and para. 2; 673 (1990), first, second and fourth preambular paras. and para. 2; and 681 (1990), para. 2. In connection with the situation between Iran and Iraq, see resolutions 631 (1989), para. (a); 642 (1989), para. (a); and 651 (1990), para. (a). In connection with the situation between Iraq and Kuwait, see resolutions 661 (1990), paras. 1 and 5; 665 (1990), fifth preambular para.; 666 (1990), fifth preambular para. and para. 2; 667 (1990), paras. 3 and 5; 670 (1990), second preambular para. and paras. 7 and 9; 674 (1990), third and twelfth preambular paras. and paras. 1, 3 and 10; 678 (1990), para. 1; 686 (1991), first preambular para. and para. 2; 687 (1991), para. 25; 707 (1991), paras. 1 and 5; 712 (1991), para. 11; 715 (1991), para. 5; and 778 (1992), third and sixth preambular paras. and para. 13. In connection with the items relating to the former Yugoslavia, see resolution 787 (1992), paras. 4-5. In connection with the items relating to the Libyan Arab Jamahiriya, see resolution 748 (1992), seventh preambular para. and paras. 1 and 7.

³⁴¹ In connection with the situation in Cyprus, see the presidential statement of 28 March 1991 (S/22415). In connection with the situation between Iraq and Kuwait, see the statements of 28 June 1991 (S/22746); 5 February 1992 (S/23517); 19 February 1992 (S/23609); 28 February 1992 (S/23663); 17 June 1992 (S/24113); 6 July 1992 (S/24240); and 24 November 1992 (S/24839). In connection with the situation in the former Yugoslavia, see the statement of 24 July 1992 (S/24346).

³⁴² In connection with the situation in the occupied Arab territories; see S/20463, paras. 2 and 4.

resolutions;³⁴³ expressed the expectation that a Member State would comply with its obligations under Council resolutions;³⁴⁴ reminded a Member State of its obligations under Council resolutions;³⁴⁵ expressed alarm or grave concern at a Member State's rejection of, or refusal or failure to comply with, Council resolutions;³⁴⁶ condemned or deplored a Member State's actions in violation of, or its failure to comply with, Council resolutions;³⁴⁷ demanded that a Member State desist from action in violation of Council resolutions;³⁴⁸ required a Member State to comply with Council resolutions;³⁴⁹ decided that a Member State

must comply with Council resolutions;³⁵⁰ and noted that a Member State's failure to comply with Council resolutions constituted a material breach of its resolutions.³⁵¹

In provisions directed at States in general, the Council called upon "all States" or "States" to implement measures contained in its resolutions,³⁵² and reminded "all States" of their obligation to observe its resolutions.³⁵³ In provisions addressing multiple parties to a dispute, at least one of which was a Member State, the Council reaffirmed the responsibility of parties to implement a settlement plan in accordance with a Council resolution;³⁵⁴ demanded that parties comply with its resolutions;³⁵⁵ called upon parties to implement its resolutions;³⁵⁶ called upon parties to cooperate with a peacekeeping force in the implementation of its mandate;³⁵⁷ condemned the

³⁴³ In connection with the situation in Namibia, see resolutions 640 (1989), para. 1; and 643 (1989), para. 5. In connection with the situation between Iraq and Kuwait, see resolutions 667 (1990), para. 3; 674 (1990), twelfth preambular para. and para. 3; 678 (1990), para. 1; 686 (1991), first preambular para. and para. 2; 715 (1991), para. 5; and 778 (1992), para. 13. See also the statements by the President of 28 February 1992 (S/23663); and 6 July 1992 (S/24240). In connection with the situation in the occupied Arab territories, see resolutions 636 (1989), first and second preambular paras. and para. 2; 641 (1989), first and second preambular paras. and para. 2; and 673 (1990), first and second preambular paras. and para. 2.

³⁴⁴ In connection with the situation between Iraq and Kuwait, see resolution 666 (1990), para. 2.

³⁴⁵ In connection with the situation between Iraq and Kuwait, see the statement of 17 June 1992 (S/24113).

³⁴⁶ In connection with the situation in the occupied Arab territories, see resolutions 673 (1990), fourth preambular para.; and 681 (1990), para. 2. In connection with the situation between Iraq and Kuwait, see resolutions 665 (1990), fifth preambular para.; and 666 (1990), fifth preambular para. See also the statements by the President of 5 February 1992 (S/23517); and 19 February 1992 (S/23609).

³⁴⁷ In connection with the situation between Iraq and Kuwait, see resolutions 670 (1990), second preambular para.; 674 (1990), third preambular para.; 707 (1991), para. 1; and 778 (1992), third and sixth preambular paras. See also the statement by the President of 28 June 1991 (S/22746).

³⁴⁸ In connection with the situation between Iraq and Kuwait, see resolution 674 (1990), para. 1.

³⁴⁹ In connection with the situation between Iraq and Kuwait, see resolutions 674 (1990), para. 10; 707 (1991), para. 5; 712 (1991), para. 11; 715 (1991), para. 5; and 778 (1992), third and sixth preambular paras. and para. 13. See also the statements by the President of 5 February 1992 (S/23517); and 24 November 1992 (S/24839).

³⁵⁰ In connection with the items relating to the Libyan Arab Jamahiriya, see resolution 748 (1992), para. 1.

³⁵¹ In connection with the situation between Iraq and Kuwait, see the statements by the President of 19 February 1992 (S/23609); and 6 July 1992 (S/24240).

³⁵² In connection with the situation between Iraq and Kuwait, see resolutions 661 (1990), para. 5; 670 (1990), para. 7; 687 (1991), para. 25; and 712 (1991), para. 11. In connection with the items relating to the Libyan Arab Jamahiriya, see resolution 748 (1992), para. 7.

³⁵³ In connection with the situation between Iraq and Kuwait, see resolutions 667 (1990), para. 5; and 670 (1990), para. 9.

³⁵⁴ In connection with the situation in Namibia, see resolutions 629 (1989), para. 4; and 632 (1989), para. 4.

³⁵⁵ In connection with the situation in Namibia, see resolutions 640 (1989), para. 1; and 643 (1989), para. 5. In connection with the situation between Iraq and Kuwait, see the statements by the President of 28 June 1991 (S/22746); 5 February 1992 (S/23517); 19 February 1992 (S/23609); 28 February 1992 (S/23663); 17 June 1992 (S/24113); 6 July 1992 (S/24240); and 24 November 1992 (S/24839).

³⁵⁶ In connection with the situation in the Middle East, see resolutions 633 (1989), para. (a); 645 (1989), para. (a); 655 (1990), para. (a); 679 (1990), para. (a); 695 (1991), para. (a); 722 (1991), para. (a); 756 (1992), para. (a); and 790 (1992), para. (a). In connection with the situation between Iran and Iraq, see resolutions 631 (1989), para. (a); 642 (1989), para. (a); and 651 (1990), para. (a).

³⁵⁷ In connection with the situation in the Middle East, see resolutions 639 (1989), para. 3; 648 (1990), para. 3; 659 (1990), para. 3; 684 (1991), para. 3; and 701 (1991), para. 3.

refusal of parties to comply with its resolutions;³⁵⁸ urged parties to act in a manner consistent with its resolutions;³⁵⁹ and stressed the need for full compliance with its resolutions.³⁶⁰

A number of explicit references were also made to Article 25 and its binding nature during the debates in the Council.³⁶¹ The Council did not however engage in any constitutional discussion concerning Article 25 that went beyond upholding long-established views about its significance, interpretation and application. Article 25 was explicitly invoked in a special report dated 18 September 1990 of the Security Council Committee established by resolution 661 (1990) concerning the situation between Iraq and Kuwait,³⁶² and in a letter dated 19 December 1990 from that Committee's Chairman to the President of the Council,³⁶³ as well as in several communications from Member States³⁶⁴ in connection with the mandatory sanctions against Iraq. Article 25 was also explicitly invoked in four notes by the Secretary-General, dated

26 September and 4, 10 and 22 October 1990,³⁶⁵ by which he transmitted to the members of the Council the text of communications received from the International Civil Aviation Organization on the situation in the Gulf area.

The deliberations and decisions of the Council concerning the situation between Iraq and Kuwait touched upon two aspects of the application of Article 25, namely Iraq's obligation to comply with the Council's decisions, and the obligation of Member States in general to implement the measures applied against Iraq under Chapter VII of the Charter (see case 23 below).

Case 23

The situation between Iraq and Kuwait

At the 2933rd meeting of the Council, on 6 August 1990, during which the Council adopted resolution 661 (1990), speakers referred both to Iraq's obligation to comply with resolution 660 (1990) and to the obligation of Member States to implement the sanctions to be applied against Iraq by resolution 661 (1990). The representative of the United States noted that the draft resolution responded both to Iraq's aggression against Kuwait and to "Iraq's unacceptable failure to comply with resolution 660 (1990), a mandatory resolution which is binding on all Member States".³⁶⁶ The representative of France observed that Iraq was required "to implement without delay or condition" resolution 660 (1990), which was "binding on all States".³⁶⁷ The representative of Canada stated that the decisions of the Council were binding on all Member States, including Iraq, and warned that Iraq's failure to comply with the terms of resolution 660 (1990) left the Council with "no alternative but to consider what further measures can be applied to give effect to the resolution".³⁶⁸

The representative of the United States observed that the draft resolution was binding upon all Member States. He further contended that paragraph 5 made it clear that the draft resolution spoke "to all States, Members and non-members alike".³⁶⁹ At subsequent meetings, other speakers expressed the view that the

³⁵⁸ In connection with the items relating to the former Yugoslavia, see resolution 787 (1992), para. 4.

³⁵⁹ In connection with the situation in Cyprus, see the statement by the President of 28 March 1991 (S/22415).

³⁶⁰ In connection with the situation in the former Yugoslavia, see the statement of 24 July 1992 (S/24346).

³⁶¹ In connection with the situation in the occupied Arab territories, see S/PV.2926, pp. 39-40 (Palestine); S/PV.2949, p. 48 (Zaire); p. 54 (Colombia); S/PV.2953, p. 11 (Palestine); S/PV.2965, p. 10 (China); and S/PV.2989, pp. 58-60 (Yemen). In connection with the situation between Iraq and Kuwait, see S/PV.2939, pp. 8 and 12 (Yemen); S/PV.2977 (Part I), p. 62 (Zaire); S/PV.3108, pp. 4-5 (Ecuador); and S/PV.3139 (resumption I), p. 63 (Venezuela). In connection with items relating to the situation in the former Yugoslavia, see S/PV.3009, p. 43 (Romania). In connection with the situation in Bosnia and Herzegovina, see S/PV. 3136, pp. 19-20 (Venezuela).

³⁶² S/21786.

³⁶³ S/22021.

³⁶⁴ Communications addressed to the Secretary-General: letter from the representative of Uruguay dated 7 August 1990 (S/21464); letter from the representative of Qatar dated 11 August 1990 (S/21500); letter from the representative of Bulgaria dated 21 August 1990 (S/21576); note verbale from the representative of Yemen dated 23 August 1990 (S/21615); letter from the representative of Brazil dated 3 May 1991 (S/22567); and letter from the representative of Myanmar dated 16 July 1992 (S/24329). Letter from the representative of Ecuador to the President of the Council dated 18 June 1992 (S/24117).

³⁶⁵ S/21828, S/21839, S/21862 and S/21895.

³⁶⁶ S/PV.2933, p. 16.

³⁶⁷ Ibid., p. 21.

³⁶⁸ Ibid., p. 23.

³⁶⁹ S/PV.2932, p. 18.

sanctions were binding upon all States, without referring explicitly to States Members of the United Nations.³⁷⁰

The excerpts from decisions reproduced below reflect the practice of the Council in interpreting and applying Article 25 in relation to the situation between Iraq and Kuwait. At its 2933rd meeting, the Council adopted resolution 661 (1990) by 13 votes to none, with 2 abstentions (Cuba, Yemen). The resolution reads in part:

The Security Council,

...

1. *Determines* that Iraq so far has failed to comply with paragraph 2 of resolution 660 (1990) and has usurped the authority of the legitimate Government of Kuwait;

...

5. *Calls upon* all States, including States non-members of the United Nations, to act strictly in accordance with the provisions of the present resolution notwithstanding any contract entered into or licence granted before the date of the present resolution;

...

At its 2938th meeting, on 25 August 1990, the Council adopted resolution 665 (1990) by 13 votes to none, with two abstentions (Cuba, Yemen). The resolution reads in part:

The Security Council,

...

Gravely alarmed that Iraq continues to refuse to comply with resolutions 660 (1990), 661 (1990), 662 (1990) and 664 (1990) and in particular at the conduct of the Government of Iraq in using Iraqi flag vessels to export oil,

1. *Calls upon* those Member States cooperating with the Government of Kuwait which are deploying maritime forces to the area to use such measures commensurate to the specific circumstances as may be necessary under the authority of the Security Council to halt all inward and outward maritime shipping, in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions related to such shipping laid down in resolution 661 (1990);

2. *Invites* Member States accordingly to cooperate as may be necessary to ensure compliance with the provisions of resolution 661 (1990) with maximum use of political and diplomatic measures, in accordance with paragraph 1 above;

³⁷⁰ S/PV.2938, p. 33 (Canada); S/PV.2977 (Part II) (closed), p. 108 (Belgium); and S/PV.2978, p. 77 (India).

At its 2939th meeting, on 13 September 1990, the Council adopted resolution 666 (1990) by 13 votes to 2 (Cuba, Yemen). The resolution reads in part:

The Security Council,

...

Deeply concerned that Iraq has failed to comply with its obligations under Security Council resolution 664 (1990) of 18 August 1990 in respect of the safety and well-being of third-State nationals, and reaffirming that Iraq retains full responsibility in this regard under international humanitarian law including, where applicable, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

...

2. *Expects* Iraq to comply with its obligations under resolution 664 (1990) in respect of third-State nationals and reaffirms that Iraq remains fully responsible for their safety and well-being in accordance with international humanitarian law including, where applicable, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949;

At its 2940th meeting, on 16 September 1990, the Council adopted resolution 667 (1990) unanimously. The resolution reads in part:

The Security Council,

Reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990 and 666 (1990) of 13 September 1990,

...

Determined to ensure respect for its decisions and for Article 25 of the Charter,

Considering further that the grave nature of Iraq's actions, which constitute a new escalation of its violations of international law, obliges the Council not only to express its immediate reaction but also to consult urgently in order to take further concrete measures to ensure Iraq's compliance with the Council's resolutions,

...

1. *Strongly condemns* aggressive acts perpetrated by Iraq against diplomatic premises and personnel in Kuwait, including the abduction of foreign nationals who were present in those premises;

2. *Demands* the immediate release of those foreign nationals as well as all nationals mentioned in resolution 664 (1990);

3. *Also demands* that Iraq immediately and fully comply with its international obligations under resolutions 660

(1990), 662 (1990) and 664 (1990), the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law;

...

5. *Reminds* all States that they are obliged to observe strictly resolutions 661 (1990), 662 (1990), 664 (1990), 665 (1990) and 666 (1990);

At its 2943rd meeting, on 25 September 1990, the Council adopted resolution 670 (1990) by 14 votes to 1 (Cuba). The resolution reads in part:

The Security Council,

Reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990 and 667 (1990) of 16 September 1990,

Condemning Iraq's continued occupation of Kuwait, its failure to rescind its actions and end its purported annexation and its holding of third-State nationals against their will, in flagrant violation of resolutions 660 (1990), 662 (1990), 664 (1990) and 667 (1990) and of international humanitarian law,

...

Determined to ensure by all necessary means the strict and complete application of the measures laid down in resolution 661 (1990),

Determined also to ensure respect for its decisions and the provisions of Articles 25 and 48 of the Charter of the United Nations,

Affirming that any acts of the Government of Iraq which are contrary to the above-mentioned resolutions or to Articles 25 or 48 of the Charter, such as Decree No. 377 of 16 September 1990 of the Revolutionary Command Council of Iraq, are null and void,

...

7. *Calls upon* all States to cooperate in taking such measures as may be necessary, consistent with international law, including the Chicago Convention on International Civil Aviation of 7 December 1944, to ensure the effective implementation of the provisions of resolution 661 (1990) or the present resolution;

...

9. *Reminds* all States of their obligations under resolution 661 (1990) with regard to the freezing of Iraqi assets, and the protection of the assets of the legitimate Government of Kuwait and its agencies, located within their territory and to report to the Security Council Committee regarding those assets;

At its 2951st meeting, on 29 October 1990, the Council adopted resolution 674 (1990) by 13 votes to

none, with 2 abstentions (Cuba, Yemen). The resolution reads in part:

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, resolution 667 (1990) of 16 September 1990 and 670 (1990) of 25 September 1990,

...

Condemning the actions by the Iraqi authorities and occupying forces to take third-State nationals hostage and to mistreat and oppress Kuwaiti and third-State nationals, and the other actions reported to the Council, such as the destruction of Kuwaiti demographic records, the forced departure of Kuwaitis, the relocation of population in Kuwait and the unlawful destruction and seizure of public and private property in Kuwait, including hospital supplies and equipment, in violation of the decisions of the Council, the Charter of the United Nations, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law,

...

Calling upon Iraq to comply with its relevant resolutions, in particular resolutions 660 (1990), 662 (1990) and 664 (1990),

Reaffirming its determination to ensure compliance by Iraq with its resolutions by maximum use of political and diplomatic means,

1. *Demands* that the Iraqi authorities and occupying forces immediately cease and desist from taking third-State nationals hostage, mistreating and oppressing Kuwaiti and third-State nationals and any other actions, such as those reported to the Council and described above, that violate the decisions of the Council, the Charter of the United Nations, the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, the Vienna Convention on Diplomatic Relations of 18 April 1961, the Vienna Convention on Consular Relations of 24 April 1963 and international law;

...

3. *Reaffirms its demand* that Iraq immediately fulfil its obligations to third-State nationals in Kuwait and Iraq, including the personnel of diplomatic and consular missions, under the Charter, the above-mentioned Geneva Convention, the Vienna Convention on Diplomatic Relations, the Vienna Convention on Consular Relations, general principles of international law and the relevant resolutions of the Council;

...

10. *Requires* that Iraq comply with the provisions of the present resolution and its previous resolutions, failing which

the Council will need to take further measures under the Charter;

At its 2963rd meeting, on 29 November 1990, the Council adopted resolution 678 (1990) by 12 votes to 2 (Cuba, Yemen), with 1 abstention (China). The resolution reads in part:

The Security Council,

Recalling and reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990 and 677 (1990) of 28 November 1990,

Noting that, despite all efforts by the United Nations, Iraq refuses to comply with its obligations to implement resolution 660 (1990) and the above-mentioned subsequent relevant resolutions, in flagrant contempt of the Security Council,

...

Determined to secure full compliance with its decisions,

...

1. *Demands* that Iraq comply fully with resolution 660 (1990) and all subsequent relevant resolutions, and decides, while maintaining all its decisions, to allow Iraq one final opportunity, as a pause of goodwill, to do so;

2. *Authorizes* Member States cooperating with the Government of Kuwait, unless Iraq on or before 15 January 1991 fully implements, as set forth in paragraph 1 above, the above-mentioned resolutions, to use all necessary measures to uphold and implement resolution 660 (1990) and all subsequent relevant resolutions and to restore international peace and security in the area;

At its 2978th meeting, on 2 March 1991, the Council adopted resolution 686 (1991) by 11 votes to 1 (Cuba), with 3 abstentions (China, India, Yemen). The resolution reads in part:

The Security Council,

Recalling and reaffirming its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, 677 (1990) of 28 November 1990 and 678 (1990) of 29 November 1990,

Recalling the obligations of Member States under Article 25 of the Charter of the United Nations,

...

2. *Demands* that Iraq implement its acceptance of all twelve resolutions noted above and in particular that Iraq:

(a) Rescind immediately its actions purporting to annex Kuwait;

(b) Accept in principle its liability under international law for any loss, damage or injury arising in regard to Kuwait and third States and their nationals and corporations, as a result of the invasion and illegal occupation of Kuwait by Iraq;

(c) Immediately release under the auspices of the International Committee of the Red Cross, Red Cross Societies or Red Crescent Societies all Kuwaiti and third-State nationals detained by Iraq and return the remains of any deceased Kuwaiti and third-State nationals so detained;

(d) Immediately begin to return all Kuwaiti property seized by Iraq, the return to be completed in the shortest possible period;

At its 2981st meeting, on 3 April 1991, the Council adopted resolution 687 (1991) by 12 votes to 1 (Cuba), with 2 abstentions (Ecuador, Yemen). The resolution reads in part:

The Security Council,

Recalling its resolutions 660 (1990) of 2 August 1990, 661 (1990) of 6 August 1990, 662 (1990) of 9 August 1990, 664 (1990) of 18 August 1990, 665 (1990) of 25 August 1990, 666 (1990) of 13 September 1990, 667 (1990) of 16 September 1990, 669 (1990) of 24 September 1990, 670 (1990) of 25 September 1990, 674 (1990) of 29 October 1990, 677 (1990) of 28 November 1990, 678 (1990) of 29 November 1990 and 686 (1991) of 2 March 1991,

...

1. *Affirms* all thirteen resolutions noted above, except as expressly changed below to achieve the goals of the present resolution, including a formal ceasefire;

...

24. *Decides* that, in accordance with resolution 661 (1990) and subsequent related resolutions and until it takes a further decision, all States shall continue to prevent the sale or supply to Iraq, or the promotion or facilitation of such sale or supply, by their nationals or from their territories or using their flag vessels or aircraft, of:

(a) Arms and related materiel of all types, specifically including the sale or transfer through other means of all forms of conventional military equipment, including for paramilitary forces, and spare parts and components and their means of production for such equipment;

(b) Items specified and defined in paragraphs 8 and 12 not otherwise covered above;

(c) Technology under licensing or other transfer arrangements used in the production, utilization or stockpiling of items specified in paragraphs (a) and (b);

(d) Personnel or materials for training or technical support services relating to the design, development, manufacture, use, maintenance or support of items specified in paragraphs (a) and (b);

25. *Calls upon* all States and international organizations to act strictly in accordance with paragraph 24, notwithstanding the existence of any contracts, agreements, licences or any other arrangements;

...

27. *Calls upon* all States to maintain such national controls and procedures and to take such other actions consistent with the guidelines to be established by the Council under paragraph 26 as may be necessary to ensure compliance with the terms of paragraph 24, and calls upon international organizations to take all appropriate steps to assist in ensuring such full compliance;

At the 2996th meeting of the Council, on 28 June 1991, the President (Côte d'Ivoire) made a statement on behalf of the Council.³⁷¹ The statement reads in part:

The members of the Council strongly deplore the incidents of 23, 25 and 28 June 1991 and in this connection condemn the conduct of the Iraqi authorities. All these incidents constitute flagrant violations of resolution 687 (1991) ... Furthermore, these incidents demonstrate Iraq's failure to abide by its solemn undertaking to comply with all the provisions of resolution 687 (1991).

At its 3004th meeting, on 15 August 1991, the Council adopted resolution 707 (1991) unanimously. The resolution reads in part:

The Security Council,

Recalling its resolution 687 (1991) of 3 April 1991 and its other resolutions on this matter,

...

Determined to ensure full compliance with resolution 687 (1991), and in particular its section C,

...

1. *Condemns* Iraq's serious violation of a number of its obligations under section C of resolution 687 (1991) and of its undertakings to cooperate with the Special Commission and the International Atomic Energy Agency, which constitutes a material breach of the relevant provisions of that resolution which established a ceasefire and provided the conditions essential to the restoration of peace and security in the region;

³⁷¹ S/22746.

...

5. *Requires* the Government of Iraq forthwith to comply fully and without delay with all its international obligations, including those set out in the present resolution, in resolution 687 (1991), in the Treaty on the Non-Proliferation of Nuclear Weapons and its safeguards agreement with the International Atomic Energy Agency;

At its 3008th meeting, on 19 September 1991, the Council adopted resolution 712 (1991) by 13 votes to 1 (Cuba), with 1 abstention (Yemen). The resolution reads in part:

The Security Council,

Recalling its previous relevant resolutions, and in particular resolutions 661 (1990) of 6 August 1990, 686 (1991) of 2 March 1991, 687 (1991) of 3 April 1991, 688 (1991) of 5 April 1991, 692 (1991) of 20 May 1991, 699 (1991) of 17 June 1991, and 705 (1991) and 706 (1991) of 15 August 1991,

...

11. *Calls upon* States to cooperate fully in the implementation of resolution 706 (1991) and the present resolution, in particular with respect to any measures regarding the import of petroleum and petroleum products and the export of foodstuffs, medicines and materials and supplies for essential civilian needs as referred to in paragraph 20 of resolution 687 (1991), and also with respect to the privileges and immunities of the United Nations and its personnel implementing the present resolution, and to ensure that there are no diversions from the purposes laid down in these resolutions;

At its 3012th meeting, on 11 October 1991, the Council adopted resolution 715 (1991) unanimously. The resolution reads in part:

The Security Council,

Recalling its resolutions 687 (1991) of 3 April 1991 and 707 (1991) of 15 August 1991 and its other resolutions on this matter,

...

5. *Demands* that Iraq meet unconditionally all its obligations under the plans approved by the present resolution and cooperate fully with the Special Commission and the Director General of the Agency in carrying out the plans;

...

At the 3058th meeting of the Council, on 28 February 1992, the President (United States) made a statement on behalf of the Council.³⁷² The statement reads in part:

³⁷² S/23663.

The members of the Council demand that Iraq immediately implement all its obligations under Council resolution 687 (1991) and subsequent resolutions on Iraq.

At its 3117th meeting, on 2 October 1992, the Council adopted resolution 778 (1992) by 14 votes to none, with 1 abstention (China). The resolution reads in part:

The Security Council,

Recalling its previous relevant resolutions and in particular resolutions 706 (1991) of 15 August 1991 and 712 (1991) of 19 September 1991,

...

Condemning Iraq's continued failure to comply with its obligations under relevant resolutions,

...

Deploring Iraq's refusal to cooperate in the implementation of resolutions 706 (1991) and 712 (1991), which puts its civilian population at risk and which results in the failure by Iraq to meet its obligations under relevant Council resolutions,

...

13. *Calls upon* all States to cooperate fully in the implementation of the present resolution;

At the resumed 3139th meeting of the Council, on 24 November 1992, the President (Ecuador) made a statement on behalf of the Council.³⁷³ The statement reads in part:

In the view of the Council, while there have been some positive steps, the Government of Iraq has not yet complied fully and unconditionally with its obligations ... and must immediately take the appropriate actions in this regard.

³⁷³ S/24839.

Part V

Consideration of the provisions of Article 26 of the Charter

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

Note

During the period under review, the Security Council did not adopt any decisions touching directly on Article 26. Council members did, however, address the issues of disarmament, arms control and weapons of mass destruction in a presidential statement adopted at the 3046th (summit) meeting held at the level of Heads of State and Government on 31 January 1992 under the agenda item entitled "The responsibility of the Security Council in the maintenance of international peace and security".³⁷⁴ The relevant part

³⁷⁴ S/23500.

of the statement by the President on behalf of the Council included a section entitled "Disarmament, arms control and weapons of mass destruction", which reads:

The members of the Council, while fully conscious of the responsibilities of other organs of the United Nations in the fields of disarmament, arms control and non-proliferation, reaffirm the crucial contribution which progress in these areas can make to the maintenance of international peace and security. They express their commitment to take concrete steps to enhance the effectiveness of the United Nations in these areas.

The members of the Council underline the need for all Member States to fulfil their obligations in relation to arms control and disarmament; to prevent the proliferation in all its aspects of all weapons of mass destruction; to avoid excessive and destabilizing accumulations and transfers of arms; and to resolve peacefully in accordance with the Charter any problems concerning these matters threatening or disrupting the maintenance of regional and global stability. They emphasize the importance of the early ratification and implementation by the States concerned of all international and regional arms control arrangements, especially the Strategic Arms Reduction Talks and the Treaty on Conventional Armed Forces in Europe.

The proliferation of all weapons of mass destruction constitutes a threat to international peace and security. The members of the Council commit themselves to working to prevent the spread of technology related to the research for or

production of such weapons and to take appropriate action to that end.

On nuclear arms proliferation, the members of the Council note the importance of the decision of many countries to adhere to the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 and emphasize the integral role in the implementation of that Treaty of fully effective International Atomic Energy Agency safeguards, as well as the importance of effective export controls. They will take appropriate measures in the case of any violations notified to them by the Agency.

On chemical weapons, the members of the Council support the efforts of the Third Review Conference of the Parties to the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction, held at Geneva from 9 to 27 September 1991, with a view to reaching agreement on the conclusion, by the end of 1992, of a universal convention, including a verification regime, to prohibit chemical weapons.

On conventional armaments, they note the General Assembly's vote in favour of a United Nations register of arms transfers as a first step, and in this connection recognize the importance of all States providing all the information called for in the General Assembly's resolution.

In their statements at the summit meeting, several Council members touched on aspects of the Security Council's role in the areas of arms control, non-proliferation and disarmament.³⁷⁵ Two representatives made explicit reference to Article 26. One of them saw a more active involvement of the Council in these areas as one of its most important future tasks, observing that, in Article 26, the Charter had given the Council an excellent programme for future action.³⁷⁶ Another suggested that multilateral disarmament could further be boosted by the use of the provisions of Article 26 and of paragraph 1 of Article 47, which empowered the Council, with the assistance of the Military Staff Committee, to put in place a system for the regulation of armaments. He thought that those provisions, which had been dormant since the founding of the Organization, would have rendered unnecessary the ad hoc creation by resolution 687 (1991) of the Special Commission dealing with the disarmament measures imposed on Iraq. In his view, an opportunity still existed to utilize those provisions in implementing the disarmament measures for the wider Middle East region provided for in that resolution.³⁷⁷

³⁷⁵ S/PV.3046, pp. 64-65 (Austria); pp. 109-110 (Japan); p. 116 (Hungary); and pp. 127-128 (Zimbabwe).

³⁷⁶ Ibid., pp. 64-65 (Austria).

³⁷⁷ Ibid., pp. 127-128 (Zimbabwe).

Part VI

Consideration of the provisions of Chapter VIII of the Charter

Article 52

1. *Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.*

2. *The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.*

3. *The Security Council shall encourage the development of pacific settlement of local disputes*

through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. *This Article in no way impairs the application of Articles 34 and 35.*

Article 53

1. *The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements*

directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.

2. *The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.*

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

Note

During the period under review, there was a significant increase in the cooperation between the Security Council and regional arrangements or agencies. The resolutions and presidential statements adopted by the Council reveal an increased awareness of regional organizations and of their growing role or potential role in international peace and security. While in 1989 there were no references in Security Council resolutions to regional organizations, and in 1990 only one such reference,³⁷⁸ since 1991 that picture has been transformed. Many resolutions and presidential statements adopted in 1991 and 1992 referred to regional organizations in the context of conflict situations in Africa: Liberia, Somalia, South Africa, Western Sahara; in Asia: Cambodia and Tajikistan; in Central America; in Europe: the former Yugoslavia and Nagorny-Karabakh; and in the Middle East: Iraq and Kuwait, and the situation in the Middle East. Such resolutions sometimes expressly recalled Chapter VIII of the Charter of the United Nations, or expressed appreciation of regional efforts aimed at the settlement of a conflict, or supported cooperation between the United Nations and regional organizations, or endorsed regional efforts. Most of those references concerned attempts at the peaceful settlement of a dispute. The period under consideration also saw the first

³⁷⁸ Resolution 660 (1990) of 2 August 1990, in relation to the situation between Iraq and Kuwait.

authorization by the Security Council of the use of force by a regional organization.

These developments in the Council's practice are dealt with below in four sections. Section A sets out some of the institutional context within which the developments occurred, notably the recommendations made by the Secretary-General in his report entitled "An Agenda for Peace". Section B provides an overview of the Council's encouragement of efforts undertaken by regional organizations in the peaceful settlement of disputes. Section C notes two instances in which Member States challenged the Council's competence to consider a dispute on the basis of Article 52. Section D sets out the three instances in which the Council authorized the use of force by a regional organization.

A. General consideration of the provisions of Chapter VIII

At the meeting of the Security Council held at the level of Heads of State and Government on 31 January 1992 to consider the responsibility of the Council in the maintenance of international peace and security, several Council members spoke of the need to make greater use of Chapter VIII of the Charter and stressed the importance of strengthening cooperation and coordination between the Council and regional organizations.³⁷⁹ In a presidential statement made at the conclusion of the summit meeting, the members of the Council invited the Secretary-General to prepare his analysis and recommendations on ways of strengthening and making more efficient, within the framework and provisions of the Charter, the capacity of the United Nations for preventive diplomacy, for peacemaking and for peacekeeping. The statement also suggested that the Secretary-General's analysis and recommendations could cover, *inter alia*, "the contribution to be made by regional organizations in accordance with Chapter VIII of the Charter in helping the work of the Council".

³⁷⁹ S/PV.3046, pp. 19-20 (France); p. 56 (Venezuela); p. 69 (Belgium); and p. 138 (United Kingdom).

In the Secretary-General's report entitled "An Agenda for Peace",³⁸⁰ in which he responded to the Council's request, he contended that regional organizations, in many cases, possessed a potential that should be utilized for preventive diplomacy, peacekeeping, peacemaking and post-conflict peacebuilding. He noted, in particular that, while the Security Council had and would continue to have primary responsibility for maintaining international peace and security, "regional action as a matter of decentralization, delegation and cooperation with United Nations efforts could not only lighten the burden of the Council but also contribute to a deeper sense of participation, consensus and democratization in international affairs". The Secretary-General suggested that this might be achieved in several ways:

Consultations between the United Nations and regional arrangements or agencies could do much to build international consensus on the nature of a problem and the measures required to address it. Regional organizations participating in complementary efforts with the United Nations in joint undertakings would encourage States outside the region to act supportively. And should the Security Council choose to authorize a regional arrangement or organization to take the lead in addressing a crisis within its region, it could serve to lend the weight of the United Nations to the validity of the regional effort.³⁸¹

Following a preliminary examination of the Secretary-General's report, the Council adopted a presidential statement on 29 October 1992 in which it expressed its intention to study further the paragraphs of the report concerning the role of regional organizations.³⁸² In a presidential statement of 30 November 1992, adopted in connection with their continued examination of the report, the members of the Council noted the positive role of regional organizations and arrangements in fact-finding within their areas of competence and welcomed its intensification and close coordination with fact-finding efforts by the United Nations.³⁸³

³⁸⁰ The full title of the report, dated 17 June 1992, is "An Agenda for Peace: preventive diplomacy, peacekeeping and peacemaking" (S/24111).

³⁸¹ S/24111, paras. 64-65.

³⁸² S/24728.

³⁸³ S/24872.

B. Encouragement by the Security Council of efforts undertaken by regional organizations in the pacific settlement of disputes

During the period under review, the Security Council encouraged a wide variety of peace efforts undertaken by regional arrangements or agencies, and/or requested the Secretary-General to undertake such efforts in cooperation with regional arrangements. The Council's activity in this regard is highlighted below, by region.

Africa

With regard to **Liberia**, the Security Council commended the role played by the Economic Community of West African States (ECOWAS) and its various organs to resolve the conflict, and took action in support of that subregional organization. At the Council's first meeting on the situation in Liberia, on 22 January 1991, the representative of Nigeria, speaking in his capacity as Chairman of the group of Ambassadors of countries members of ECOWAS at the United Nations, stated that, in response to the tragic civil war in Liberia, the leaders of ECOWAS had authorized and supported the operations of a ceasefire Monitoring Group (ECOMOG). The mandate of ECOMOG, he explained, was not to take sides, but to reconcile the sides, and to restore peace, normalcy and stability to the country. He said that ECOWAS should be commended for acting in ways that promoted the principles of the Charter by stepping in to prevent the situation in Liberia from degenerating into a situation likely to constitute a real threat to international peace and security.³⁸⁴ In a presidential statement adopted at the same meeting,³⁸⁵ the members of the Council commended the efforts made by the Heads of State and Government of ECOWAS to promote peace and normalcy in Liberia, and called upon the parties to the conflict to continue to respect the ceasefire agreement which they had signed and to cooperate fully with ECOWAS to restore peace and normalcy in the country. In a presidential statement of 7 May 1992,³⁸⁶ the members of the Council commended ECOWAS and its various organs, in particular the Committee of Five

³⁸⁴ S/PV.2974, pp. 7-8.

³⁸⁵ S/22133.

³⁸⁶ S/23886.

on Liberia,³⁸⁷ for their untiring efforts to bring the Liberian conflict to a speedy conclusion, and renewed their call to the parties to the conflict to respect and implement the various accords of the peace process of the Committee of Five.

At the Council's second meeting on the situation in Liberia, on 19 November 1992, the representative of Benin, speaking on behalf of the Chairman of ECOWAS, recalled the initiatives taken by ECOWAS aimed at a peaceful settlement of the Liberian conflict. He also explained its decision on sanctions and requested the Council's support to make that decision binding on the international community.³⁸⁸ Several other speakers, including the Foreign Minister of the Interim Government of Liberia, a ministerial delegation of ECOWAS, and the representative of Senegal speaking on behalf of the Organization of African Unity (OAU) and its acting Chairman, similarly appealed to the Council to support or endorse the actions taken by ECOWAS.³⁸⁹ Some speakers referred specifically to the role being played by ECOMOG in accordance with Chapter VIII of the Charter.

At the same meeting, the Council adopted its first resolution on Liberia — resolution 788 (1992) of 19 November 1992 — in which, after recalling Chapter VIII of the Charter, the Council commended ECOWAS for its efforts to restore peace, security and stability in Liberia, welcomed the endorsement and support by OAU of those efforts, and called upon ECOWAS to continue its efforts to assist in the peaceful implementation of the Yamoussoukro IV Agreement. The Council also called upon all parties to the conflict to respect and implement the ceasefire and the various accords of the peace process, and requested all States to respect the measures established by ECOWAS to bring about a peaceful solution to the conflict in Liberia. Acting under Chapter VII of the Charter, the Council imposed an arms embargo on Liberia, on the

basis, *inter alia*, of the request made by ECOWAS and taking into account a letter from the Government of Liberia endorsing that request.

In connection with **Somalia**, three different regional organizations — the Organization of African Unity, the League of Arab States (LAS) and the Organization of the Islamic Conference (OIC) — joined efforts with the United Nations. By resolution 733 (1992) of 23 January 1992, the Security Council requested the Secretary-General, in cooperation with the Secretary-General of OAU and the Secretary-General of LAS, to contact all parties involved in the conflict, to seek their commitment to the cessation of hostilities in order to permit the humanitarian assistance to be distributed, to promote a ceasefire, and to assist in the process of a political settlement of the conflict in Somalia. After a joint delegation from the United Nations, OAU, LAS and OIC engaged the Somali parties in intensive negotiations in Mogadishu from 29 February to 3 March 1992, a ceasefire agreement was secured on 3 March.³⁹⁰ At the Council's meeting on 17 March 1992, several speakers welcomed the cooperation between the United Nations and regional organizations, pointing to the joint mission as a constructive example.³⁹¹ By resolution 746 (1992), adopted at the same meeting, the Council expressed its appreciation to the regional organizations, including OAU, LAS and OIC, for their cooperation with the United Nations in the effort to resolve the Somali problem, and requested the Secretary-General, in close cooperation with those three organizations, to continue his consultations with all Somali parties, movements and factions towards the convening of a conference on national reconciliation and unity in Somalia. The Council reiterated these views in resolutions 751 (1992) of 24 April 1992 and 767 (1992) of 27 July 1992. By resolution 775 (1992) of 28 August 1992, the Council requested the Secretary-General to continue, in close cooperation with the three organizations, his efforts to seek a comprehensive political solution to the crisis in Somalia.

With regard to **South Africa**, by resolution 772 (1992) of 17 August 1992, the Council invited other

³⁸⁷ The members of the ECOWAS Committee of Five on Liberia were Burkina Faso, Côte d'Ivoire, Senegal, Nigeria, and representatives of the Interim Government of Liberia and the National Patriotic Front of Liberia.

³⁸⁸ S/PV.3138, pp. 5-12.

³⁸⁹ *Ibid.*, pp. 19-20 (Liberia); pp. 21-25 (Senegal); p. 32 (Côte d'Ivoire); p.34 (Burkina Faso); p. 38 (Gambia); p. 42 (Guinea); pp. 44-48 (Nigeria); pp. 54-55 (Sierra Leone); pp. 59-60 (Togo); p. 77 (United States); pp. 78-79 (France); and pp. 79-80 (United Kingdom).

³⁹⁰ See report of the Secretary-General dated 11 March 1992 (S/23693).

³⁹¹ S/PV.3060, p.12 (Nigeria, on behalf of the Chairman of OAU); pp. 24-25 (Permanent Observer of LAS); p. 29 (Observer of OIC); p. 34 (Italy); and pp. 53-54 (Russian Federation).

relevant regional and intergovernmental organizations, such as OAU, the Commonwealth and the European Community, to consider deploying their own observers in South Africa in coordination with the United Nations and the structures set up under the National Peace Accord. The members of the Council reiterated that invitation in a presidential statement of 10 September 1992.³⁹² Those three organizations cooperated with the United Nations in monitoring the transitional process and the elections in South Africa.³⁹³

In the case of **Western Sahara**, by resolution 658 (1990) of 27 June 1990, the Council expressed its full support for a mission of good offices pursued jointly by the Secretary-General and the Chairman of the Assembly of Heads of State and Government of OAU, with a view to settling the question of Western Sahara. The Council called upon the two parties to cooperate fully with the joint mission. By resolutions 690 (1991) of 29 April 1991 and 725 (1991) of 31 December 1991, the Council expressed its full support for the organization and the supervision, by the United Nations in cooperation with OAU, of a referendum for self-determination of the people of Western Sahara.

Asia

In connection with the situation in **Cambodia**, the Association of Southeast Asian Nations (ASEAN) and individual States from several regions were brought together with the parties to the Cambodian conflict at an international conference, to work with the United Nations. In resolution 668 (1990) of 20 September 1990, the Council took note with appreciation of the efforts of the countries of ASEAN and other countries involved in promoting the search for a comprehensive political settlement.

With regard to the situation in **Tajikistan**, in a presidential statement of 30 October 1992,³⁹⁴ the Council welcomed the efforts made by the member countries of the Commonwealth of Independent States, on the initiative of Kyrgyzstan, and those undertaken by other States to help Tajikistan to resolve the crisis.

³⁹² S/24541.

³⁹³ Report of the Joint Inspection Unit entitled "Sharing responsibilities in peacekeeping: the United Nations and regional organizations", 1995 (A/50/571-JIU/REP/95/4), paras. 43 and 44.

³⁹⁴ S/24742.

It invited the Government of Tajikistan and all other parties to the conflict to cooperate actively with all those efforts.

Central America

In Central America, the end of armed conflict involved a highly complex effort which was initiated by leaders of the region and conducted by individual States, groups of States and the Organization of American States (OAS). By resolution 637 (1989) of 27 July 1989, the Council recognized the important contribution of the Contadora Group and its Support Group in favour of peace in Central America. In a presidential statement of 8 December 1989,³⁹⁵ the members of the Council expressed their firm support for the efforts being made by the Secretary-General of the United Nations and the Secretary-General of OAS in the peace process.

Europe

Efforts undertaken by the European Community and its member States, with the support of States participating in the Conference on Security and Cooperation in Europe (CSCE), were endorsed by the Council as being of central importance in helping to resolve the various conflicts and disputes in the **former Yugoslavia**. Support for those regional efforts evolved into joint diplomatic and peacekeeping efforts with the United Nations.

By resolution 713 (1991) of 25 September 1991, the Council, recalling Chapter VIII of the Charter, expressed its full support for the collective efforts for peace and dialogue undertaken under the auspices of the States members of the European Community, with the support of the States participating in CSCE, and imposed an arms embargo on Yugoslavia in support of measures taken by the European Community and its member States.³⁹⁶ In a presidential statement of

³⁹⁵ S/21011.

³⁹⁶ By letters dated 5 and 22 July, 6 and 21 August and 20 September 1991 addressed to the Secretary-General, the representative of the Netherlands transmitted the texts of statements and declarations on Yugoslavia adopted by the European Community, expressing the intention of seeking, through the Security Council, the support of the international community for the European efforts (S/22775, S/22834, S/22898, S/22975 and S/23059).

7 January 1992,³⁹⁷ the members of the Council underlined the continuing importance of the role played by the European Community Monitoring Mission. In resolutions 740 (1992) of 7 February 1992 and 743 (1992) of 21 February 1992, the Council, recalling Chapter VIII of the Charter, called upon the Yugoslav parties to cooperate fully with the Conference on Yugoslavia in its aim of reaching a political settlement consistent with the principles of CSCE.

By resolution 749 (1992) of 7 April 1992, the Council appealed to all parties and others concerned in **Bosnia and Herzegovina** to cooperate with the efforts of the European Community to bring about a ceasefire and a negotiated political solution. In a presidential statement of 24 April 1992, the Council welcomed the efforts of the European Community and the Secretary-General aimed at prevailing upon the parties to respect the ceasefire signed under the auspices of the European Community; approved the decision of the Secretary-General to accelerate the deployment in Bosnia and Herzegovina of a number of military observers from UNPROFOR; and expressed the view that their presence, like that of the monitors of the European Community, should help the parties to implement their commitment to respect the ceasefire. The Council also expressed its support for the efforts undertaken by the European Community in the framework of the discussions on constitutional arrangements for Bosnia and Herzegovina under the auspices of the Conference on Yugoslavia, and urged the three communities in Bosnia and Herzegovina to participate actively and constructively in those talks. In subsequent resolutions, the Council, recalling Chapter VIII of the Charter, reiterated its call that all parties continue their efforts in the framework of the Conference on Yugoslavia and that the three communities in Bosnia and Herzegovina resume their discussions on the constitutional arrangements.³⁹⁸

By resolution 764 (1992) of 13 July 1992, the Council requested the Secretary-General to keep close contact with the developments within the framework of the Conference on Yugoslavia and to assist in finding a negotiated political solution for the conflict in Bosnia and Herzegovina. In a presidential statement of 17 July 1992, the Council indicated that it had decided, in

principle, to respond positively to the request for the United Nations to make arrangements for the supervision by UNPROFOR of all heavy weapons, in accordance with the London Agreement entered into by the parties that day.³⁹⁹ On 21 July 1992, the Secretary-General submitted to the Council a report on the implementation and resource implications of that decision.⁴⁰⁰ He concluded that the conditions did not exist for him to recommend that the Security Council accept the request of the three parties in Bosnia and Herzegovina that the United Nations supervise the heavy weapons which they had agreed to place under international supervision. He voiced, *inter alia*, two concerns touching on the relationship between the United Nations and regional organizations in the maintenance of international peace and security. First, he noted that Chapter VIII of the Charter of the United Nations underlined the primary responsibility of the Council in such matters, providing, for instance, that in certain circumstances the Council could “utilize” regional organizations or agencies. There was no provision, on the other hand, for the reverse to occur. He observed that, in other instances, when the United Nations and a regional organization had both been involved in an international peace and security situation, care had been taken to ensure that the primacy of the United Nations had not been compromised. Secondly, the United Nations had not participated in the negotiation of the London Agreement. He stressed that it was most unusual for the United Nations to be asked to help to implement a political-military agreement in whose negotiation it had played no part. He added that his concern on those two points was heightened by the lack of clarity concerning the respective roles of the United Nations and the European Community in the implementation of the London Agreement.⁴⁰¹

In a presidential statement of 24 July 1992,⁴⁰² the Council concurred with the Secretary-General’s view that the conditions did not yet exist for the United Nations to supervise the heavy weapons in Bosnia and Herzegovina as envisaged in the London Agreement. Recalling Chapter VIII of the Charter, the Council invited the European regional arrangements and agencies concerned, particularly the European

³⁹⁷ S/23389.

³⁹⁸ Resolutions 752 (1992) of 15 May 1992 and 757 (1992) of 30 May 1992.

³⁹⁹ S/24307.

⁴⁰⁰ S/24333.

⁴⁰¹ *Ibid.*, paras. 7-10.

⁴⁰² S/24346.

Community, to enhance their cooperation with the Secretary-General in their efforts to help to resolve the conflicts that continued to rage in the former Yugoslavia. The Council stated that it would welcome, in particular, the participation of the Secretary-General in any negotiations under European Community auspices. In a presidential statement of 2 September 1992,⁴⁰³ the Council took note of a letter from the Secretary-General, dated 28 August 1992, conveying the documents of the London stage of the International Conference on the former Yugoslavia, held on 26 and 27 August 1992, which the Secretary-General had co-chaired with the Prime Minister of the United Kingdom, President of the Council of Ministers of the European Community. The Council expressed its full support for the Statement of Principles adopted and the other agreements reached at the London Conference. The Council also noted with satisfaction that the London Conference had established the framework within which an overall political settlement of the crisis in the former Yugoslavia in all its aspects might be achieved. In addition, the Council welcomed the appointment of the two Co-Chairmen of the Steering Committee who, under the overall direction of the Permanent Co-Chairmen of the International Conference on the former Yugoslavia, would direct the working groups and prepare the basis for a general settlement and associated measures. It noted with satisfaction that they would commence their work immediately and pursue it in continuous session at the United Nations Office at Geneva. Noting the urgency of the situation in Bosnia and Herzegovina, the Council called on the parties to cooperate fully with the Co-Chairmen of the Steering Committee in achieving a comprehensive settlement. It reiterated this call in several subsequent resolutions.

In resolution 786 (1992) of 10 November 1992, by which the Council reaffirmed its ban on military flights in the airspace of Bosnia and Herzegovina, the Council welcomed the advance deployment of military observers of UNPROFOR and the European Community Monitoring Mission at airfields in Bosnia and Herzegovina, Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro). By resolution 798 (1992) of 18 December 1992, the Council expressed its support for the initiative taken by the European Council on the rapid dispatch of a delegation to investigate the facts received concerning the abusive

⁴⁰³ S/24510.

treatment and detention of women, in particular Muslim women, in Bosnia and Herzegovina. It requested the States members of the European Community to inform the Secretary-General of the work of the delegation, and invited the Secretary-General to report to the Security Council within 15 days of the adoption of the resolution on measures taken to support the delegation.

In the meantime, with regard to **Croatia**, the Council, by resolution 779 (1992) of 6 October 1992, had authorized UNPROFOR, in cooperation with the European Community Monitoring Mission, to assume responsibility for monitoring the arrangements agreed for the withdrawal of the Yugoslav Army from Croatia.

In connection with **the former Yugoslav Republic of Macedonia**, the Council, by resolution 795 (1992) of 11 December 1992, welcomed the presence of a mission of CSCE in the former Yugoslav Republic of Macedonia. Recalling Chapter VIII of the Charter, the Council authorized the Secretary-General to establish a presence of UNPROFOR in the former Yugoslav Republic of Macedonia, as he had recommended, and urged the Force to coordinate closely with the CSCE mission there.

Elsewhere in Europe, in connection with the situation relating to **Nagorny-Karabakh**, in a presidential statement of 12 May 1992,⁴⁰⁴ the members of the Council commended and supported the efforts undertaken within the framework of CSCE aimed at assisting the parties in arriving at a peaceful settlement and at providing humanitarian assistance. In presidential statements of 26 August and 27 October 1992,⁴⁰⁵ the members of the Council strongly appealed to all parties and others concerned to support the efforts of the Minsk Conference on the question of Nagorny-Karabakh within the framework of CSCE, to cooperate closely with CSCE, and to participate positively in the Conference in order to reach an overall settlement of their disputes.

Middle East

In its first resolution adopted in connection with the situation between **Iraq and Kuwait**, resolution 660 (1990) of 2 August 1990, the Council called upon Iraq and Kuwait to begin immediately intensive

⁴⁰⁴ S/23904.

⁴⁰⁵ S/24493 and S/24721.

negotiations for the resolution of their differences and expressed support for all efforts in that regard, especially those of the League of Arab States.

With regard to the situation in the **Middle East**, the members of the Council, in a number of presidential statements adopted in 1989, expressed support for efforts undertaken by LAS to find a solution to the crisis in Lebanon.⁴⁰⁶

C. Challenges to the appropriateness of Security Council action in the light of Article 52

The peaceful means by which the parties to a dispute, in accordance with Article 33 (1) of the Charter, shall first of all seek to settle their dispute include “resort to regional agencies or arrangements”. This is further emphasized in Article 52, which provides that Member States “shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council”; and that the Security Council “shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies”. During the period under review, Member States challenged the competence of the Security Council to consider a dispute on the basis of those provisions in the following two instances.

Case 24

Complaint by Nicaragua of violation of diplomatic premises in Panama

During the Council’s deliberations on a letter dated 3 January 1990 from the representative of Nicaragua to the President of the Security Council,⁴⁰⁷ alleging violation by the United States of Nicaragua’s diplomatic premises in Panama, two Council members objected to consideration of the incident by the Council on the ground, inter alia, that the matter had been fully dealt with by the appropriate regional agency, the Organization of American States.

The representative of the United States recalled that his Government had formally expressed its regret over the incident to the Government of Nicaragua through diplomatic channels and that, subsequently, OAS had reviewed the issue and pronounced itself on the question.⁴⁰⁸ While regrettable, the actions taken by the United States in regard to the premises of the Nicaraguan Embassy in Panama had not posed and did not pose any threat to international peace and security. He concluded that there was therefore no reason to insist that the Security Council debate the issue and, consequently, no reason for the Council to adopt a resolution in response to the Nicaraguan complaint.⁴⁰⁹ The representative of the United Kingdom stated that his delegation would abstain in the vote on the draft resolution before the Council because of its view that it related to an incident not appropriate for action by the Council. Referring expressly to Article 52 (2) of the Charter, he recalled that, by its terms, Members were urged to make every effort to achieve pacific settlement of disputes through regional arrangements or by regional agencies before referring them to the Security Council. That, in his view, was precisely what had happened over the incident under consideration: the question it raised had been well and truly dealt with in a resolution adopted by the appropriate regional agency — OAS — on 8 January. The matter was therefore closed and he saw no reason to re-open it in the Security Council.⁴¹⁰

A draft resolution, by which the Council would have expressed concern over the incident, was put to the vote but was not adopted.⁴¹¹ Speaking after the vote, the representative of Canada also referred to the OAS resolution. He expressed the view that, by adopting the draft resolution, the Security Council would have “appropriately added its voice to the voices

⁴⁰⁶ See the presidential statements of 31 March, 24 April, 15 August, 20 September, 7 November, 22 November and 27 December 1989 (S/20554, S/20602, S/20790, S/20855, S/20953, S/20988 and S/21056).

⁴⁰⁷ S/21066.

⁴⁰⁸ In a resolution of 8 January 1990, the Council of OAS had declared the United States action to be a violation of the diplomatic immunities and privileges recognized under international law and codified in the Vienna Convention on Diplomatic Relations.

⁴⁰⁹ S/PV.2905, pp. 27-29 and 33-34.

⁴¹⁰ Ibid., pp. 34-35.

⁴¹¹ The draft resolution (S/21084) was sponsored by Colombia, Côte d’Ivoire, Cuba, Democratic Yemen, Ethiopia, Malaysia and Zaire. It received 13 votes in favour, 1 against (United States) and 1 abstention (United Kingdom).

of other international bodies” that had addressed the issue.⁴¹²

Case 25

The situation between Iraq and Kuwait

Following the invasion of Kuwait by Iraq on 2 August 1990, various efforts aimed at securing a peaceful settlement of the conflict were undertaken by regional organizations, notably the League of Arab States. By resolution 660 (1990), adopted on the same day, the Security Council expressed its support for such efforts.⁴¹³ At subsequent meetings of the Council to consider how to bring the invasion and occupation of Kuwait to an end, the representative of Iraq contended that, in the light of those regional efforts, the Council’s involvement was premature. That argument was firmly rejected by the representative of Kuwait and other Member States.

At the Council’s meeting on 25 August 1990, at which it adopted resolution 665 (1990) providing for enforcement of the trade embargo against Iraq, the representative of Iraq stressed the importance of continuing diplomatic efforts, especially within an Arab context, and expressed concern that regional initiatives were not getting a fair hearing in the Council.⁴¹⁴ The representative of Kuwait, on the other hand, recalled that his Government had indeed sought to settle the problem within an Arab framework, both before and after the invasion and occupation of his country. Iraq had, however, rejected the demands that it withdraw its forces, unconditionally, in accordance with the resolution adopted by the League of Arab States on 2 August 1990 and the resolutions subsequently adopted by the Arab Summit and the Foreign Ministers of Muslim countries.⁴¹⁵ The representative of Oman, on behalf of the States members of the Gulf Cooperation Council, regretted that Iraq had failed to heed the LAS and OIC resolutions to work towards a peaceful solution of the situation by withdrawing from Kuwait and restoring the legitimate authority of Kuwait. That was why his

Government had joined with other States in asking the Security Council to convene the current meeting and to look into necessary measures for the implementation of its relevant resolutions.⁴¹⁶

At the Council’s meeting on 29 October 1990, at which it adopted resolution 674 (1990), the representative of Iraq drew attention to that part of Article 52 of the Charter which states: “The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements ...”. He expressed regret that the Council had completely disregarded the Arab initiatives calling for a peaceful Arab solution of the Gulf crisis. He attributed this “disregard by the Security Council and its permanent members of Arab initiatives” to a deliberate policy that evidenced a determination not to permit any regional organization or Power to act independently of or apart from United States interests.⁴¹⁷ In response, the representative of Kuwait reiterated that it was Iraq that had rejected all Arab — and international — initiatives. He recalled that the Arab initiatives had included a resolution adopted at an emergency summit meeting of the League of Arab States,⁴¹⁸ which had embodied the Arab view on how the dispute should be resolved, namely, through the call of the Arab leaders for the unconditional and complete withdrawal of Iraq and the return to Kuwait of its legitimacy and full compensation for the losses it had sustained.⁴¹⁹

D. Authorization by the Security Council of the use of force by regional organizations

During the period under review, the Security Council for the first time authorized enforcement action by a regional organization. It authorized the use of force to implement measures under Article 41 in two instances — in the former Yugoslavia and in Somalia (see cases 26 and 27). The Council also authorized the use of force to facilitate the delivery by United Nations humanitarian organizations and others of humanitarian assistance, again in the case of the former Yugoslavia (case 28).

⁴¹² S/PV.2905, p. 37.

⁴¹³ The Council called upon Iraq and Kuwait to begin immediately intensive negotiations for the resolution of their differences and supported “all efforts in this regard, and especially those of the League of Arab States” (resolution 660 (1990), para. 3).

⁴¹⁴ S/PV.2938, p. 76.

⁴¹⁵ *Ibid.*, p. 62.

⁴¹⁶ *Ibid.*, p. 66.

⁴¹⁷ S/PV.2951, p. 17.

⁴¹⁸ Resolution 195, adopted in Cairo on 10 September 1990.

⁴¹⁹ S/PV.2951, pp. 41-42.

Case 26

Implementation of an arms and trade embargo: the former Yugoslavia

In response to the situation in Croatia and later in Bosnia and Herzegovina, the Security Council imposed an arms embargo on the whole of the former Yugoslavia by resolution 713 (1991) of 25 September 1991. In May 1992, the Council imposed a wide-ranging economic embargo against the Federal Republic of Yugoslavia (Serbia and Montenegro) by resolution 757 (1992). No express provision was made in either of those resolutions for the enforcement of their provisions. In November 1992, the Council took steps to reinforce those measures. By resolution 787 (1992), paragraph 12, the Council:

Acting under Chapters VII and VIII of the Charter, *calls upon* States, acting nationally or through regional agencies or arrangements, to use such measures commensurate with the specific circumstances as may be necessary under the authority of the Council to halt all inward and outward maritime shipping in order to inspect and verify their cargoes and destinations and to ensure strict implementation of the provisions of resolutions 713 (1991) and 757 (1992).⁴²⁰

The Council also, in paragraph 14 of the resolution, requested “the States concerned, acting nationally or through regional agencies or arrangements, to coordinate with the Secretary-General, inter alia, on the submission of reports to the Council regarding actions taken in pursuance of paragraphs 12 and 13 to facilitate the monitoring of the implementation of the present resolution”. In the debate in the Council leading to the adoption of resolution 787 (1992), one Council member indicated that the Council’s authority and control over the operation was of decisive importance for its support of the resolution.⁴²¹

Case 27

Implementation of an arms embargo: Somalia

In response to the deterioration of the situation in Somalia and the heavy loss of life and widespread

⁴²⁰ Under that authorization, the North Atlantic Treaty Organization and the Western European Union intercepted ships in the Adriatic and on the Danube (see the report of the Joint Inspection Unit entitled “Sharing responsibilities in peacekeeping: the United Nations and regional organizations”, 1995 (A/50/571-JIU/REP/95/4), para. 40.

⁴²¹ S/PV.3137, p. 6 (India).

material damage resulting from the conflict in the country, the Council imposed an arms embargo on Somalia in January 1992 by resolution 733 (1992). At the end of the year, the Council reinforced those measures. By paragraph 16 of resolution 794 (1992) of 3 December 1992, the Council:

Acting under Chapters VII and VIII of the Charter, *calls upon* States, nationally or through regional agencies or arrangements, to use such measures as may be necessary to ensure strict implementation of paragraph 5 of resolution 733 (1992).

The Council also imposed a reporting requirement. In paragraph 18 of the resolution, it requested the Secretary-General and, as appropriate, the States concerned to report to the Council on a regular basis, the first such report to be made no later than 15 days after the adoption of the resolution, on the implementation of the resolution.

Case 28

Facilitation of delivery of humanitarian aid: the former Yugoslavia (Bosnia and Herzegovina)

In August 1992, the Council recognized, in resolution 770 (1992), that the situation in Bosnia and Herzegovina constituted a threat to international peace and security and that the provision of humanitarian assistance there was an important element in the Council’s effort to restore international peace and security in the area. In response to the situation prevailing in Sarajevo, which had severely complicated the efforts of UNPROFOR to fulfil its mandate to ensure the security and functioning of Sarajevo airport and the delivery of humanitarian assistance in Sarajevo and other parts of Bosnia and Herzegovina, the Council, acting under Chapter VII, decided in paragraph 2 as follows:

Calls upon States to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina.

The Council further, in paragraph 4, called upon States to report to the Secretary-General on measures they were taking in coordination with the United Nations to implement the resolution.

Index

Index

A page number followed by "n" indicates that the reference occurs in a footnote on that page.

A

Abduction. *See* Hostage-taking and abduction

Abkhazia

participation in the proceedings on

Georgia situation, 467

Abstention, 91–93

Ad hoc commissions, 161–171

Admission to United Nations. *See* Membership in United Nations

Afghanistan

letter dated 22 March 1989 from Afghanistan, 835*n*, 839*n*, 840*n*

letter dated 3 April 1989 from Afghanistan on Afghanistan–Pakistan relations, 835*n*, 838, 838*n*, 840*n*, 841, 853*n*

participation in the proceedings on

Afghanistan situation, 69, 404–406, 408–409, 409, 411, 412, 413, 853, 934, 947*n*, 972

Cyprus situation, 947

Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935*n*, 961*n*

Namibia situation, 64, 303, 306*n*

occupied Arab territories, 65, 66, 67, 758, 761*n*, 765, 766*n*, 778, 950*n*

Yugoslavia (former) situation, 76, 544, 548*n*, 549*n*, 911, 911*n*, 940*n*, 958*n*

Afghanistan situation, 404–414

domestic vs. international situation, 972

fact-finding mission to, 857

invitations under Rule 39 to participate in proceedings on, 80

self-defence against Pakistan, 936

self-determination, 947

summary statements issued on situation, 45

United Nations Good Offices Mission in Afghanistan (UNGOMAP), 137, 171, 404, 406–407, 408–409, 410, 411–412

Africa

See also specific countries

regional arrangements or agencies, 993

African National Congress of South Africa (ANC), 81, 337, 338, 344, 350

participation in the proceedings on

Libyan Arab Jamahiriya situation, 276

Agenda, 23–50

Note: A list of the formal meetings and their agendas for the period 1989–1992 starts on page xiv.

Addition of items to list of matters of which Security Council is seized, 30–45

adoption of provisional agenda, 27–28

deleted items, 50

preparation of provisional agenda, 26–27

previous volume items on which new action reported in summary statements, 45–49

"An Agenda for Peace" (report of Secretary-General), 9, 37, 181–182, 191, 193, 194, 206, 206*n*, 220, 223, 334, 336, 822–828, 833, 852, 852*n*, 867*n*, 913*n*, 929, 991

Aggravation of situation

provisional measures to prevent, 888–892

Aggression

See also Threat to peace

Afghanistan situation, 404–406, 406*n*, 409–410, 410–411, 411–412, 835, 840, 853, 857, 934, 936, 972

Central American situation, 382, 853, 959

Cyprus situation, 446

determination of act of aggression, 879

Georgia situation, 468

Iran–Iraq situation, 942

Iraq–Kuwait situation, 569, 570, 571, 576, 581, 584, 587, 588, 592, 593, 594, 598, 599, 601, 604, 605, 609, 610, 611, 613, 614, 617, 618, 620, 621, 622, 624, 625, 631, 636, 641, 644, 646, 654, 656, 667, 709, 716, 724, 726, 795, 882, 883, 901, 909, 914, 922, 938, 938*n*, 940, 955, 957, 978, 984

Liberia situation, 272–273

Libyan Arab Jamahiriya situation, 275–276, 277–278, 278–280, 287–288, 841, 865, 887, 935, 961

Middle East situation, 744, 750, 753, 754

Nagorny–Karabakh situation, 469, 471, 942

Namibia situation, 304

occupied Arab territories, 760, 766, 778, 781, 789, 790, 806

Panama situation, 393–394, 395–396, 399, 400–401, 403, 937, 960

Yugoslavia (former) situation, 187, 478, 497, 498, 502, 506, 512, 514, 520, 522, 536, 538, 540, 543, 548, 554, 846, 885, 885*n*, 898, 899, 940, 954, 958, 963, 971, 971*n*

Albania

participation in the proceedings on

Yugoslavia (former) situation, 75, 492, 544, 548*n*, 549*n*, 556, 958*n*

Algeria (elected member of the Security Council during 1989)

letter dated 23 January 1991 from Algeria, 5, 6, 7*n*, 60, 623

participation/statements in the proceedings on

Afghanistan situation, 408*n*, 947*n*, 972*n*

Gulf region situation, 5–7, 7*n*

Iraq–Kuwait situation, 623, 630*n*

Libyan Arab Jamahiriya situation, 277*n*, 279, 961*n*

Namibia situation, 306, 308

occupied Arab territories, 66, 68, 761*n*, 767, 774*n*, 777, 779*n*, 788, 791, 798*n*, 800*n*, 804, 951*n*

Panama situation, 398, 398*n*, 937, 937*n*, 960*n*

South Africa situation, 77, 337, 339, 339*n*

Yugoslavia (former) situation, 76, 544, 933*n*, 958*n*

Tripartite Committee of Arab Heads of State, 739*n*

ANC *See* African National Congress of South Africa (ANC)**Angola, 253–268**

ad hoc Commission appointed for, 261

elections, planning and observing, 255–259, 260–261

Government of National Unity formed, 267

letter dated 17 May 1991 from Angola, 32, 73, 116, 163, 253–255

National Union for the Total Independence of Angola (UNITA), 253, 254, 257, 259, 262, 263, 264, 265, 267

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*

Angola situation, 73, 254, 262, 263

- Namibia situation, 64, 299, 303
- South Africa situation, 77, 337, 339*n*, 342
- Peace Accords, 253–255, 258, 859
- post-ceasefire situation, 265–268
- Secretary-General's role
 - letter dated 27 October 1992 calling attention to situation, 837
 - reports on, 255–261
- South West Africa People's Organization (SWAPO), 301, 302, 304–305, 308
 - accounting for Namibian detainees, 309–310
 - agreements on Namibia situation, 302*n*
- Tripartite Agreement, signing of, 299, 305, 861
- United Nations Angola Verification Mission I (UNAVEM I), 109, 109*n*, 117, 117*n*, 171
- United Nations Angola Verification Mission II (UNAVEM II), 32, 35, 43, 109, 116–122, 253, 254–260, 262, 265, 267–268
- Annexation**
 - Afghanistan situation, 406
 - Iraq–Kuwait, 575, 576, 577, 585, 591, 605, 616, 619, 634, 635, 639, 656, 703, 889, 905*n*, 954, 957–958, 978
 - Middle East situation, 744
 - occupied Arab territories, 768, 775, 779, 781
- Antigua and Barbuda**
 - participation in the proceedings on
 - South Africa situation, 77, 337, 342
- Apartheid**
 - in South Africa, 182–183, 184–186, 194, 337–338, 342, 345
- Arab Maghreb Union**, 5, 7, 20, 60, 282–283, 623, 791
- Argentina**
 - participation in the proceedings on
 - Iraq–Kuwait situation, 575*n*, 624
 - Panama situation, 400*n*
- Armenia**
 - admission to membership, 47, 230, 236
 - letter dated 11 May 1992 from Armenia, 469, 470, 835*n*, 838*n*, 845
 - Nagorny–Karabakh situation with Azerbaijan, 469–472. *See also* Nagorny–Karabakh situation
 - participation in the proceedings on
 - Nagorny–Karabakh situation, 469, 470, 471, 472, 835*n*, 942
- Arms control.** *See* Weapons
- Arms embargo.** *See* Embargo
- Articles of the Charter.** *See* Charter of the United Nations
- Asia**
 - See also specific countries*
 - regional arrangements or agencies, 994
- Assistance pledged by Members in actions taken in accordance with Charter**, 962–963
- Association of Southeast Asian Nations (ASEAN)**, 994
- Australia**
 - letter dated 15 September 1990 from Australia, 592
 - participation in the proceedings on
 - Cyprus situation, 437, 450, 451
 - Iraq–Kuwait situation, 592, 624, 922*n*

South Africa situation, 77, 337, 341

Yugoslavia (former) situation, 474

Austria (elected member of the Security Council during 1991 and 1992)

letter dated 15 September 1990 from Austria, 592

letter dated 19 September 1991 from Austria, 32, 473–478, 836*n*, 843, 884*n*

letter dated 23 April 1992 from Austria, 35, 491–492, 845

participation/statements in the proceedings on

Cambodia situation, 424*n*, 427*n*

Cyprus situation, 437, 449, 451, 458

Gulf region situation, 7

Haiti, items relating to, 387, 388*n*

international peace and security, 816, 975*n*, 976, 981*n*, 990*n*

Iraq–Kuwait situation, 592, 627, 643, 657, 666*n*, 695, 699, 717*n*, 727*n*, 728*n*, 884*n*, 910*n*, 968*n*, 969*n*, 970*n*, 977*n*

Liberia situation, 270

Libyan Arab Jamahiriya situation, 214*n*, 215*n*, 292, 867*n*, 868*n*, 870*n*, 873*n*, 887*n*, 888*n*, 911, 962*n*

Somalia situation, 317*n*, 333, 334, 886*n*, 887*n*

South Africa situation, 339*n*, 347

Yugoslavia (former) situation, 473, 474, 475, 491, 494, 503, 521, 530*n*, 532, 540, 548*n*, 549*n*, 899*n*, 946*n*, 958*n*, 972*n*

Azerbaijan

admission to membership, 47, 230, 239, 244

letter dated 9 May 1992 from Azerbaijan, 469, 835*n*, 838*n*, 845

Nagorny–Karabakh situation with Armenia, 469–472. *See also* Nagorny–Karabakh situation

participation in the proceedings on

Nagorny–Karabakh situation, 59, 469, 470, 470*n*, 471, 472, 942

Yugoslavia (former) situation, 75, 544, 548*n*, 958*n*

B

Bahrain

letter dated 4 January 1989 from Bahrain, 30, 58*n*, 63, 80, 81, 88, 89, 275, 838*n*, 841, 865*n*

letter dated 21 May 1990 from Bahrain, 9, 783

letter dated 13 August 1992 from Bahrain, 40, 42, 518–526, 535–538, 838*n*, 850

participation in the proceedings on

Iraq–Kuwait situation, 71, 575, 581, 610, 612, 612*n*

Libyan Arab Jamahiriya situation, 63, 275, 277, 277*n*, 935, 935*n*, 961*n*

occupied Arab territories, 9, 65, 66, 67, 758, 761*n*, 765, 766*n*, 777, 779*n*, 783, 950*n*, 951*n*

Yugoslavia (former) situation, 518, 519, 535, 535*n*

Bangladesh

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 857*n*, 947*n*, 972*n*

Iraq–Kuwait situation, 71, 610, 624

Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 962*n*

Namibia situation, 64, 303, 306*n*

occupied Arab territories, 65, 66, 67, 68, 758, 761*n*, 765, 778, 783, 788, 790*n*

Yugoslavia (former) situation, 76, 544, 548*n*, 549*n*, 907*n*, 916*n*, 940*n*, 958*n*

Barbados

participation in the proceedings on
South Africa situation, 77, 337

Belgium (*elected member of the Security Council during 1991 and 1992*)

letter dated 15 September 1990 from Belgium, 592
letter dated 5 March 1992 from Belgium, 34, 44, 695, 719, 851
letter dated 17 July 1992 from Belgium, 38, 512–513, 846
letter dated 3 August 1992 from Belgium, 44, 719, 851
letter dated 7 August 1992 from Belgium, 38, 56–57, 713, 847
letter dated 19 November 1992 from Belgium, 44, 719, 851
participation/statements in the proceedings on
Cambodia situation, 424*n*, 427*n*
Haiti, items relating to, 388*n*, 389
international peace and security, 816–817, 975*n*, 976, 980*n*, 981*n*, 991*n*
Iraq–Kuwait situation, 206, 581, 592, 624, 627, 642, 659, 666*n*, 695, 704*n*, 713, 713*n*, 715, 719, 720,
727*n*, 871*n*, 884*n*, 902*n*, 903*n*, 908, 921*n*, 968*n*, 970*n*, 985*n*
Libyan Arab Jamahiriya situation, 214*n*, 292, 867*n*, 868*n*, 872*n*, 873*n*, 887*n*, 888*n*, 903*n*, 962*n*
Somalia situation, 316, 329, 331, 886*n*, 925*n*
South Africa situation, 339*n*, 347
Yugoslavia (former) situation, 57, 474, 475, 480*n*, 492, 495, 502, 506, 512, 513*n*, 514, 525, 530*n*, 537,
543, 544, 548*n*, 555, 884, 906*n*, 916*n*, 924*n*, 958*n*, 970*n*, 972*n*

Benin

letter dated 28 October 1992 from Benin, 270, 838*n*
participation in the proceedings on
Liberia situation, 73, 270, 275, 885, 973*n*, 993
Somalia situation, 974*n*

Biological weapons. *See* Weapons**Bolivia**

participation in the proceedings on
Yugoslavia (former) situation, 536*n*

Bophuthatswana, 344**Borders and boundaries**

inviolability of, 954
Iraq–Kuwait situation and, 631, 642, 646, 648, 649, 654, 655, 656, 657, 659, 684, 685, 723, 871, 871*n*, 873–
874, 977–979
United Nations Boundary Demarcation Commission, 161, 162–164, 669, 685–686, 710, 725, 727, 732,
733
Liberia situation and, 272
Yugoslavia situation and, 151, 524

Bosnia and Herzegovina

See also Yugoslavia (former) situation
admission to membership, 47, 230, 241, 244
General Assembly recommendations on, 186, 187–188
humanitarian relief, 496–504
letter dated 27 May 1992 from Bosnia and Herzegovina, 36, 838*n*, 846
letter dated 13 July 1992 from Bosnia and Herzegovina, 37, 512–513, 838*n*, 846
letter dated 10 August 1992 from Bosnia and Herzegovina, 39, 41, 61, 518–526, 535–538, 838*n*, 848
letter dated 4 November 1992 from Bosnia and Herzegovina, 543, 838*n*

letter dated 7 December 1992 from Bosnia and Herzegovina, 554, 835*n*, 838*n*

participation in the proceedings on

Yugoslavia (former) situation, 8, 61, 75, 76, 497, 510, 512, 513, 513*n*, 514, 515, 518, 519, 526, 528, 535, 535*n*, 536, 536*n*, 538, 541, 542, 543, 544, 545*n*, 547, 549, 551, 554, 555, 835*n*, 898, 911, 940, 940*n*, 958*n*

Botswana

participation in the proceedings on

South Africa situation, 77, 337, 339*n*, 345

Boundaries. *See* Borders and boundaries

Brazil (*elected member of the Security Council during 1989*)

participation/statements in the proceedings on

Angola situation, 73, 262, 263

Iraq–Kuwait situation, 624

Libyan Arab Jamahiriya situation, 277

Namibia situation, 71, 306*n*, 310, 949*n*

occupied Arab territories, 761*n*, 766*n*, 774*n*

Panama situation, 399, 937*n*, 960*n*

South Africa situation, 77, 337, 345

Breach of peace, 879, 880

Iraqi military invasion of Kuwait constituting, 882–883

Brunei Darusalam

participation in the proceedings on

Iraq–Kuwait situation, 624

Bulgaria

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*

Iraq–Kuwait situation, 624

Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 933*n*, 935*n*

Yugoslavia (former) situation, 497, 933*n*

Burkina Faso

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 947*n*

Liberia situation, 73, 270, 272, 993*n*

Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 962*n*

Burundi

participation in the proceedings on

Namibia situation, 64, 303, 306*n*

Byelorussian Soviet Socialist Republic

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 857*n*, 947*n*, 972*n*

Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935*n*

C

Cambodia situation, 414–434

abstention in voting on situation, 93

dispute settlement efforts, 859, 859*n*, 863

elections, 949–950

fact-finding mission dispatched to, 414–415, 853, 853*n*

oil embargo, 893n
Paris Conference on Cambodia, 415, 419, 423, 426–427, 863
Party of Democratic Kampuchea (PDK) in, 425, 426–427, 428, 430–431, 433
regional organizations' role, 994
United Nations Advance Mission in Cambodia (UNAMIC), 137–139, 171, 417, 420, 859n
United Nations Transitional Authority in Cambodia (UNTAC), 138, 139–143, 417, 421, 423–424, 424–425, 426–427, 430–431

Cameroon

participation in the proceedings on
Namibia situation, 64, 303, 306n

Canada (elected member of the Security Council during 1989 and 1990)

on invitation to Permanent Observer of Palestine, 58–59
letter dated 15 September 1990 from Canada, 592
letter dated 19 September 1991 from Canada, 32, 473–478, 836n, 843, 884n
letter dated 26 May 1992 from Canada, 36, 496–504, 845
participation/statements in the proceedings on
Afghanistan situation, 409, 857n, 947n, 972n
Cyprus situation, 70, 437, 445, 449, 450, 451, 458
Haiti situation, 76, 387, 388, 388n, 390
Iraq–Kuwait situation, 569, 569n, 572, 577n, 579n, 584, 591, 592, 593, 593n, 599, 609, 609n, 610, 618, 624, 628, 689, 695n, 883n, 884n, 889n, 901n, 915n, 921n, 922n, 957n, 958n, 968n, 984, 985n
Libyan Arab Jamahiriya situation, 76, 214n, 279, 281, 283n, 867n, 868n, 872n, 887n, 935, 962n
Namibia situation, 306n, 949n
occupied Arab territories, 774n, 777, 786n, 790n, 792, 793
Panama situation, 55, 397, 404, 866, 937n, 960n, 997
Somalia situation, 329
South Africa situation, 77, 337, 339n, 341
Yugoslavia (former) situation, 75, 473, 496, 497, 544, 548n, 907n, 916n, 958n, 971n

Cape Verde (elected member of the Security Council during 1992)

Angola ad hoc Commission, participation in, 261
participation/statements in the proceedings on
Angola situation, 258
Cambodia situation, 427n
international peace and security, 817, 975n, 976n, 980n
Iraq–Kuwait situation, 704n, 727n, 728n
Liberia situation, 273n, 886n, 973n
Libyan Arab Jamahiriya situation, 214n, 283, 288, 868n, 870, 873n, 887n
Mozambique situation, 298
Somalia situation, 317n, 329, 331, 886n, 974n
South Africa situation, 337, 339n
Yugoslavia (former) situation, 497, 519, 548n, 899n, 972n

Caribbean Community (CARICOM), 342**Ceasefires, 955–956**

See also specific situations

Central America

See also specific countries

Esquipulas II Agreement of 7 August 1987, 129, 217, 358, 369, 370, 381, 840n, 859
Geneva Agreement of 4 April 1990, 371

Guatemala Agreement. *See* Esquipulas II Agreement of 7 August 1987, *this heading*
 initial proceedings, 358–380
 International Support and Verification Commission, 162, 360, 362, 363
 Joint Declaration of the Central American Presidents of 14 February 1989, 358, 381, 840*n*, 859
 Managua Protocol of 30 May 1990, 367
 National Commission for the Consolidation of Peace (COPAZ), 373, 377, 379
 New York Agreement of 25 September 1991, 373
 peace efforts, 358–380
 regional organizations' role, 994
 San José Agreement on Human Rights, 371, 372
 Secretary-General's "good offices" mission, 217, 862
 Tela Accord of 7 August 1989, 162, 362, 840*n*
 United Nations Observer Group in Central America (ONUCA), 128–132, 162, 171, 358, 360–361, 362–364,
 365–366, 367, 376

Charter of Economic Rights and Duties of States, 602, 647

Charter of the United Nations

Chapter I (Purposes and Principles)

Article 1, 287
 Article 1(1), 603
 Article 1(2), 395, 946–952
 Article 2, 691, 692, 883, 952–976
 Article 2(1), 970
 Article 2(2), 970
 Article 2(3), 568, 611, 798, 957
 Article 2(4), 386, 395, 400, 568, 611, 795, 798, 887*n*, 952–962, 960*n*, 966
 Article 2(5), 962–963
 Article 2(6), 963–967
 Article 2(7), 210, 476, 690, 691, 692, 693, 694, 695, 710, 967–976

Chapter II (Membership)

Article 4, 189, 245–248, 531
 Article 4(2), 190
 Article 5, 189, 190, 228, 245–248, 530, 531
 Article 6, 189, 190, 228, 245–248, 530, 531

Chapter IV (The General Assembly)

Article 10, 178, 179
 Article 11, 178, 179, 833
 Article 11(1), 179
 Article 11(2), 4, 179, 180, 836*n*
 Article 11(3), 4, 178, 180, 188, 834, 836
 Article 12, 188
 Article 12(1), 178, 188
 Article 12(2), 178, 188, 188*n*, 189
 Article 15(1), 190
 Article 17(2), 114, 116, 121, 122, 128, 129, 133*n*, 134, 135, 136, 139, 140, 146, 149, 151, 154, 352, 420,
 458
 Article 20, 693

Chapter V (The Security Council)

Article 23, 178, 210*n*

- Article 24, 7, 7*n*, 91, 215, 628, 977–982
Article 24(1), 796
Article 24(2), 603, 692
Article 24(3), 190–191, 292
Article 25, 215, 476, 488, 489, 588, 594, 597, 640, 685, 796, 797, 925, 982–989
Article 26, 221*n*, 223, 816, 819, 989–990
Article 27, 87
Article 27(2), 87, 90
Article 27(3), 87, 91–92, 93, 282, 819
Article 28, 4, 7*n*
Article 28(2), 4, 8
Article 29, 107, 172, 219*n*, 628
Article 31, 53
Article 32, 53, 59, 471
Chapter VI (Pacific Settlement of Disputes)
Article 33, 278, 282, 288, 289, 406, 684, 833, 834, 872, 873, 873*n*, 874, 979
Article 33(1), 857, 858*n*, 871, 872, 997
Article 33(2), 857, 871–874
Article 34, 391, 405, 406, 408, 411, 833, 834, 835*n*, 852, 857
Article 35, 4, 7, 386, 391, 405, 406, 554, 623, 833, 834–835, 835*n*, 837, 838, 839, 840, 857
Article 35(1), 53, 54, 405, 408, 411, 469, 840
Article 35(2), 836
Article 36, 657, 684, 824, 833, 835, 865, 867*n*, 978, 979
Article 36(1), 857
Article 36(2), 287, 865, 872
Article 36(3), 213, 282, 287, 288, 867–871, 869*n*, 871*n*
Article 37, 53, 824, 833, 835, 867*n*
Article 37(1), 835
Article 37(2), 858
Article 38, 833, 835, 858
Chapter VII (Action with respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression),
616, 629
Article 39, 288, 328, 570, 858*n*, 879–888, 886*n*, 888, 889*n*, 973
Article 40, 288, 570, 824, 858*n*, 879, 882, 883, 888–892, 889*n*
Article 41, 107, 156, 288, 506, 572, 576, 580, 582, 587, 609, 611, 614, 819, 824, 889*n*, 893–913, 905*n*,
926, 998
Article 42, 221, 222, 506, 519, 582, 583, 587, 611, 614, 819, 824, 848, 849, 850, 906, 913–919, 913*n*,
914*n*
Article 43, 222, 223, 582, 583, 614, 816, 824, 919–925
Article 44, 919–925
Article 45, 178, 221*n*, 919–925
Article 46, 178, 221, 221*n*, 223, 582, 819, 919–925, 920*n*
Article 47, 178, 221, 221*n*, 582, 919–925
Article 47(1), 221, 223, 819, 990
Article 47(2), 223, 824
Article 48, 582, 597, 925–927, 986
Article 49, 927–928

- Article 50, 157, 157*n*, 161, 289, 290, 292, 499, 500, 595, 596, 600, 608, 627, 658, 660–661, 704, 819, 824, 827, 929–933, 929*n*, 930*n*, 931*n*, 932*n*, 933*n*
- Article 51, 276, 278, 279–280, 394, 394*n*, 395, 397–398, 399, 400, 519, 522, 544, 574, 576, 578, 580, 581, 584, 586, 600, 604, 614, 619, 629, 795, 865, 905, 912*n*, 915, 934–942, 939*n*, 940*n*, 941*n*, 960, 961, 961*n*
- Chapter VIII (Regional Arrangements)
- Article 52, 87, 91, 272, 398, 604, 990–999
- Article 52(2), 404, 997
- Article 52(3), 476
- Article 53, 990–999
- Article 54, 26, 476, 990–999
- Chapter IX (International Economic and Social Co-operation)
- Article 60, 692
- Chapter X (The Economic and Social Council)
- Article 65, 823
- Chapter XII (International Trusteeship System)
- Article 76, 952
- Article 77, 209
- Article 82, 209
- Article 83, 195, 196
- Article 83(1), 209
- Article 83(3), 209
- Chapter XIII (The Trusteeship Council)
- Article 86, 210*n*
- Article 87, 209
- Article 88, 209
- Chapter XIV (The International Court of Justice)
- Article 92, 607
- Article 93(2), 189
- Article 96, 867*n*
- Article 96(2), 824
- Chapter XV (The Secretariat)
- Article 97, 189
- Article 98, 14, 216, 216*n*, 608
- Article 99, 4, 8, 8*n*, 193, 216, 219, 220, 608, 820, 823, 827, 833, 834, 835, 836, 837, 837*n*, 852, 861
- Article 100, 608
- Chapter XVI (Miscellaneous Provisions)
- Article 102, 650
- Article 103, 215, 597
- Chapter XVII (Transitional Security Arrangements)
- Article 106, 614

Chemical weapons. *See* Weapons

Chile

participation in the proceedings on
Iraq–Kuwait situation, 575*n*, 624

China (*permanent member of the Security Council*)

Iraq–Kuwait situation, 614

statements in the proceedings on

Afghanistan situation, 408*n*, 857*n*, 947*n*, 972*n*

Angola situation, 254

Cambodia situation, 423, 426–427, 431

Cyprus situation, 452

international peace and security, 817, 976, 980*n*Iraq–Kuwait situation, 57, 192*n*, 569, 569*n*, 572, 577*n*, 578, 586, 587, 588, 590, 593, 593*n*, 599, 608, 615, 616, 626, 633, 634*n*, 636, 641, 655, 674, 686, 693, 703, 713, 720, 871*n*, 873*n*, 883*n*, 889*n*, 902*n*, 903*n*, 906, 909, 909*n*, 915*n*, 938, 957*n*, 958*n*, 968, 969, 969*n*Liberia situation, 273*n*, 886*n*Libyan Arab Jamahiriya situation, 278, 285, 289, 869–870, 872*n*, 873*n*, 887*n*, 900, 933*n*Namibia situation, 306, 306*n*, 949*n*occupied Arab territories, 763, 776, 781, 785, 790, 798*n*, 950*n*, 951*n*Panama situation, 396, 937, 960*n*Somalia situation, 316, 329, 330, 887*n*, 917*n*, 925*n*, 974*n*South Africa situation, 339*n*Yugoslavia (former) situation, 57, 477, 498, 526, 529, 532, 539, 542, 544, 548*n*, 551, 885*n*, 899, 899*n*, 904*n*, 907, 916*n*, 917*n*, 919*n*, 924*n*, 958*n*, 967*n*, 971, 971*n***Civil war**

Angola, 263, 264

Liberia, 268–269, 272–273, 886, 973, 973*n*, 992–993

Tajikistan, 435

Yugoslavia (former), 488, 521, 549, 550, 959

Colombia (elected member of the Security Council during 1989 and 1990)

Central American peace efforts supported by, 375, 377, 378

participation/statements in the proceedings on

Iraq–Kuwait situation, 569, 569*n*, 573, 577*n*, 582, 592*n*, 593*n*, 600, 608, 616, 624, 630*n*, 871*n*, 883*n*, 897, 906, 923*n*, 930*n*, 957*n*, 958*n*Libyan Arab Jamahiriya situation, 277*n*, 279, 962*n*Namibia situation, 306, 306*n*, 308, 310, 949*n*occupied Arab territories, 4, 774*n*, 792, 793, 798*n*, 856*n*, 950*n*, 951*n*, 974*n*Panama situation, 400, 937*n***Commission of Experts established to examine international humanitarian law violations in former Yugoslavia, 108–109, 188, 206, 208, 209, 217, 537–538, 547, 550, 852–853, 854–855, 891*n*****Commission on Human Rights**

Iraq–Kuwait situation, 57, 191–192, 700

Yugoslavia situation, 56, 191–192, 520, 526, 536, 537, 538, 544, 550

Commitment to uphold purposes and principles of United Nations Charter, 952–962**Committee of Council Meetings away from Headquarters, 108****Committee of Experts, 108****Committee on the Admission of New Members, 108, 243–244****Committee on the Exercise of the Inalienable Rights of the Palestinian People. See Palestine****Comoros**letter dated 13 August 1992 from Comoros, 40, 43, 518–526, 535–538, 838*n*, 850

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 857*n*, 947*n*, 972*n*

Iraq–Kuwait situation, 624

Yugoslavia (former) situation, 75, 518, 519, 535, 535*n*, 544, 548*n*, 549*n*, 940*n*, 941, 958*n*, 963*n*

Compensation. *See* Reparations

Conduct of business, 14–18

See also Provisional Rules of Procedure of the Security Council

adjournment, 18

order in which representatives speak, 15–16

ruling by President on point of order, 16–17

suspension of meeting, 17–18

voting on amendments, 18

Conference on Security and Cooperation in Europe (CSCE), 994, 996

Congo

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*

Libyan Arab Jamahiriya situation, 76, 281

Namibia situation, 64, 303, 306*n*

South Africa situation, 77, 337, 339*n*

Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, 668

Coordinating Bureau of the Movement of Non-Aligned Countries, 381

COPAZ (National Commission for the Consolidation of Peace). *See* Central America

Costa Rica

Joint Declaration of the Central American Presidents, party to, 358

Côte d'Ivoire (elected member of the Security Council during 1990 and 1991)

letter dated 15 January 1991 from Côte d'Ivoire, 836, 836*n*, 842

participation/statements in the proceedings on

Haiti, items relating to, 388*n*

Iraq–Kuwait situation, 573, 573*n*, 586*n*, 592*n*, 593*n*, 601*n*, 609, 609*n*, 610, 619, 643, 692, 884*n*, 901*n*, 914*n*, 915*n*, 921*n*, 957*n*

Liberia situation, 73, 268–269, 270, 272, 836, 993*n*

Namibia situation, 949*n*

occupied Arab territories, 792, 804, 951*n*

Yugoslavia (former) situation, 478*n*

Croatia

See also Yugoslavia (former) situation

admission to membership, 47, 230, 240, 243, 244

letter dated 11 July 1992 from Croatia, 37, 512–513, 838*n*, 846

letter dated 12 July 1992 from Croatia, 37, 512–513, 838*n*, 846

participation in the proceedings on

Yugoslavia (former) situation, 75, 494, 512, 513*n*, 517, 534, 536, 544, 545*n*, 548*n*, 549*n*, 940*n*, 963, 963*n*, 964

Cuba (elected member of the Security Council during 1990 and 1991)

initial proceedings, 384–387

letter dated 2 February 1990 from Cuba, 31, 384–385, 839*n*, 842, 865

letter dated 28 January 1991 from Cuba, 6, 7, 623, 835*n*

letter dated 27 April 1992 from Cuba, 36, 50, 385–387, 838*n*, 845

participation/statements in the proceedings on

Afghanistan situation, 69, 77, 405, 408*n*, 947*n*, 972*n*

Angola situation, 254

Central American peace efforts, 363, 364

Cuban situation, 7–8, 18, 384, 385, 386, 387, 835*n*
Gulf region situation, 6, 7, 7*n*
Haiti, items relating to, 388*n*, 390
Iran–Iraq situation, 17, 565, 566
Iraq–Kuwait situation, 16–17, 17, 20, 573, 575*n*, 576, 579, 580, 582, 583, 587, 589, 594, 596, 607, 610, 615, 623, 628, 630, 630*n*, 634, 634*n*, 636, 637, 638, 639, 648, 665, 669, 675, 692, 835*n*, 871*n*, 873*n*, 883, 897, 901*n*, 902*n*, 903*n*, 905, 907*n*, 908, 909, 910, 915*n*, 921*n*, 923*n*, 930*n*, 932*n*, 938, 939, 957*n*, 968, 969, 977, 977*n*
Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935*n*, 961*n*
Namibia situation, 64, 299, 303, 306*n*, 949*n*
occupied Arab territories, 4–5, 65, 66, 91, 758, 761*n*, 765, 766*n*, 786*n*, 787, 792, 793, 804, 856*n*, 951*n*, 974*n*, 977*n*
Panama situation, 70, 395, 399, 400*n*, 937, 937*n*, 960*n*
South Africa situation, 77, 337, 339*n*, 342
Yugoslavia (former) situation, 476, 885*n*, 958*n*
Tripartite Agreement, signing of, 299, 305, 861
withdrawal of Cuban troops from Angola, 254–255, 299

Cyprus

See also Cyprus situation

participation in the proceedings on

Cyprus situation, 26*n*, 61, 70, 437, 438, 440, 440*n*, 441, 442, 444, 444*n*, 445, 447, 448*n*, 449, 450, 453, 453*n*, 454, 457*n*, 458, 461*n*, 466*n*, 836, 836*n*, 947

Iraq–Kuwait situation, 624

Cyprus situation, 437–466

effect of Turkish elections, 459

invitation to participate under Rule 39, 81–82

peacekeeping force (UNFICYP), renewal and financing, 143–144, 217, 437, 438, 439, 441–442, 444–445, 448–455, 457–459, 466

peace negotiations, 437, 438–442, 445, 447, 456, 460–465, 858*n*, 860, 862

Secretary-General's "good offices" mission, 217, 860, 862

self-determination, 947, 947*n*

Special Representative talks, 443–444, 448

summary statements issued on situation, 46

Czechoslovakia

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 857*n*, 947*n*, 972*n*

Iraq–Kuwait situation, 624

Libyan Arab Jamahiriya situation, 63, 275, 278, 935*n*, 936

occupied Arab territories, 65, 758, 761*n*, 950*n*, 951*n*

Yugoslavia (former) situation, 474, 506, 933*n*

separation into Czech Republic and Slovak Republic, 228–229

Czech Republic, 228–229

D

Declaration on the Strengthening of International Security, 180

Decolonization, 229, 303, 307, 948*n*, 952

Democratic People's Republic of Korea

admission to membership, 46, 230, 231, 232, 243, 244

Democratic Yemen (elected member of the Security Council during 1990)

See also Yemen

participation/statements in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*

Cuba, items relating to, 385

Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935*n*, 961*n*

Namibia situation, 949*n*

occupied Arab territories, 65, 66, 758, 761*n*, 765, 766*n*, 950*n*, 951*n*

Denmark

participation in the proceedings on

Cyprus situation, 437, 450, 451

Iraq–Kuwait situation, 592, 624, 689, 695*n*

Diplomacy. *See* Secretary-General

Diplomats, violence against, 955

Disarmament. *See* Weapons

Domestic affairs, non-intervention in, 967–976

See also Sovereignty

E

ECOMOG (ECOWAS Ceasefire Monitoring Group), 269, 992

Economic and Social Council, relations with, 206–209

Economic Community of West African States (ECOWAS)

Liberia situation and, 268–269, 273, 886, 992. *See also* Liberia

Economic sanctions. *See* Embargo; Sanctions

ECOWAS Ceasefire Monitoring Group (ECOMOG), 269, 992

Ecuador (elected member of the Security Council during 1991 and 1992)

letter dated 22 May 1991 from Ecuador, 804

participation/statements in the proceedings on

Angola situation, 259–260

Cambodia situation, 424*n*

Central American peace efforts, 378–379

Gulf region situation, 7*n*

Haiti, items relating to, 387, 388*n*, 390

international peace and security, 814, 975*n*, 976

Iraq–Kuwait situation, 57, 192*n*, 627, 633, 634, 634*n*, 643, 657, 666*n*, 684, 692, 704*n*, 713, 727*n*, 728*n*,
871, 871*n*, 873*n*, 884*n*, 902*n*, 903*n*, 909, 909*n*, 968*n*, 969, 969*n*, 970, 978, 979

Liberia situation, 273*n*, 886*n*

Libyan Arab Jamahiriya situation, 283, 867*n*, 868*n*, 872*n*, 887*n*

occupied Arab territories, 804

Somalia situation, 317*n*, 329, 330, 886*n*, 887*n*, 925*n*

South Africa situation, 339*n*

Yugoslavia (former) situation, 478*n*, 498, 520, 548*n*, 885*n*, 899*n*, 911*n*, 941, 946*n*, 958*n*, 972*n*

Egypt

Camp David accords, 768

letter dated 12 August 1992 from Egypt, 40, 42, 518–526, 535–538, 838*n*, 849

letter dated 5 October 1992 from Egypt, 43, 535–538, 850

participation in the proceedings on

Iraq–Kuwait situation, 71, 575*n*, 610, 611, 624, 634, 908

Liberia situation, 73, 270, 273*n*, 886*n*, 973*n*
Namibia situation, 64, 303, 304
occupied Arab territories, 65, 66, 67, 68, 758, 760–761, 765, 768, 777, 780, 783, 786, 788, 790*n*, 794*n*,
800*n*, 804, 806, 856*n*, 950*n*, 951*n*
Somalia situation, 315
South Africa situation, 77, 337
Yugoslavia (former) situation, 61, 75, 494, 513*n*, 518, 519, 535, 535*n*, 536, 543, 544, 548*n*, 549*n*, 940*n*

El Salvador

Agreement on National Civil Police, 375
Agreement on the Cessation of Armed Conflict, 375
Final Peace Agreements signed, 374–375
Frente Farabundo Martí para la Liberación Nacional (FMLN), 132–136, 360, 365, 368, 370–371, 373, 374,
375, 377–378, 379, 381, 382, 859, 959
Joint Declaration of the Central American Presidents, party to, 358
letter dated 27 November 1989 from El Salvador, 31, 71, 95, 381–383, 840, 841, 853*n*, 955*n*
Mexico Agreement (signed 27 April 1991), 372, 859
New York Agreement (signed 25 September 1991), 373, 860
Nicaraguan assistance in aggression in, 959
participation in the proceedings on
 Central American peace efforts, 71, 375, 382, 383, 853
 Central America situation, 959*n*
 Panama situation, 70, 395, 399
peace efforts in, 365–366, 368, 370–371, 373, 374, 375, 859–860, 859*n*
post-ceasefire situation, 377–380, 959
Secretary-General's "good offices" mission, 217, 862
United Nations Observer Mission in El Salvador (ONUSAL), 133–136, 371–372, 375, 376–379

Embargo

arms
 Iraq, 158–159, 572
 Liberia, 896
 Libyan Arab Jamahiriya situation, 896, 903–904
 Somalia, 161, 896, 999
 South Africa, 156
 Yugoslavia, 159–161, 485–490, 545, 548, 551, 893*n*, 895, 898–899, 911, 963, 970, 999
economic trade
 Iraq, 221–222, 572, 576, 578, 582, 584, 598, 601, 614, 647, 659, 691, 893–893, 905*n*, 907–910, 915,
 922–923, 937
 Yugoslavia, 893*n*, 895–896, 915–916, 923–924, 999
oil
 Cambodia, 893*n*
 Iraq, 572, 586, 587, 894, 969–970
 South Africa, 194, 205
 Yugoslavia, 545, 546

Estonia

admission to membership, 46, 230, 234, 244

Ethiopia (elected member of the Security Council during 1989 and 1990)

participation/statements in the proceedings on
 Afghanistan situation, 408*n*, 947*n*, 972*n*

Iraq–Kuwait situation, 573, 573*n*, 577*n*, 579*n*, 586*n*, 587*n*, 592*n*, 593*n*, 601*n*, 609, 609*n*, 610, 617, 901*n*, 958*n*

Libyan Arab Jamahiriya situation, 279, 935*n*

Namibia situation, 306, 306*n*, 308, 949*n*

occupied Arab territories, 774*n*, 792, 800, 950*n*

Panama situation, 398, 398*n*, 937*n*, 960*n*

Europe

See also specific countries

regional organizations' role, 994–996

European Community

Angola situation, 262

Conference on Yugoslavia, 218, 474–475, 477, 479, 482, 484, 486, 488, 491, 497, 498, 506, 514, 525, 545, 548, 858*n*, 860, 890, 891, 899, 904*n*, 911, 941, 995

Cyprus situation, 439, 441, 450, 451

Haiti situation, 388

Iraq–Kuwait situation, 594, 598, 624

participation in the proceedings on

Angola situation, 262

South Africa situation, 198, 340, 347, 348, 994

Yugoslavia (former) situation, 151, 218, 473, 474–475, 476, 478, 479, 480*n*, 484–485, 491, 493, 497, 499, 502, 503, 506, 507, 514, 521, 524, 545, 548, 550, 555, 571, 579, 816, 890–891, 994, 994*n*, 996

Explosives, marking of for purpose of detection, 30, 50, 810–811

initial proceedings, 810–811

F

Fact-finding, 852–857

to Afghanistan, 857

to Cambodia, 414–415, 853, 853*n*

encouraging increased use of, 837

to Georgia, 853, 853*n*

to Moldova, 853

to Nagorny–Karabakh, 853, 853*n*

to occupied Arab territories, 853, 855–857, 974–975

to Tajikistan, 853, 853*n*

to Uzbekistan, 853

Federal Republic of Germany

participation in the proceedings on

Iraq–Kuwait situation, 581, 592

Namibia situation, 64, 303, 306*n*

South Africa situation, 337

Finland (*elected member of the Security Council during 1989 and 1990*)

on invitation to Permanent Observer of Palestine, 59

letter dated 15 September 1990 from Finland, 592

participation/statements in the proceedings on

Afghanistan situation, 408*n*, 947*n*

Cyprus situation, 437, 451

Iraq–Kuwait situation, 569, 569*n*, 573, 573*n*, 577*n*, 579*n*, 585, 592, 592*n*, 593*n*, 599, 609, 609*n*, 610, 619, 624, 883*n*, 901*n*, 906*n*, 914*n*, 915*n*, 921*n*, 923*n*, 957*n*, 958*n*

Libyan Arab Jamahiriya situation, 278, 279, 935, 962*n*
 Namibia situation, 949*n*
 occupied Arab territories, 5, 769, 774*n*, 779*n*, 786*n*, 800, 802, 950*n*, 951*n*
 Panama situation, 398–399, 401, 404, 866, 960*n*

FMLN (Frente Farabundo Martí para la Liberación Nacional). *See* El Salvador

France (permanent member of the Security Council)

letter dated 11 September 1990 from France, 415, 859*n*, 863*n*
 letter dated 15 September 1990 from France, 592
 letter dated 4 April 1991 from France, 32, 34, 44, 689, 695, 719, 843, 853*n*, 967*n*
 letter dated 26 November 1991 from France, 33, 479–481, 844
 letters dated 20 and 23 December 1991 from France, 280–281, 286–293, 839*n*, 840*n*, 844, 854*n*, 864*n*, 866, 867
 letter dated 24 April 1992 from France, 35, 491–492, 845
 letter dated 17 July 1992 from France, 38, 512–513, 846
 letter dated 7 August 1992 from France, 38, 56–57, 713, 847
 statements in the proceedings on
 Afghanistan situation, 409, 947*n*
 Angola situation, 260, 261, 262, 264
 Cambodia situation, 415, 417, 419, 423, 426, 433, 433*n*
 Cyprus situation, 452
 Gulf region situation, 7*n*
 Haiti, items relating to, 388*n*, 389
 international peace and security, 814, 980*n*, 991*n*
 Iraq–Kuwait situation, 569, 569*n*, 571, 577*n*, 579*n*, 581*n*, 590, 592, 598, 609, 609*n*, 612, 618, 619, 628, 642, 655, 666*n*, 673, 676, 679, 689, 694, 695, 701, 710, 713, 716, 719, 725, 871*n*, 883*n*, 884*n*, 889*n*, 902*n*, 905–906, 908, 910*n*, 914*n*, 915*n*, 921*n*, 922*n*, 923*n*, 930*n*, 958*n*, 967, 969*n*, 970, 970*n*, 984
 Liberia situation, 273, 273*n*, 993*n*
 Libyan Arab Jamahiriya situation, 214*n*, 215*n*, 278, 279, 280–282, 285, 286–287, 292, 867*n*, 868*n*, 869, 870*n*, 872*n*, 873*n*, 887*n*, 903*n*, 904*n*, 962*n*
 Mozambique situation, 298
 Namibia situation, 306*n*, 949*n*
 occupied Arab territories, 764, 769, 776, 781, 785–786, 791, 801, 805, 810, 950*n*, 951*n*
 Panama situation, 55, 396, 401, 960*n*
 Somalia situation, 316, 333–334, 886*n*, 887*n*, 917*n*, 925*n*, 974*n*
 South Africa situation, 339, 339*n*
 Yugoslavia (former) situation, 57, 474, 478, 479, 480, 480*n*, 491, 492, 495, 503, 506, 512, 513*n*, 514, 525, 530, 530*n*, 538, 540, 543, 544, 548*n*, 555, 899, 904*n*, 906*n*, 916*n*, 917*n*, 924*n*, 946*n*, 958*n*, 972*n*

Freezing assets. *See* Sanctions

Frente Farabundo Martí para la Liberación Nacional (FMLN). *See* El Salvador

G

Gabon

participation in the proceedings on
 occupied Arab territories, 67, 783

Gambia

participation in the proceedings on

Liberia situation, 73, 269, 270, 272, 993*n*

General Assembly

joint decision-making with Security Council, 189–190
 limitations on recommendations under Charter Article 12, 188–189
 non-permanent members of Security Council, election of, 178–179
 recommendations by in form of resolutions under Charter Articles 10 and 11, 179–188
 relations with, 178–205
 reports of Security Council to, 190–191
 resolutions, 602, 668, 736, 741, 743, 748, 751, 753*n*, 774, 782
 subsidiary organs of, 194–205

Geneva Conventions

Iraq–Kuwait situation and, 579, 598, 602, 605, 609, 611, 612, 618, 626, 632, 637, 695
 occupied Arab territories and, 183, 184, 185, 200, 201, 202, 203, 204, 760, 762, 763, 765, 767, 770, 771, 774, 776, 777, 778, 779, 781, 784, 793, 795, 797, 798, 799, 801–802, 804, 807, 808, 809, 810, 856, 856*n*, 963, 974
 Yugoslavia (former) situation and, 108, 109, 208, 209, 216, 217, 537, 547, 850, 852–853, 854, 855, 964

Georgia, 467–468

Abkhazia armed conflict, 167–469
 ceasefire, 861
 admission to membership, 48, 230, 241, 244
 ceasefire ("Moscow Agreement"), 467
 fact-finding mission to, 853, 853*n*
 initial proceedings, 467–469
 letter dated 6 October 1992 from Georgia, 838*n*, 851
 participation in the proceedings on
 Georgia situation, 78, 467, 468, 468*n*
 Secretary-General's goodwill mission to, 864

German Democratic Republic

participation in the proceedings on
 Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*
 Iraq–Kuwait situation, 570*n*
 Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935*n*, 961*n*
 occupied Arab territories, 65, 66, 758, 765, 766*n*

Germany

See also Federal Republic of Germany; German Democratic Republic
 letter dated 21 November 1991 from Germany, 33, 74, 479–481, 844
 participation in the proceedings on
 Iraq–Kuwait situation, 624, 689, 695*n*
 South Africa situation, 77
 Yugoslavia (former) situation, 75, 479, 480, 482, 544, 548*n*
 uniting of German Democratic Republic and Federal Republic of Germany into single state, 227

Ghana

participation in the proceedings on
 Iraq–Kuwait situation, 575*n*
 Liberia situation, 73, 270, 272
 Libyan Arab Jamahiriya situation, 276, 279
 Namibia situation, 64, 303–304

Good offices. *See* Secretary-General

Great Britain. *See* United Kingdom of Great Britain and Northern Ireland

Greece

letter dated 15 September 1990 from Greece, 592

participation in the proceedings on

Cyprus situation, 15, 61, 70, 71, 437, 438, 440, 440*n*, 441, 442, 444, 444*n*, 445, 448*n*, 449, 450, 453, 453*n*, 454, 457*n*, 458, 459, 461*n*, 466*n*, 947

Iraq–Kuwait situation, 592, 624, 689, 695*n*

occupied Arab territories, 67, 778, 782, 794*n*

South Africa situation, 78, 337, 339*n*

Yugoslavia (former) situation, 76, 544, 548*n*, 958*n*

Group of Arab States, 275, 277, 329, 758, 760, 764, 770, 772, 773, 774, 779, 783, 784, 791, 798, 961

Guatemala

Joint Declaration of the Central American Presidents, party to, 358, 859*n*

participation in the proceedings on

Namibia situation, 64, 303, 306*n*

peace efforts in, 374

Unidad Revolucionaria Nacional Guatemalteca, 374

Guinea

participation in the proceedings on

Iraq–Kuwait situation, 581*n*

Liberia situation, 73, 270, 272, 993*n*

Somalia situation, 312

H

Hague Convention, 467, 771, 775

Haiti

elections in, request for observer mission, 192

initial proceedings, 387–391

letter dated 30 September 1991 from Haiti, 33, 387–390, 843

ONUVEH in, 389, 390

participation in the proceedings on

Haiti situation, 76, 388, 390

Iraq–Kuwait situation, 575*n*

High Commissioner for Refugees. *See* United Nations High Commissioner for Refugees

Honduras

Joint Declaration of the Central American Presidents, party to, 358

participation in the proceedings on

Haiti, items relating to, 387, 388, 388*n*

Haiti situation, 76

Iraq–Kuwait situation, 624

Hostage-taking and abduction

initial proceedings, 811–812

Humanitarian assistance

See also Use of force

economic sanctions and, 901–904

Iraq, 157–158, 159, 588–589, 590, 591, 645, 647, 674, 686, 688, 690, 710, 712, 714, 893–893, 901–939, 917–918, 969–970

Lebanon, 734

Somalia, 318–319, 321–322, 324, 327–336, 917, 924–925
 Yugoslavia (former) situation, 150, 496–504, 507, 510, 520, 523–525, 527, 543–554, 904, 916–917, 924, 971, 999

Human rights. *See* Commission on Human Rights; *specific situations*

Hungary (elected member of the Security Council during 1992)

letter dated 15 September 1990 from Hungary, 592
 letter dated 20 September 1991 from Hungary, 33, 473–478, 836*n*, 843, 884*n*
 participation/statements in the proceedings on
 Afghanistan situation, 69, 405, 408*n*, 857*n*, 947*n*, 972*n*
 Angola situation, 266
 Cambodia situation, 424*n*, 427*n*, 433, 433*n*
 international peace and security, 818–819, 975*n*, 976, 980*n*, 990*n*
 Iraq–Kuwait situation, 592, 624, 704, 717, 727*n*
 Libyan Arab Jamahiriya situation, 214*n*, 292, 867*n*, 868*n*, 873*n*, 887*n*, 888*n*, 900, 967*n*
 Somalia situation, 317*n*, 333, 336, 886*n*, 887*n*, 925*n*, 974*n*
 South Africa situation, 339*n*
 Yugoslavia (former) situation, 473, 480*n*, 494, 498, 524, 530*n*, 533, 537, 548*n*, 549*n*, 885*n*, 906*n*, 933*n*, 946*n*, 958*n*, 971*n*, 972*n*

I

IAEA. *See* International Atomic Energy Agency (IAEA)

Iceland

participation in the proceedings on
 Iraq–Kuwait situation, 624

India (elected member of the Security Council during 1991 and 1992)

participation in the proceedings on
 Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*
 Angola situation, 266–267, 268
 Cambodia situation, 424*n*, 427*n*
 Gulf region situation, 7
 humanitarian assistance and economic sanctions, 901*n*
 international peace and security, 817–818, 929*n*, 980*n*
 Iraq–Kuwait situation, 20, 57, 192*n*, 628, 633, 634*n*, 635, 641, 649, 674, 685, 694, 704, 710, 713, 871*n*, 873*n*, 902*n*, 908, 909, 909*n*, 921*n*, 922*n*, 968, 969, 969*n*, 970, 978, 978*n*, 979, 985*n*
 Liberia situation, 273*n*, 886*n*
 Libyan Arab Jamahiriya situation, 63, 214*n*, 275, 277*n*, 285, 289, 870, 872*n*, 873*n*, 887*n*, 911, 933*n*, 962*n*
 Namibia situation, 64, 303, 306*n*
 occupied Arab territories, 65, 66, 67, 68, 758, 761*n*, 777, 783, 788, 790*n*, 804, 950*n*, 951*n*
 Somalia situation, 315, 333, 336, 887*n*, 925*n*, 974*n*
 South Africa situation, 56, 339*n*
 Yugoslavia (former) situation, 476, 499, 520, 528, 530, 540, 548*n*, 549, 885*n*, 919*n*, 924*n*, 958*n*, 970*n*, 971*n*, 972*n*, 999*n*
 United Nations Military Observer Group in India and Pakistan (UNMOGIP), 136–137, 405–406, 407, 409, 410, 412

Indonesia

letter dated 11 September 1990 from Indonesia, 415, 859*n*, 863*n*
 participation in the proceedings on

- Cambodia situation, 415, 417, 419
- Iraq–Kuwait situation, 624
- Namibia situation, 64, 303, 306*n*
- occupied Arab territories, 65, 66, 758, 761*n*, 777, 779*n*, 794*n*, 951*n*
- South Africa situation, 77, 337, 339*n*
- Yugoslavia (former) situation, 75, 497, 544, 548*n*, 549*n*, 940*n*, 958*n*
- Inter-Agency Humanitarian Programme**, 718
- Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa**, 194, 205
- International Atomic Energy Agency (IAEA)**, 56, 79, 654, 656, 662, 663, 673, 674, 677–678, 696, 700, 706, 707, 708, 709, 711, 720, 726, 728, 729
- International Civil Aviation Organization**, 596–597
- International Committee of the Red Cross**
 - Iraq–Kuwait situation, 591, 610, 637, 645, 668, 705, 710, 724, 733
 - occupied Arab territories, 769
 - Western Sahara, 114
- International Court of Justice**
 - determination of responsibility for alleged Libyan destruction of Pan Am flight 103 (1988) and UTA flight 772 (1989), 213–215
 - election of members of, 48, 211–212
 - Iraq–Kuwait situation and, 607, 647
 - relations with, 211–215, 867–871
 - Somalia situation and, 319, 322, 324
 - Yugoslavia (former) situation and, 150, 525, 528
- International Covenant on Civil and Political Rights**, 579, 781
- International humanitarian law, violations of**
 - See also* Humanitarian assistance
 - Yugoslavia (former) situation, 956
- International law, violations of**
 - Iraq's liability to Kuwait and third States due to invasion and illegal occupation of Kuwait, 932
 - United States law-enforcement on high seas and Cuban merchant ship, 865–866
 - United States shooting down Libyan Arab Jamahiriya reconnaissance planes, 279–280, 962
- International peace and security**, 252–828
 - See also* peacekeeping operations
 - arms control and, 990
 - domestic affairs and principle of non-interference, 975–976
 - heads of state or government convened to consider on 31 January 1992, 8–9, 92, 193, 813–822, 833
 - military enforcement action for purpose of, 920–922
 - Military Staff Committee's role, 222–223
 - Secretary-General's role and, 862, 991
 - calling attention of Security Council to potential conflicts, 220
 - "good offices" mission, 218
 - Security Council's role, 879, 979–982
- International Support and Verification Commission**, 162, 360, 362, 363
- Investigation of disputes**, 852–857
 - See also* Fact-finding
- Invitation.** *See* Participation in the proceedings
- Iran.** *See* Iran–Iraq situation; Islamic Republic of Iran

Iran–Iraq situation, 558–567

- bilateral meetings, 563
- self-defence claims, 942
- summary statements issued on situation, 45
- United Nations Iran–Iraq Military Observer Group (UNIIMOG), 153, 171, 558, 558*n*, 559, 560, 561, 562, 563, 564, 566–567

Iraq

See also Iran–Iraq situation; Iraq–Kuwait situation

- arms embargo, 158–159, 572
- assets frozen, 571, 706
- biological weapons program, 703
- ceasefire acceptance by, 12
- chemical weapons, use of, 703
- human rights violations by, 715, 731, 732
 - investigations, 853–854, 854*n*
- letter dated 27 February 1991 from Iraq, 636
- letter dated 11 June 1991 from Iraq, 663, 698, 723
- letter dated 23 January 1992 from Iraq, 698, 704–705, 720, 723
- letter dated 6 August 1992 from Iraq, 713*n*, 716
- letter dated 28 October 1992 from Iraq, 724, 728, 729, 730, 731
- nuclear weapons program, 673, 703, 729, 955
- oil embargo, 572, 586, 587, 894, 969–970
- participation in the proceedings on
 - Afghanistan situation, 69, 405, 408*n*, 947*n*
 - invitations under Rule 39, 56–57
 - Iran–Iraq situation, 15, 64, 65, 559, 560, 561, 564, 565, 942
 - Iraq–Kuwait situation, 6, 15, 56, 61, 71, 72, 568, 570, 570*n*, 575, 577, 579, 580, 581, 581*n*, 587, 592, 595, 595*n*, 602, 603, 605, 609, 613, 614, 624, 625, 626, 628, 630*n*, 631, 632, 633, 635, 635*n*, 636, 644, 645, 646, 659, 659*n*, 660, 661, 663, 665, 666, 667, 668, 674, 677–678, 689, 690*n*, 691, 694, 696, 704, 705, 711, 713, 713*n*, 714, 719, 728, 871*n*, 873*n*, 882, 883, 903*n*, 905, 909, 910, 915*n*, 921, 921*n*, 923*n*, 932*n*, 939, 940, 940*n*, 968, 969, 977*n*, 998
 - Libyan Arab Jamahiriya situation, 76, 281, 283*n*, 287, 288, 872*n*, 887*n*, 900, 904*n*, 911*n*, 933*n*
 - occupied Arab territories, 66, 67, 68, 777, 783, 786*n*, 788, 792, 951*n*, 975*n*
- refugees from, 689–695, 717, 931
- trade embargo, 221–222, 572, 576, 578, 582, 584, 598, 601, 614, 647, 659, 691, 893–893, 905*n*, 907–910, 915, 922–923, 937
- UNIIMOG and. *See* Iran–Iraq situation

Iraq–Kuwait situation, 568–734

- abduction of diplomatic personnel by Iraq, 592
- abstention in voting, 93
- Ad Hoc Committee proposed but not established, 172–173
- aggravation of situation, provisional measures to prevent, 889–890
- annexation of Kuwait, 575, 576, 577, 585, 634, 954, 957–958
- border demarcation negotiations, 631, 642, 646, 648, 649, 654, 655, 656, 657, 659, 668, 684, 708–709, 723
- boundary demarcation discussion, 871, 871*n*, 873–874
- as breach of peace, 879, 880, 882–883
- ceasefire negotiations, 654, 658
- commercial air traffic, 598

Council's authority to use force invoked, 583
discussion not to encroach on competence of General Assembly, 191
economic problems created for other States when implementing sanctions, 930–932
failure of Iraq to comply with United Nations resolutions, 984–989
food-for-oil program, 674, 676, 688, 709, 711, 714, 725
foreign nationals, treatment of, 578–579, 592, 621, 702, 725
Gulf Cooperation Council, 575, 577, 581, 587
humanitarian assistance to Iraq, 157–158, 159, 588–589, 590, 591, 645, 647, 674, 686, 688, 690, 710, 712, 714, 893–893, 901–903, 917–918, 969–970
human rights concerns, 579, 587, 610–611, 669, 674, 691–692, 695, 701, 725, 731, 967–969
IAEA and, 654
Inter-Agency Humanitarian Programme, 718
invitations under Rule 39 to participate in proceedings on, 57, 79, 81, 82
military enforcement action for purpose of maintaining peace, 920–922. *See also* use of force to maintain or restore peace, *this heading*
military observer and peacekeeping force proposed but not established, 173
Military Staff Committee's role in economic sanctions, 221–222, 576, 584, 585, 614
mutual assistance in carrying out measures decided upon by Security Council, 927–928
negotiation of settlement, 858*n*, 864
prisoners of war, treatment of, 626, 632, 668, 708–709, 724, 733
refugees, 689–695, 717
regional organizations' role, 996–997, 998
reparations to Kuwait, 607, 645, 655, 658, 661, 668, 702, 710, 725, 727
sanctions imposed on Iraq, 571, 572, 573, 580, 598–599, 624
Secretary-General's role
 functions entrusted to, 216
 "good offices" mission, 217–218, 864
Security Council Committee activities, 156–159
Security Council's actions, whether exceeding its powers, 977–979
self-defence of Kuwait and other parties, 937–940
Special Commission and, 654, 660, 665, 666, 669, 689, 696, 700, 702, 706, 707, 708, 709, 711, 720, 724–725, 726, 728, 729, 731
Special Rapporteur on human rights in Iraq, 191, 206–207, 695–696, 699, 700, 701, 702–703, 713, 714, 715, 719, 726
as threat to peace (consequences of repression of civilian population), 879, 880, 883–884, 956
 aggravation of situation, provisional measures to prevent, 889–890
United Nations Boundary Demarcation Commission, 161, 162–164, 669, 685–686, 710, 725, 727, 732, 733
United Nations Compensation Commission, 161, 169–170, 661
United Nations Compensation Fund, 661, 665, 669, 686
United Nations Coordinator for return of property, 161, 168–169
United Nations Iraq-Kuwait Observation Mission (UNIKOM), 153–156, 659–660, 710, 914, 918, 918*n*
United Nations Special Commission, 161, 164–168
use of force to facilitate humanitarian assistance, 917
use of force to maintain or restore peace, 913, 914, 920–922
weapons program monitoring, 656, 658, 659, 662, 665, 666, 668, 677–678, 702, 703, 707, 708, 709, 711, 720, 723, 728, 729

Ireland

participation in the proceedings on

Cyprus situation, 437, 449, 451
 Iraq–Kuwait situation, 592, 689, 695*n*, 969*n*

Islamic Republic of Iran

See also Iran–Iraq situation
 letter dated 3 April 1991 from Islamic Republic of Iran , 689–690, 690*n*
 letter dated 4 April 1991 from Islamic Republic of Iran , 689–690, 690*n*
 letter dated 10 August 1992 from Islamic Republic of Iran , 39, 41, 518–526, 535–538, 838*n*, 848
 letter dated 5 October 1992 from Islamic Republic of Iran , 43, 535–538, 850
 participation in the proceedings on
 Iran–Iraq situation, 64, 65, 559, 560, 561, 565, 942
 Iraq–Kuwait situation, 71, 570*n*, 575*n*, 581*n*, 610, 612, 612*n*, 624, 630, 689, 690, 690*n*, 691, 694, 713*n*,
 714, 720, 732, 921*n*, 922*n*, 967, 968*n*
 Libyan Arab Jamahiriya situation, 63, 76, 213*n*, 275, 277*n*, 281, 283*n*, 868, 872*n*, 935*n*, 961*n*
 Nagorny–Karabakh situation, 470*n*
 occupied Arab territories, 65, 66, 67, 68, 758, 773, 774*n*, 778, 779*n*, 783, 788, 790*n*, 950*n*, 951*n*
 South Africa situation, 78, 337, 339*n*
 Yugoslavia (former) situation, 61, 76, 518, 519, 535, 535*n*, 536, 543, 544, 548*n*, 911, 940*n*, 941, 958*n*

Israel

See also Occupied Arab territories
 Camp David accords, 768
 General Assembly recommendations on Israeli nuclear armament, 184
 immigration issues, 779
 Lebanon conflict, 734
 letter dated 27 January 1992 from Israel , 753, 942*n*
 participation in the proceedings on
 Iraq–Kuwait situation, 624
 Middle East situation, 752, 753, 942
 occupied Arab territories, 65, 66, 67, 68, 758, 761, 765, 768, 771, 772, 774, 775, 777, 780, 783, 785, 787,
 789, 790, 794–795, 798, 802–803, 804, 805, 806, 809, 950, 974, 975
 recognition of right to exist, 763, 785
 self-defence claims of, 942
 United Nations Disengagement Observer Force and armistice line with Syria, 152

Italy

letter dated 30 October 1990 from Italy, 797
 participation in the proceedings on, 72
 Iraq–Kuwait situation, 71, 570*n*, 575*n*, 577, 579, 579*n*, 581, 581*n*, 592, 594, 689, 695*n*, 884*n*, 921*n*,
 957*n*, 958*n*, 968*n*
 Libyan Arab Jamahiriya situation, 76, 214*n*, 281, 283*n*, 868*n*, 962*n*
 occupied Arab territories, 794*n*, 797
 Somalia situation, 77, 314, 316, 993*n*
 South Africa situation, 78, 337, 339*n*
 Yugoslavia (former) situation, 76, 544, 548*n*, 907*n*, 916*n*

J

Japan (elected member of the Security Council during 1992)

participation/statements in the proceedings on
 Afghanistan situation, 69, 405, 408*n*, 857*n*, 947*n*, 972*n*
 Cambodia situation, 424*n*, 427*n*, 433, 433*n*

international peace and security, 818, 990n
Iraq–Kuwait situation, 570n, 575n, 624, 685, 703, 717n, 726, 922n
Liberia situation, 273n
Libyan Arab Jamahiriya situation, 868n, 870n, 873n
occupied Arab territories, 65, 66, 67, 758, 762, 765, 783, 792n, 950n, 951n
Somalia situation, 317n, 333, 335, 886n
South Africa situation, 339n
Yugoslavia (former) situation, 521, 548n, 972n

Jordan

Iraq–Kuwait situation causing economic problems in, 931
letter dated 24 January 1991 from Jordan, 592, 624
participation in the proceedings on
Iraq–Kuwait situation, 581n, 624, 630n, 930n
Libyan Arab Jamahiriya situation, 76, 214n, 287, 873n, 887n, 900, 933n
occupied Arab territories, 65, 66, 67, 68, 758, 760, 765, 766n, 777, 779, 783, 784, 788, 790n, 798n, 800n,
804, 809, 950n, 975n
Yugoslavia (former) situation, 76, 544, 548n, 549n, 958n

K

Kashmir. *See* India; Pakistan

Kazakhstan

admission to membership, 47, 230, 235
participation in the proceedings on
Nagorny–Karabakh situation, 472

Kenya

participation in the proceedings on
Namibia situation, 308
Somalia situation, 77, 314, 317n

Korea, Republic of

admission to membership, 46, 230, 231, 233, 243, 244
sanctions and, 912, 912n

Kuwait

assets frozen, 571
letter dated 2 August 1990 from Kuwait, 568, 838n, 842
letter dated 8 August 1990 from Kuwait, 575
letter dated 18 October 1990 from Kuwait, 602
letter dated 10 August 1992 from Kuwait, 40, 42, 518–526, 535–538, 838n, 849
participation in the proceedings on
Iraq–Kuwait situation, 6, 15, 16, 55, 71, 72, 568, 570, 570n, 575, 575n, 577, 580, 581, 581n, 587, 588,
592, 594, 595, 595n, 601, 602, 603, 605, 610, 610n, 611, 612n, 613, 623, 624, 625, 626, 631, 634,
635, 636, 637, 644, 645, 659, 659n, 660, 661, 667, 696, 708, 719, 732, 874, 882, 901n, 908, 910,
914n, 921n, 922n, 930n, 938, 957n, 958n, 998
occupied Arab territories, 65, 66, 67, 68, 758, 761n, 765, 766n, 773, 774, 778, 778n, 779n, 783, 786n,
788, 791, 792n, 794n, 856n, 950n, 951n
Yugoslavia (former) situation, 76, 518, 519, 535, 535n, 544, 548n, 549n, 940n, 963n

Kyrgyzstan

admission to membership, 47, 230, 236
letter dated 19 October 1992 from Kyrgyzstan, 435, 836n, 839n, 840n, 851

participation in the proceedings on
 Tajikistan situation, 435, 436, 837n
 United Nations Good Offices mission to, 436

L**Languages, 18****Lao People's Democratic Republic**

participation in the proceedings on
 Afghanistan situation, 69, 405, 408n, 947n, 972n
 Libyan Arab Jamahiriya situation, 63, 275, 277n, 935n
 occupied Arab territories, 65, 758–759, 761n, 950n

LAS. *See* League of Arab States (LAS)**Latin America.** *See* Central America; *specific countries***Latvia**

admission to membership, 46, 230, 234, 244

Law of the Sea, 385, 385n**League of Arab States (LAS), 767**

invitation to participate under Rule 39, 79, 80, 81
 Iraq–Kuwait situation, 572, 576, 587, 610, 631
 participation in the proceedings on
 Libyan Arab Jamahiriya situation, 276, 282, 854n, 868, 872n, 935, 935n, 961n
 occupied Arab territories, 765, 773, 775, 777, 781, 783, 786, 788, 951n
 Somalia situation, 314, 315, 993, 993n

Lebanon

humanitarian assistance to, 734
 letter dated 19 January 1989 from Lebanon, 735
 letter dated 13 July 1989 from Lebanon, 738
 letter dated 16 July 1990 from Lebanon, 744
 letter dated 25 July 1990 from Lebanon, 744
 letter dated 14 January 1991 from Lebanon, 747
 letter dated 15 July 1991 from Lebanon, 750
 letter dated 17 January 1992 from Lebanon, 752–753
 letter dated 17 February 1992 from Lebanon, 754, 838n, 879n
 letter dated 15 July 1992 from Lebanon, 756
 letter dated 18 December 1992 from Lebanon, 808, 838n
 participation in the proceedings on
 Middle East situation, 734, 737, 738, 739, 740, 742, 743, 744, 745, 747, 750, 752, 754, 756
 occupied Arab territories, 65, 67, 68, 758, 762, 772, 783, 786, 798, 804, 804n, 808, 808n, 975n
 regional organizations' role, 997

Lebanon situation

ceasefire, 859n, 861
 Secretary-General's role
 calling attention of Security Council to conflict, 219–220, 837
 diplomatic efforts, 218
 as threat to peace, 879, 880
 Tripartite Committee of Arab Heads of State, 739n
 United Nations Disengagement Observer Force (UNDOF), 152, 736, 737, 741, 743–744, 746, 748–749,
 751–752, 755, 757–758

United Nations Interim Force in Lebanon (UNIFIL), 152–153, 734–735, 737–738, 742, 744–745, 746–748, 750–751, 752–753, 756

United Nations Truce Supervision Organization (UNTSO), 152
violence in, 8

Lesotho

participation in the proceedings on
South Africa situation, 77, 337, 339*n*, 342

Liberia

participation in the proceedings on
Liberia situation, 73, 268–269, 270, 836, 886, 972, 993*n*

Liberia situation

aggravation of situation, provisional measures to prevent, 892
arms embargo, 896
domestic vs. international situation, 972–973
ECOWAS, 271, 853, 858*n*, 859*n*, 886, 992
ECOWAS Ceasefire Monitoring Group (ECOMOG), 269, 992
initial proceedings, 268–275
peace accords, implementation of, 954–955
Special Representative sent to, 853
as threat to peace, 879, 882, 885–886
Yamoussoukro IV Agreement, 271, 272, 861, 993

Libyan Arab Jamahiriya

calling for meeting to be held away from Headquarters, 4*n*
letter dated 4 January 1989 from Libyan Arab Jamahiriya, 30, 63, 79, 81, 88, 89, 275–280, 838*n*, 840, 865*n*
letter dated 15 August 1990 from Libyan Arab Jamahiriya, 4*n*, 839*n*, 938*n*
letter dated 24 November 1990 from Libyan Arab Jamahiriya, 839*n*
letter dated 23 January 1991 from Libyan Arab Jamahiriya, 5, 6, 7*n*, 60, 623
participation in the proceedings on
Afghanistan situation, 69, 405, 408*n*, 947*n*
Gulf region situation, 5–7, 7*n*
Iraq–Kuwait situation, 581*n*, 623, 630*n*, 635*n*
Libyan Arab Jamahiriya situation, 63, 76, 91, 213, 214–215, 275, 276–277, 277*n*, 280, 281–283, 287, 839*n*, 854, 866, 867–868, 869, 872, 887, 889*n*, 900, 935, 962*n*
Namibia situation, 64, 303
occupied Arab territories, 65, 66, 67, 758, 765, 777, 779*n*, 788, 798*n*, 835*n*, 951*n*
Panama situation, 70, 395, 399, 937, 937*n*, 960*n*

Libyan Arab Jamahiriya situation

abstention in voting on, 93
arms embargo, 896, 903–904
attacks on international flights (UTA flight 772 & Pan Am flight 103), judicial inquiries into, 211–215, 280–281, 867–871
reports pursuant to resolution 731 (1992), 213, 280–286
resolution 731 (1992), 283–286
resolution 748 (1992), 290–291, 293
downing of reconnaissance aircraft by United States, 275–280, 865, 961
as self-defence, 934–936
economic problems created for other States due to sanctions on, 932–933
initial proceedings, 275–294

insufficient action by State as threat to peace, 887–888
invitations under Rule 39 to participate in proceedings on, 79–80, 81
Secretary-General's "good offices" mission, 218, 864
Security Council Committee, 161
as threat to peace, 879, 882
 insufficient action by State as threat to peace, 887–888

Liechtenstein

admission to membership, 46, 230, 232, 244
participation in the proceedings on
 Iraq–Kuwait situation, 624

Lithuania

admission to membership, 46, 230, 235, 244
participation in the proceedings on
 Yugoslavia (former) situation, 76, 544, 548*n*, 940*n*, 941, 958*n*

Luxembourg

participation in the proceedings on
 Iraq–Kuwait situation, 592, 624, 689, 690*n*, 695*n*, 884*n*, 968*n*

M**Macedonia**

See also Yugoslavia (former) situation
admission to membership, 242, 243

Madagascar

participation in the proceedings on
 Afghanistan situation, 69, 408*n*, 947*n*
 Iraq–Kuwait situation, 570*n*
 Libyan Arab Jamahiriya situation, 63, 275, 935*n*, 961*n*
 occupied Arab territories, 787*n*
 South Africa situation, 337

Malaysia (elected member of the Security Council during 1989 and 1990)

letter dated 3 September 1964 from Malaysia, 50
letter dated 10 August 1992 from Malaysia, 39, 42, 518–526, 535–538, 838*n*, 848
participation/statements in the proceedings on
 Afghanistan situation, 408*n*, 857*n*, 947*n*, 972*n*
 Iraq–Kuwait situation, 569, 569*n*, 571, 577*n*, 584–585, 592*n*, 593, 593*n*, 600, 608, 619, 624, 629, 883*n*,
 897, 901*n*, 906*n*, 914*n*, 915*n*, 921*n*, 922*n*, 930*n*, 940, 940*n*, 957*n*, 958*n*
 Libyan Arab Jamahiriya situation, 276, 277*n*, 279, 962*n*
 Namibia situation, 306, 306*n*, 308, 949*n*
 occupied Arab territories, 4, 68, 762, 766*n*, 774*n*, 779, 786*n*, 790*n*, 792, 793, 796, 798*n*, 800, 802, 804,
 856*n*, 950*n*, 951*n*, 974*n*
 Panama situation, 398, 398*n*, 937*n*, 960*n*
 South Africa situation, 77, 337, 339*n*
 Yugoslavia (former) situation, 76, 518, 519, 535, 535*n*, 536*n*, 544, 548, 548*n*, 549*n*, 940*n*

Maldives

participation in the proceedings on
 Iraq–Kuwait situation, 575*n*

Mali

participation in the proceedings on

Libyan Arab Jamahiriya situation, 63, 275, 277n, 279, 962n
Namibia situation, 64, 71, 303, 306n, 949n

Malta

participation in the proceedings on
Libyan Arab Jamahiriya situation, 63, 275, 277n, 962n
Yugoslavia (former) situation, 76, 544, 548n

Marshall Islands

See also Pacific Islands, Trust Territory of
admission to membership, 46, 230, 233
trusteeship for, 209–211

Mauritania

letter dated 23 January 1991 from Mauritania, 5, 6, 7n, 60, 623
letter dated 15 February 1991 from Mauritania, 60
participation in the proceedings on
Gulf region situation, 5–7, 7n, 60
Iraq–Kuwait situation, 623, 630n
Liberia situation, 270
Libyan Arab Jamahiriya situation, 76, 213n, 214n, 281, 282, 287, 288, 868, 870n, 872n, 873n, 887n, 962n
Namibia situation, 64, 303, 306n
occupied Arab territories, 66, 68, 765, 788

Mauritius

participation in the proceedings on
Liberia situation, 73, 273n

Meetings. *See* Conduct of business

Note: A list of the formal meetings and their agendas for the period 1989-1992 starts on page xiv.

Membership in Security Council. *See* chart of members for the period 1989-1992 on pp. xii-xiii.

Membership in United Nations, 189, 190, 225–248, 530, 531

See also Provisional Rules of Procedure of the Security Council
admission of new members, 46–48, 108, 190, 191, 234–241, 243, 243n, 244, 244n
applications for admission, 230–244
procedures in consideration of, 244
Committee on the Admission of New Members, 108, 243–244
former states of USSR, 228
former states of Yugoslavia, 228

Mercenaries, 340–341, 346, 941

Mexico

Central American peace efforts supported by, 375, 377, 378
participation in the proceedings on
Iraq–Kuwait situation, 624, 630
Panama situation, 400n

Micronesia (Federated States of)

See also Pacific Islands, Trust Territory of
admission to membership, 46, 230, 233

Micronesia, trusteeship for, 209–211

See also Pacific Islands, Trust Territory of

Middle East

See also Lebanon; Occupied Arab territories; *specific countries*

- General Assembly recommendations on, 184
 regional organizations' role, 996–997
 Secretary-General's diplomatic efforts, 218
 summary statements issued on situation, 46
- Military observers.** *See specific observation group*
- Military Staff Committee, relations with,** 221–223
- MINURSO (United Nations Mission for the Referendum in Western Sahara).** *See* Western Sahara
- Moldova, Republic of**
 admission to membership, 47, 230, 238, 244
 fact-finding mission to, 853
- Mongolia**
 participation in the proceedings on
 Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*
 Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935*n*, 961*n*
- Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation,** 92, 213, 214, 215, 283
- Morocco (elected member of the Security Council during 1992)**
 Angola ad hoc Commission, participation in, 261
 letter dated 23 January 1991 from Morocco, 5, 6, 7*n*, 60, 623
 participation/statements in the proceedings on
 Gulf region situation, 5–7, 7*n*
 international peace and security, 814–815, 975*n*, 980*n*
 Iraq–Kuwait situation, 623, 630*n*, 686, 704*n*, 727
 Liberia situation, 273*n*, 886*n*
 Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 281, 283, 289, 869, 873*n*, 887*n*, 962*n*
 occupied Arab territories, 65, 67, 68, 759, 778, 779*n*, 783, 788, 790*n*, 794*n*, 950*n*, 951*n*
 Somalia situation, 317*n*, 333, 335, 886*n*, 974*n*
 South Africa situation, 339*n*
 Yugoslavia (former) situation, 499, 521, 538, 540, 549*n*, 940*n*, 958*n*, 972*n*
 Tripartite Committee of Arab Heads of State, 739*n*
 Western Sahara situation and, 350–351, 353, 356
- Mozambique**
 General Peace Agreement, 294–296, 861, 861*n*
 initial proceedings, 294–299
 participation in the proceedings on
 Mozambique situation, 78, 294, 295, 297
 Resistência Nacional Moçambicana (RENAMO), 126, 294, 297, 861
 resolution adopted, 43, 861
 Special Representative appointed for, 296
 United Nations Operation in (ONUMOZ), 127–128, 297–298
- Mutual assistance in carrying out measures decided upon by Security Council,** 927–928, 962–963
- Myanmar**
 participation in the proceedings on
 Iraq–Kuwait situation, 624
- N**
- Nagorny–Karabakh situation,** 469–472
 fact-finding mission to, 853, 853*n*

initial proceedings, 469–472
 negotiation to settle disputes, 858*n*
 regional organizations' role, 996

Namibia, 299–312

admission to membership, 46, 230, 232, 244, 245, 948–949
 invitations to participate in proceedings on, 79
 elections, 946, 948–949
 planning, 310–311
 results of, 311
 independence of, 311–312
 Koevoet activities in, 304, 305, 306
 military incursions from neighboring states into, 303–307
 participation in the proceedings on
 Iraq–Kuwait situation, 581*n*
 South Africa situation, 77, 337, 347
 settlement, 861, 948
 report on progress, 308–310
 South West Africa People's Organization (SWAPO). *See* Angola
 United Nations Council for Namibia, 194, 199
 United Nations responsibility over, 299–312
 United Nations Transition Assistance Group (UNTAG), 110–113, 171, 301–302, 305, 308
 Western Contact Group, 301

National Commission for the Consolidation of Peace (COPAZ). *See* Central America

National Union for the Total Independence of Angola (UNITA). *See* Angola

Naval blockade to trade with Iraq, 221–222

See also Embargo

Nepal (*elected member of the Security Council during 1989*)

participation/statements in the proceedings on
 Afghanistan situation, 408*n*, 947*n*, 972*n*
 Libyan Arab Jamahiriya situation, 277*n*, 279, 962*n*
 Namibia situation, 306, 306*n*, 308
 occupied Arab territories, 766*n*, 774*n*, 950*n*
 Panama situation, 398, 398*n*, 937*n*, 960*n*
 South Africa situation, 77, 337

Netherlands

letter dated 15 September 1990 from Netherlands, 592
 participation in the proceedings on
 Iraq–Kuwait situation, 581, 592, 624, 689, 695*n*
 South Africa situation, 77, 337, 339*n*
 Yugoslavia (former) situation, 473

New Zealand

participation in the proceedings on, 72
 Iraq–Kuwait situation, 624
 South Africa situation, 77, 337, 339*n*
 Trust Territory of the Pacific Islands situation, 952
 Yugoslavia (former) situation, 497

Nicaragua

Joint Declaration of the Central American Presidents, party to, 358

letter dated 27 November 1989 from Nicaragua, 31, 381–383, 840
 letter dated 28 November 1989 from Nicaragua, 840, 841
 letter dated 20 December 1989 from Nicaragua, 837, 841
 letter dated 23 December 1989 from Nicaragua, 838*n*, 839*n*
 letter dated 3 January 1990 from Nicaragua, 31, 50, 402–404, 838*n*, 839*n*, 842, 853*n*, 866, 873
 participation in the proceedings on
 Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*
 Central American peace efforts, 71, 362, 382, 383
 Central America situation, 959*n*
 Iraq–Kuwait situation, 575*n*
 Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935*n*, 961*n*
 Namibia situation, 64, 303, 306*n*
 occupied Arab territories, 65, 67, 758, 761*n*, 778, 950*n*
 Panama situation, 70, 394–395, 395, 402–403, 837, 837*n*, 853, 873, 936, 960*n*, 997–998
 peace efforts in, 364, 365–366, 367, 374
 Nicaraguan Opposition National Union, 362

Nigeria

participation in the proceedings on
 Liberia situation, 73, 269, 270, 272, 992, 993*n*
 Namibia situation, 64, 301, 303, 306*n*
 Somalia situation, 77, 314, 341, 993*n*
 South Africa situation, 77, 337

Non-Aligned Movement

Iraq–Kuwait situation, 572, 584, 603, 610, 614, 619, 629
 occupied Arab territories, 762, 775, 781, 791, 798

Non-member States

to act in manner to maintain peace, 912–913, 963–967

North Atlantic Treaty Organization (NATO), 580

Northern Ireland. *See* United Kingdom of Great Britain and Northern Ireland

Northern Mariana Islands, trusteeship for, 209–211

See also Pacific Islands, Trust Territory of

Norway

letter dated 15 September 1990 from Norway, 592
 participation in the proceedings on
 Iraq–Kuwait situation, 592, 624, 689, 695*n*
 South Africa situation, 77, 337, 339*n*, 345
 Yugoslavia (former) situation, 76, 544, 548*n*, 549*n*, 958*n*

Nuclear Non-Proliferation Treaty, 626, 656, 665

Nuclear weapons. *See* Weapons

O

OAS. *See* Organization of American States (OAS)

OAU. *See* Organization of African Unity (OAU)

Obligatory abstention, 91–92

Observers. *See specific observation group*

Occupied Arab territories, 9, 758–809

abstention in voting, 93
 commission proposed but not established, 172

- Committee established by resolution 446 (1979), 108
 - deportations from, 770, 772, 776, 805, 806, 808
 - elections in, 767
 - fact-finding mission to, 853, 855–857, 974–975
 - General Assembly recommendations on, 183, 184, 185, 188
 - International Peace Conference, 759, 761, 763, 803
 - invitations to participate in proceedings on, 79, 80
 - Israeli settlers in, 777–783
 - monitoring proposed but not established, 171–172, 975
 - Palestine Liberation Organization, 759, 768, 769, 772, 775, 784, 785, 789, 791, 808
 - peace initiative of 14 May 1989, 768
 - reparations for, 774
 - Secretary-General, functions entrusted to, 216
 - self-determination, 946, 950–951
 - United Nations Development Programme (UNDP) in, 763
 - United Nations Relief and Works Agency for Palestine Refugees (UNRWA) and, 769, 774, 776, 777
 - United Nations Truce Supervision Organization (UNTSO) and, 797, 798
- OIC.** *See* Organization of the Islamic Conference (OIC)
- Oil embargo.** *See* Embargo
- Oman**
- participation in the proceedings on
 - Iraq–Kuwait situation, 71, 570*n*, 575, 575*n*, 577, 581, 587, 957*n*, 958*n*, 998
 - occupied Arab territories, 778*n*
- ONUCA (United Nations Observer Group in Central America).** *See* Central America
- ONUSAL (United Nations Observer Mission in El Salvador).** *See* El Salvador
- ONUVEH (United Nations Observer Group for the Verification of the Elections in Haiti).** *See* Haiti
- Organization of African Unity (OAU)**
- cooperation with, General Assembly recommendations on, 180–181
 - invitation to participate under Rule 39, 81
 - Namibia situation and, 304
 - participation in the proceedings on
 - Somalia situation, 314, 315
 - South Africa situation, 337–338
 - Somalia situation and, 993
- Organization of American States (OAS)**
- Haiti and, 387–388, 388–389, 389–391
 - Panama situation and, 392–394, 394, 398–399, 399, 997
 - United Nations Observer Group in Central America (ONUCA) and, 359, 360
- Organization of Petroleum Exporting Countries (OPEC),** 668
- Organization of the Islamic Conference (OIC)**
- invitation to participate under Rule 39, 80–81
 - Iraq–Kuwait situation, 572, 587, 610, 619
 - participation in the proceedings on
 - Afghanistan situation, 405, 407, 857*n*, 947*n*, 972*n*
 - Bosnia and Herzegovina, 8
 - Iraq–Kuwait situation, 610, 612, 612*n*
 - Libyan Arab Jamahiriya situation, 276, 281, 283*n*, 288, 872*n*, 887*n*, 900
 - occupied Arab territories, 758, 762, 765, 767, 778–779, 783, 798*n*, 950*n*, 951*n*

Somalia situation, 314, 315, 993, 993*n*

P

Pacific Islands, Trust Territory of, 209–211, 946, 952

Pakistan

Afghanistan and, 405–406, 838–839, 840, 936. *See also* Afghanistan situation
 letter dated 7 April 1989 from Pakistan, 405, 839, 840*n*, 936*n*, 972*n*
 letter dated 11 August 1992 from Pakistan, 40, 42, 518–526, 535–538, 838*n*, 849
 letter dated 5 October 1992 from Pakistan, 43, 535–538, 850
 participation in the proceedings on
 Afghanistan situation, 69, 405–406, 406–407, 408, 411–412, 412, 413–414, 839, 857, 936, 947*n*, 972, 972*n*
 Cyprus situation, 947
 Iraq–Kuwait situation, 624, 630, 689, 691, 884*n*, 922*n*, 968*n*
 Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935*n*, 962*n*
 Namibia situation, 64, 303, 306*n*
 occupied Arab territories, 65, 66, 67, 68, 758, 761*n*, 765, 777, 783, 788, 790*n*, 794*n*, 856*n*, 950*n*, 951*n*
 Yugoslavia (former) situation, 61, 76, 518, 519, 535, 535*n*, 536, 543, 544, 548*n*, 549*n*, 907*n*, 911, 916*n*, 940*n*, 958*n*
 United Nations Military Observer Group in India and Pakistan (UNMOGIP), 136–137, 406, 407, 408, 409, 410, 411, 412

Palestine

See also occupied Arab territories
 Committee on the Exercise of the Inalienable Rights of the Palestinian People, 79, 194, 199–204, 760, 766, 775, 780, 788, 789, 803
 letter dated 9 February 1989 from Chairman, 199, 758, 836*n*
 General Assembly recommendations on, 183, 185, 186, 188
 invitation to participate in the proceedings, 58–59
 letter dated 31 December 1990 from Palestine, 202, 803
 participation in the proceedings on
 Libyan Arab Jamahiriya situation, 58, 276, 277*n*, 962*n*
 occupied Arab territories, 758, 760, 765, 769, 770*n*, 772, 773, 774, 777, 778, 782, 783, 783*n*, 784, 787, 787*n*, 788, 789, 790, 791, 795, 797, 799, 800*n*, 803, 804, 804*n*, 805, 806, 806*n*, 808, 856*n*, 950, 950*n*, 951*n*, 974*n*, 975*n*
 Yugoslavia (former) situation, 544, 548*n*, 549*n*, 958*n*
 recognition of, 759

Palestine Liberation Organization (PLO), 759, 768, 769, 773, 784, 789, 791

Panama

initial proceedings, 391–404
 letter dated 25 April 1989 from Panama, 30, 391–394, 838*n*, 839*n*, 841
 participation in the proceedings on
 Cuba, items relating to, 384
 Haiti, items relating to, 387
 occupied Arab territories, 65, 758, 761*n*, 950*n*, 951*n*
 Panama situation, 10, 54–55, 70, 391–392, 393, 394–395, 395, 395*n*, 399, 835*n*, 837
 regional organizations' role, 997–998
 resolution not adopted, 31
 self-defence as reason for incursion into, 936–937, 960–961

Paraguay

participation in the proceedings on
Iraq–Kuwait situation, 575*n*

Paris Conference on Cambodia, 415, 419, 423, 426–427, 863

Participation in the proceedings, 51–83

See also specific countries

basis on which invitations extended, 54–60

invitations extended under rule 37, 11, 15, 54–55, 63–78, 276, 454

invitations extended under rule 39, 55–58, 61, 79–83, 207, 208, 276, 281, 287, 315, 337, 405, 437, 440, 444, 449, 453, 454, 458, 544, 610, 624, 696, 713, 719–720, 759, 765, 773, 777, 783, 788, 847, 848

invitations not expressly extended under rule 37 or rule 39, 58–59, 544, 759, 765, 770, 772, 773, 777, 783, 788, 803, 804, 806, 807, 808

limitations on, 61–62

procedures relating to, 60–83

requests for invitations denied or not acted upon, 59–60

stage at which those invited to participate are heard, 60–62

Peacekeeping operations, 109–156, 812–813, 917–919

See also specific countries

Africa, 109–128

Americas, 128–136

Asia, 136–143

commitment of Members to cooperate with, 983

Europe, 143–152

initial proceedings, 812–813

Middle East, 152–156

recommendations of General Assembly on

comprehensive review of, 181

protection of peacekeeping personnel, 181

Secretary-General's role, 219

Peacemaking, defined, 833*n***Peru**

participation in the proceedings on

Iraq–Kuwait situation, 624

Panama situation, 70, 395, 399, 400*n*, 937*n*, 961*n*

South Africa situation, 77, 337

Philippines

participation in the proceedings on

Iraq–Kuwait situation, 624

South Africa situation, 77, 337, 339*n*

PLO. *See* Palestine Liberation Organization (PLO)

Poland

participation in the proceedings on

Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*

Iraq–Kuwait situation, 624

Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 962*n*

Yugoslavia (former) situation, 480*n*

Portugal

election observers in Angola, 258

participation in the proceedings on
 Angola situation, 73, 254, 262–263
 Iraq–Kuwait situation, 592, 624, 689, 695*n*
 South Africa situation, 77, 337, 339*n*

Preliminary question voting, 90

Presidency, 11–14

See also Conduct of business
 rotation of, 11–12
 statements of president. *See* International peace and security; *specific situations*
 vacation of seat due to conflict of interest, 15–16

Prisoners of war

See also Geneva Conventions
 Iran–Iraq situation, 559, 560, 561, 563, 565
 Iraq–Kuwait situation, 626, 631, 632, 633, 636, 639, 708, 732, 922
 Western Sahara, 114, 351

Private meetings, 18–21, 19*n*

Provisional Rules of Procedure of the Security Council

Meetings, 4–9

Rule 1, 4
 Rule 2, 4, 566, 615*n*, 619*n*
 Rule 3, 4–8, 293, 845
 Rule 4, 8–9
 Rule 5, 9

Agenda

Rule 6, 26, 26*n*, 839*n*
 Rule 7, 15, 26–27, 610
 Rule 8, 26
 Rule 9, 17, 27–28
 Rule 10, 28–29
 Rule 11, 29, 189, 189*n*
 Rule 12, 26

Representation and Credentials, 10–11

Rule 15, 10–11, 837*n*

Presidency, 11–14

Rule 18, 11
 Rule 19, 12, 15
 Rule 20, 12, 15, 16–17, 384

Secretariat, 14

Conduct of Business, 14–18

Rule 27, 15–16, 625
 Rule 28, 156, 157, 162, 172, 291, 320, 483, 574, 628
 Rule 30, 14–15, 16
 Rule 32, 588, 588*n*
 Rule 33, 15, 17–18
 Rule 36, 15, 18, 637
 Rule 37, 54–55, 55*n*, 58–60, 61, 63–78, 454, 544, 759, 765, 770, 772, 773, 777, 783, 788, 803, 804, 806, 807, 808
 Rule 38, 60, 62

Rule 39, 54, 55–60, 61, 79–83, 191*n*, 207, 208, 276, 287, 315, 337, 405, 437, 440, 442, 444, 449, 453, 454, 458, 544, 610, 624, 696, 713, 719, 720, 759, 765, 770, 772, 773, 777, 783, 788, 804, 806, 807, 808, 847, 848

Languages, 18

Publicity of Meetings, Records, 18–21

Rule 48, 18–20, 189, 623

Rule 49, 18–19, 20–21, 637

Rule 51, 19, 21, 60, 623

Rule 55, 189, 637

Admission of New Members

Rule 59, 108, 243, 243*n*

Rule 60, 190, 234–241, 244, 244*n*

Rule 60(3), 191

Relations with Other UN Organs

Rule 61, 211

Publicity of meetings, 18–21

Q

Qatar

letter dated 29 August 1989 from Qatar, 772

letter dated 13 August 1992 from Qatar, 40, 43, 518–526, 535–538, 838*n*, 850

participation in the proceedings on

Iraq–Kuwait situation, 71, 570*n*, 575, 581, 610, 612, 612*n*, 624, 625, 921*n*

occupied Arab territories, 65, 66, 67, 68, 758, 765, 772, 777, 779*n*, 783, 788, 790*n*, 792*n*, 951*n*

Yugoslavia (former) situation, 76, 518, 519, 535, 535*n*, 544, 548*n*, 940*n*, 941, 958*n*

R

Records, 18–19, 21

Referral of disputes and situation to Security Council, 835–851

communications, 839–840

nature of matters referred, 837–869

referrals by Secretary-General, 837

referrals by states, 836–836

Refugees

See also United Nations High Commissioner for Refugees

Iraq–Kuwait situation, 689–695, 717, 931

Liberia situation, 273

Namibia situation, 302

occupied Arab territories, 763

Yugoslavia situation, 56, 544, 546–547

Regional arrangements, 990–999

use of force by regional organizations, 999

Reparations

Iraq–Kuwait situation, 161, 169–170, 602, 605, 607, 609, 645, 648, 654, 655, 658, 659, 661, 665, 668, 669, 686, 700, 702, 709, 710, 711, 725, 727, 732, 871, 894, 909, 932, 998

Libyan Arab Jamahiriya situation, 213, 280–281, 286, 287, 293

occupied Arab territories, 774, 782, 789

Reports of Security Council to General Assembly, 190–191

consideration of draft report, 49

Representation and credentials. *See* Membership in United Nations

Republic of. *See name of specific republic*

Resolutions of the Security Council

See also specific situations

abstentions, 91–93

adoption or resolutions and decisions without vote, 94–104

Romania (elected member of the Security Council during 1990 and 1991)

participation/statements in the proceedings on

Haiti, items relating to, 388*n*, 390

Iraq–Kuwait situation, 569, 569*n*, 573, 573*n*, 577*n*, 579*n*, 586*n*, 587*n*, 592*n*, 593*n*, 601*n*, 609, 609*n*, 610, 621, 627, 634, 643, 657, 666*n*, 691, 871*n*, 883*n*, 884*n*, 908, 930*n*, 932*n*, 957*n*, 958*n*, 967*n*, 968*n*, 969*n*

Libyan Arab Jamahiriya situation, 63, 275, 277*n*

Namibia situation, 949*n*

occupied Arab territories, 791

Yugoslavia (former) situation, 76, 476, 480*n*, 544, 933*n*

Russian Federation (permanent member of the Security Council)

See also Union of Soviet Socialist Republics

Angola

ad hoc Commission, participation in, 261

election observers in, 258

continuing membership of Union of Soviet Socialist Republics, 10, 12, 228

statements in the proceedings on

Angola situation, 264, 967*n*

Cambodia situation, 424, 427, 433, 433*n*

Georgia situation, 467

international peace and security, 815, 975, 975*n*, 980*n*

Iraq–Kuwait situation, 686, 716, 726, 871*n*, 978*n*, 979

Liberia situation, 273*n*, 886*n*, 973*n*

Libyan Arab Jamahiriya situation, 214*n*, 215*n*, 285, 292, 867*n*, 868*n*, 869, 870*n*, 872*n*, 873*n*, 887*n*, 888*n*

Mozambique situation, 298

Nagorny–Karabakh situation, 472

occupied Arab territories, 807

Somalia situation, 316–317, 329, 331, 886*n*, 973*n*, 993*n*

South Africa situation, 339*n*

Tajikistan situation, 435

Yugoslavia (former) situation, 502–503, 523, 530, 538, 548*n*, 885*n*, 906*n*, 916*n*, 958*n*, 972*n*

S

Sanctions, 893–913

See also Embargo

commitment of Members to honor, 962–963, 981–982

constitutional discussion relating to Article 41, 896–912

duration of, 907–911

humanitarian impact of, 901–904

against Iraq, 156–159, 221–222, 571, 572, 573, 579, 584, 598–599, 624, 893–895, 897, 904, 905–906, 912, 915, 922–923, 925–927, 963, 964, 984–989

against Liberia, 896, 912
against Libyan Arab Jamahiriya, 161, 896, 900–901, 903–904, 910–911, 912, 925, 926, 964
non-member States' obligations to apply, 912–913, 963–967
other measures to maintain or restore peace, 913–919
against Serbia and Montenegro, 503
against Somalia, 896, 912, 916
against South Africa, 893*n*
special economic problems caused by implementing, 929–933
use of force to implement, 904–907
against Yugoslavia, 551–552, 895–896, 898–900, 904, 911, 915–916, 925, 926, 964

San Marino

admission to membership, 47, 230, 239, 244

Saudi Arabia

letter dated 11 August 1992 from Saudi Arabia, 39, 42, 518–526, 535–538, 849
letter dated 5 October 1992 from Saudi Arabia, 43, 535–538, 850
participation in the proceedings on
 Afghanistan situation, 69, 405, 408*n*, 411, 857*n*, 947*n*, 972*n*
 Iraq–Kuwait situation, 15, 16, 71, 72, 575, 581, 581*n*, 610, 611, 624, 625, 626, 631, 637, 644, 922*n*, 938
 occupied Arab territories, 65, 66, 67, 68, 765, 773, 774*n*, 777, 778*n*, 779*n*, 783, 783*n*, 787*n*, 788
 Yugoslavia (former) situation, 518, 519, 535, 535*n*, 536, 543
Tripartite Committee of Arab Heads of State, 739*n*
United States armed forces deployed in, 576

Secretary-General

appointment of, 49, 190
functions entrusted to, as to situations in
 Iraq–Kuwait, 216
 occupied Arab territories, 216
 Yugoslavia, 216–217
"good offices" function, 217–218, 609, 786, 861–864, 864*n*
 Afghanistan situation, 109*n*, 137, 171, 405, 408–409, 413, 857
 Angola situation, 121
 Cambodia situation, 138, 417
 Central America situation, 129, 359, 360, 375, 862
 Cyprus situation, 144, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 450, 452–466, 860, 862, 947*n*
 El Salvador situation, 377, 379, 383
 Georgia situation, 468
 Iraq–Kuwait situation, 578, 586, 589, 596, 604, 608, 609–610, 616, 620, 622, 628, 630, 632, 864, 864*n*
 Libyan Arab Jamahiriya situation, 277–278, 282–283, 283–284
 occupied Arab territories, 786, 791
 Panama situation, 393
 Somalia situation, 322
 South Africa situation, 340, 347–348
 Tajikistan situation, 436
 Western Sahara situation, 994
 Yugoslavia (former) situation, 148, 217–218, 478, 504
letters to President of Security Council
 2 October 1992, 949*n*

- 4 July 1991, 672
 6 February 1993, 256*n*
 6 November 1992, 543
 8 August 1990, 912*n*
 9 January 1990, 413
 12 August 1992, 164*n*
 15 August 1989, 8, 220, 739, 837, 841, 880*n*
 15 July 1992, 687
 18 December 1992, 45, 267–268
 19 October 1992, 378
 20 March 1991, 894*n*
 21 May 1993, 164*n*
 23 June 1992, 123, 323
 23 October 1992, 296
 24 August 1992, 41, 717
 24 November 1991, 33, 74, 479–481, 843
 24 November 1992, 329, 332
 26 February 1991, 567*n*
 26 June 1991, 666, 672
 27 October 1992, 43, 120, 261–262, 851
 28 August 1992, 40, 526, 996
 28 June 1991, 666, 672
 28 October 1992, 378
 29 April 1992, 148*n*
 29 July 1992, 390
 29 November 1992, 329, 332
 29 October 1992, 43, 262–264, 851
 matters brought to Security Council's attention by, 219–220
 peacekeeping and implementation of peace agreements, 219
 promotion of political settlements by, 218–219, 861–864
 provisional rules on, 14
 referrals by, 837
 relations with Security Council, 216–220
 reports of, 33–34
 on Afghanistan–Pakistan, 137, 405
 "An Agenda for Peace," 9, 37, 191, 193, 194, 206, 206*n*, 220, 223, 334, 336, 822–828, 833, 833*n*, 852, 852*n*, 867*n*, 913*n*, 920, 929, 991
 on Angola, 32, 35, 43, 73, 109, 116–122, 254, 255–256, 258–261, 265–267, 954*n*
 annual, 833*n*, 835*n*
 on Armenia, 470, 471
 on Azerbaijan, 470, 471
 on Bosnia and Herzegovina, 38, 41, 147–151, 513–515, 516–517, 527–528, 538–540
 on Cambodia, 137–138, 139–143, 417, 420, 421, 423–424, 425, 426, 428, 430, 950*n*
 on Central America, 129–132, 162, 358, 358*n*, 361–362, 365–366, 367, 370, 373–374, 376, 862
 on Commission of Experts, 108, 217
 on Croatia, 146–147, 533–534
 on Cyprus, 143–144, 437, 439–440, 443, 444, 446, 447, 448–449, 451, 453–454, 456, 456*n*, 457, 459, 460, 461, 463, 464, 466, 860, 862, 947

- on El Salvador, 133–136, 370–371, 375, 377, 379
- on Former Yugoslav Republic of Macedonia, 44, 151–152, 555–557
- on Georgia, 468
- on India–Pakistan, 136
- on Iran–Iraq, 153, 558, 561, 562, 563, 564, 566, 567, 582
- on Iraq–Kuwait, 153–156, 163–170, 169*n*, 659, 659*n*, 660, 661, 662–663, 674, 676, 677, 678, 686, 711, 918*n*, 963
- on Lebanon, 152–153, 734, 737–738, 742–743, 750, 752, 756
- on Liberia, 273
- on Libyan Arab Jamahiriya, 218*n*, 286–293, 854*n*, 866, 867, 873, 911, 911*n*
- on Middle East, 8*n*, 108*n*, 152, 736–737
- on Mozambique, 127–128, 294–295, 296–299
- on Nagorny–Karabakh, 470, 471
- on Namibia, 299–311, 948*n*
- on occupied Arab territories, 676, 760, 761, 765–766, 766, 779, 793, 795, 796, 797, 798, 855*n*, 856, 856*n*, 975
- on representative credentials, 10–11, 55, 399, 837
- on Somalia, 122–125, 312, 314, 317–318, 319, 324, 325, 863, 993
- on South Africa, 125–126, 349
- on UNDOF, 736, 737, 743–744, 746, 749, 755, 757–758
- on UNTAG, 110, 111, 112–113
- on Western Sahara, 113–116, 351, 352, 353–354, 355–356, 356–357, 861, 863, 949, 949*n*
- on Yugoslavia, 144–151, 160*n*, 479, 480*n*, 481–483, 485–491, 493–511, 854, 895*n*, 898*n*, 907*n*, 940, 995

Security Council committees, 156–161

- Iraq–Kuwait situation, 156–159
- Libyan Arab Jamahiriya, 161
- Somalia, 161
- South Africa, 156
- Yugoslavia, 159–161

Security Council members. *See chart of members for the period 1989–1992 on p. xii–xiii.*

Security Council's responsibilities and discharge thereof, 977–982

Self-defence, 934–942

- Bosnia and Herzegovina's claims of, 544, 963
- in Iran–Iraq situation, 942
- Israel's claims of, 942
- Kuwait's claims of, 937–940
- Palestinian claims of, 760, 799
- Saudi Arabia's claims of, 631, 938
- United States' claims of, 276–277, 278–279, 580, 604, 934–937
 - in Libyan situation, 275–280, 865, 934–936
 - in Panama, 936–937, 960–961

Self-determination, 946–952

See also elections in specific countries

- Afghanistan, 407, 409, 411, 947
- Cambodia, 946, 949–950
- Cyprus, 446, 455, 947, 947*n*
- Haiti, 390
- Kuwait, 615

- Namibia, 304, 946, 948–949
 occupied Arab territories, 946, 950–951
 Palestine, 201, 760, 763, 767, 778, 785, 795, 797
 Panama, 393, 398, 399, 401
 South Africa, 340, 947–948
 Tanzania, 342
 Trust Territory of the Pacific Islands, 209, 210–211, 946, 952
 Western Sahara, 351, 863, 946, 949, 994
 Yugoslavia, 475, 478, 498, 524, 946
- Senegal (*elected member of the Security Council during 1989*)**
 letter dated 11 August 1992 from Senegal, 39, 42, 518–526, 535–538, 848
 letter dated 5 October 1992 from Senegal, 43, 535–538, 850
 participation/statements in the proceedings on
 Iraq–Kuwait situation, 624
 Liberia situation, 73, 270, 272, 973*n*, 993, 993*n*
 Libyan Arab Jamahiriya situation, 277*n*, 279, 962*n*
 Namibia situation, 306, 306*n*, 308
 occupied Arab territories, 66, 760, 766, 775, 777, 780, 786, 950*n*
 Panama situation, 937*n*
 South Africa situation, 77, 337, 349
 Yugoslavia (former) situation, 76, 494, 518, 519, 535, 535*n*, 536, 543, 544, 548*n*, 940*n*, 958*n*
- Settlement of disputes, Security Council decisions concerning, 857–864**
See also Articles of the United Nations Charter
 assertions that international peace and security not endangered, 866–867
 constitutional discussion on interpretation or application of Charter Chapter VI provisions, 865–874
 legal nature of disputes under Charter Article 36 (3), 867–871
 procedures already adopted by parties to disputes, 871–874
 questions regarding existence of dispute, 865–866
 recommendations relating to terms, methods or procedures, 859–861
 Secretary-General's involvement in settlement efforts, 861–864
- Seychelles**
 Committee established by resolution 507 (1982), 108
- Sierra Leone**
 participation in the proceedings on
 Liberia situation, 73, 270, 272–273, 886, 993*n*
- Singapore**
 participation in the proceedings on
 Iraq–Kuwait situation, 624
 Yugoslavia (former) situation, 536*n*
- Slovak Republic, 228–229**
- Slovenia**
 admission to membership, 47, 231, 240
 letter dated 13 July 1992 from Slovenia, 37, 512–513, 838*n*, 846
 participation in the proceedings on
 Yugoslavia (former) situation, 76, 494, 497, 512, 544, 548*n*, 933*n*, 958*n*
- Somalia**
See also Somalia situation
 letter dated 20 January 1992 from Somalia, 34, 312–313, 844

participation in the proceedings on
Afghanistan situation, 69, 405, 408*n*, 857*n*, 947*n*, 972*n*
Somalia situation, 77, 312, 313, 314, 319

Somalia situation, 312–336

ad hoc commission, 170–171, 334
aggravation of situation, provisional measures to prevent, 891–892
arms embargo, 161, 896, 999
ceasefire and peace settlement efforts, 313–318, 319, 859*n*, 864
ceasefire monitoring, 321, 324
domestic vs. international situation, 973–974
humanitarian assistance to, 318–319, 321–322, 324, 327–336, 917, 924–925
initial proceedings, 312–336
invitations under Rule 39 to participate in proceedings on, 81
national reconciliation process, 322
ongoing hostilities in, 318
operational zones created, 322
outbreak of hostilities, 312
regional organizations' role, 993
report on hostilities, 313–314
Secretary-General's diplomatic efforts, 219
Security Council Committee, 161
Special Representative appointed for, 311, 319
technical team visit to, 318–319
 report, 324–326
as threat to peace, 881, 886–887
United Nations Operation in (UNOSOM), 122–125, 319, 325, 326, 327–328

South Africa

participation in the proceedings on
Angola situation, 73, 262, 263
 invitations under Rule 39, 56
Iraq–Kuwait situation, 570*n*, 624
Namibia situation, 64, 71, 299, 301, 302, 303, 304–305, 308, 949*n*
South Africa situation, 77, 337, 343
self-determination, 947–948

South Africa situation, 336–350

African National Congress of South Africa (ANC), 81, 337, 338, 344, 350
apartheid, 182–183, 184–186, 194, 337–338, 342, 345
arms embargo, 156
Convention for a Democratic South Africa (CODESA), 337, 338, 344, 346, 348
Democratic Party of South Africa, 345
Inkatha Freedom Party (IFP), 343
Intando Yesizwe Party, 346
Intergovernmental Group to Monitor the Supply and Shipping of Oil and Petroleum Products to South Africa, 194, 205
invitations under Rule 39 to participate in proceedings on, 79, 81, 82
Namibia, military activities in. *See* Namibia
National Peace Accord, 343, 348, 350
National People's Party of South Africa, 344

negotiation of differences urged, 858*n*
oil embargo, 194, 205
Pan Africanist Congress of Azania (PAC), 81, 337, 340
regional organizations' role, 994
Security Council Committee activities, 156
Solidarity Party of South Africa, 344
South Africa Communist Party, 346, 350
Special Committee against Apartheid, 79, 194, 197–198, 343
Special Representative mission, report on, 348–350, 863
summary statements issued on situation, 46
Tripartite Agreement, signing of, 299, 305, 861
United Nations Observer Mission in South Africa (UNOMSA), 125–126
violence and political situation in, 194, 336–348, 350

South West Africa People's Organization (SWAPO). *See* Angola

Sovereignty

Afghanistan, 405, 409, 410, 412
Armenia, 942
Azerbaijan, 469, 942
Bosnia and Herzegovina, 187, 512, 846
Cambodia, 415, 419, 431, 950
Cyprus, 442, 450, 456, 458, 459, 947*n*
Georgia, 467
Iraq, 167, 646, 669, 670, 674, 686, 691, 705, 706, 729, 730, 903, 903*n*, 969
Israel, 777, 786, 856, 975
Kuwait, 566, 568, 571, 572, 573, 575, 576, 608, 617, 642, 654, 709, 725, 727, 817, 922, 938, 957
Lebanon, 735, 736, 737, 750–751, 753, 754, 795, 805, 808, 810, 861, 953
Liberia, 271–272
Libyan Arab Jamahiriya, 285–286, 286
Namibia, 113, 311, 946
occupied Arab territories, 789, 797, 802, 808
Panama, 391, 393, 395, 397, 398, 399, 400, 401, 937, 960
recognized, 952–962, 975–976
Somalia, 316
South Africa, 340
Syrian Arab Republic, 781
Yugoslavia, 499, 958, 971*n*

Spain

Central American peace efforts supported by, 375, 377, 378
participation in the proceedings on
 Central American peace efforts, 367
 Iraq–Kuwait situation, 581, 592, 624, 689, 695*n*
 South Africa situation, 77, 337, 339*n*

Special Commission for the elimination of weapons of mass destruction, 654, 660, 662, 665, 666, 669, 674, 678, 689, 696, 700, 702, 706, 707, 708, 709, 711, 720, 724–725, 726, 728, 729, 731

Special Committee on the Situation with regard to the Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples, 194, 195–196

Special Representative of the Secretary-General

Cyprus, 443–444, 448

Liberia situation, 853
Mozambique, 296
Somalia situation, 311, 319
South Africa situation, 348–350, 863
Western Sahara, 355, 949

Sri Lanka

participation in the proceedings on
occupied Arab territories, 67, 783

Subsidiary organs of General Assembly, 194–205

See also specific names

Subsidiary organs of Security Council, 105–173

See also specific names

ad hoc commissions/coordinator for return of property, 161–171
committees, 156–161
investigative bodies, 108–109
mandate terminated or completed during 1989-1992 period, 171
peacekeeping missions. *See* Peacekeeping operations
proposed but not established, 171–173
standing committees/ad hoc committees, 108

Sudan

letter dated 23 January 1991 from Sudan, 5, 592, 624
participation in the proceedings on
Gulf region situation, 5
Iraq–Kuwait situation, 581*n*, 624, 630, 630*n*, 921*n*, 922*n*
Libyan Arab Jamahiriya situation, 63, 76, 213*n*, 275, 277*n*, 281, 283*n*, 868, 872*n*, 935*n*, 961*n*
occupied Arab territories, 5, 65, 68, 758, 761*n*, 764, 794, 795, 856*n*, 950*n*, 951*n*, 974*n*

Suriname

participation in the proceedings on
South Africa situation, 77, 337, 342

Suspension

considered in case of participation of Federal Republic of Yugoslavia, 59*n*, 190, 245–248, 530–533

SWAPO (South West Africa People's Organization). *See* Angola

Sweden

participation in the proceedings on
Cyprus situation, 437, 449, 451
Iraq–Kuwait situation, 592, 624, 630, 689, 695*n*, 921*n*, 922*n*
South Africa situation, 77, 337, 339*n*

Switzerland

sanctions and, 912–913, 912*n*

Syrian Arab Republic

participation in the proceedings on
Afghanistan situation, 69, 405, 408*n*, 947*n*
Iraq–Kuwait situation, 624
Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 935, 935*n*, 961*n*
occupied Arab territories, 65, 66, 67, 68, 69, 758, 761, 765, 768, 770, 777, 781, 783, 786*n*, 788, 790*n*,
795, 806, 856*n*, 950*n*
United Nations Disengagement Observer Force and armistice line with Israel, 152, 741

T**Tajikistan**, 435–436

- admission to membership, 47, 231, 237, 244
- fact-finding mission to, 853, 853*n*
- letter dated 21 October 1992 from Tajikistan, 435, 436, 837, 838*n*, 851
- negotiation of differences urged, 858*n*
- participation in the proceedings on
 - Tajikistan situation, 435, 436, 837
- regional organizations' role, 994

Tanzania. *See* United Republic of Tanzania**Terrorism**

- See also* Hostage-taking and abduction
- Central America, 959
- Cuba, 385, 386, 387
- Iraq, 602, 643, 648, 649, 655, 659, 712, 733
- Iraq–Kuwait situation, 955
- Israel, 765
- Lebanon, 753
- Libyan Arab Jamahiriya situation, 92, 213–214, 280–281, 283, 284–285, 285–286, 286–287, 289, 291, 292, 868–869, 870, 872, 882, 887–888, 900, 903, 910, 955, 962
- marking of explosives for detection, 810
- South Africa, 337–338

Thailand

- participation in the proceedings on
 - Iraq–Kuwait situation, 624

Threat to peace, 879, 883–884

- insufficient action by State as, 887–888

Togo

- participation in the proceedings on
 - Liberia situation, 73, 270, 273, 993*n*

Tripartite Committee of Arab Heads of State, 739–740**Trusteeship Council**

- letter dated 7 December 1990 from President of, 32, 50
- relations with, 209–211

Trust Territory. *See* Pacific Islands, Trust Territory of**Tunisia**

- letter dated 23 January 1991 from Tunisia, 5, 6, 7*n*, 60, 623
- participation in the proceedings on
 - Gulf region situation, 5–7, 7*n*
 - Iraq–Kuwait situation, 623, 628, 630*n*
 - Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 962*n*
 - occupied Arab territories, 65, 66, 67, 68, 758, 760, 765, 766*n*, 777, 778*n*, 779*n*, 783, 786*n*, 788, 790*n*, 792*n*, 798*n*
 - Yugoslavia (former) situation, 76, 544, 940*n*

Turkey

- letter dated 2 April 1991 from Turkey, 32, 34, 44, 689, 695, 719, 838*n*, 842, 853*n*, 967*n*
- letter dated 10 August 1992 from Turkey, 39, 41, 518–526, 535–538, 838*n*, 848
- letter dated 5 October 1992 from Turkey, 43, 535–538, 850

- participation in the proceedings on, 72
 - Afghanistan situation, 69, 405, 408*n*, 947*n*
 - Cyprus situation, 61, 70, 71, 437, 437*n*, 439, 440, 442, 444, 446, 449, 450, 451, 453, 453*n*, 454, 458, 458*n*, 459, 462*n*, 466*n*, 947
 - Iraq–Kuwait situation, 624, 631, 689, 690, 695, 717, 719, 883, 967, 968*n*
 - occupied Arab territories, 65, 67, 68, 758, 761*n*, 778, 783, 786*n*, 788, 950*n*, 951*n*
 - Yugoslavia (former) situation, 76, 494, 518, 519, 535, 535*n*, 536, 543, 544, 545*n*, 548*n*, 549*n*, 898, 911, 940*n*, 941

Turkmenistan

- admission to membership, 47, 231, 238, 244

U**Uganda**

- participation in the proceedings on
 - Libyan Arab Jamahiriya situation, 63, 76, 275, 277*n*, 287, 887*n*, 933*n*, 935*n*, 961*n*
 - Namibia situation, 64, 303, 306*n*
 - South Africa situation, 78, 337, 339*n*

Ukraine

- participation in the proceedings on
 - Nagorny–Karabakh situation, 470*n*
 - occupied Arab territories, 761*n*, 766*n*
 - South Africa situation, 78, 337, 346–347
 - Yugoslavia (former) situation, 76, 519, 544, 548*n*, 907*n*, 916*n*, 958*n*

Ukrainian Soviet Socialist Republic

See also Ukraine

- participation in the proceedings on
 - Afghanistan situation, 69, 405, 408*n*, 857*n*, 947*n*, 972*n*
 - Iraq–Kuwait situation, 575*n*, 624
 - occupied Arab territories, 65, 66, 67, 758, 765, 777, 781, 950*n*, 951*n*

UNAMIC (United Nations Advance Mission in Cambodia). *See* Cambodia situation

UNAVEM (United Nations Angola Verification Mission). *See* Angola

UNDOF (United Nations Disengagement Observer Force). *See* Lebanon situation

UNDP (United Nations Development Programme), 763

UNFICYP (United Nations Peacekeeping Force in Cyprus). *See* Cyprus situation

UNGOMAP (United Nations Good Offices Mission in Afghanistan). *See* Afghanistan situation

UNIFIL (United Nations Force in Lebanon). *See* Lebanon situation

UNIIMOG (United Nations Iran–Iraq Military Observer Group). *See* Iran–Iraq situation

UNIKOM (United Nations Iraq–Kuwait Observation Mission). *See* Iraq–Kuwait situation

Union of Soviet Socialist Republics (*permanent member of the Security Council*)

See also Russian Federation

- Iraq–Kuwait situation, 614
- letter dated 12 February 1990 from Union of Soviet Socialist Republics, 777
- membership continued by Russian Federation, 10, 12, 228
- statements in the proceedings on
 - Afghanistan situation, 410, 412–413, 857, 857*n*, 947*n*, 972*n*
 - Central American peace efforts, 364–365
 - Cyprus situation, 445, 452, 947
 - Haiti, items relating to, 388*n*, 389

Iraq–Kuwait situation, 20, 569, 569*n*, 572, 575*n*, 576, 579, 585, 591, 593, 593*n*, 601, 603, 621, 627, 633, 634, 635, 635*n*, 636, 642, 656, 674, 675, 694, 702, 883*n*, 884*n*, 901*n*, 902*n*, 903*n*, 906, 907, 910*n*, 914*n*, 915*n*, 921*n*, 923*n*, 930*n*, 938, 939, 957*n*, 958*n*, 968*n*, 969*n*, 978

Libyan Arab Jamahiriya situation, 278, 935, 935*n*

Namibia situation, 306*n*, 949*n*

occupied Arab territories, 17, 763, 769, 776, 778, 778*n*, 785, 787, 787*n*, 790, 792*n*, 793, 800, 950*n*, 951*n*

Panama situation, 395–396, 400*n*, 401–402, 936, 960*n*

Yugoslavia (former) situation, 477, 480*n*, 885*n*, 898, 970*n*, 971*n*

UNITA (National Union for the Total Independence of Angola). *See* Angola

United Arab Emirates

Iraq–Kuwait situation, armed forces deployed to Saudi Arabia, 576

letter dated 13 August 1992 from United Arab Emirates, 40, 42, 518–526, 535–538, 838*n*, 849

participation in the proceedings on

Iraq–Kuwait situation, 71, 575, 581, 610, 612, 612*n*, 624

Libyan Arab Jamahiriya situation, 63, 275, 277*n*, 961*n*

occupied Arab territories, 65, 67, 68, 758, 783, 788, 790*n*, 804, 951*n*

Yugoslavia (former) situation, 76, 518, 519, 535, 535*n*, 544, 548*n*, 549*n*, 940*n*, 958*n*, 963*n*

United Kingdom of Great Britain and Northern Ireland (*permanent member of the Security Council*)

heads of state or government convened to consider international peace and security on 31 January 1992, 8–9

Iraq–Kuwait situation, 16, 17, 576

letters dated 20 and 23 December 1991 from United Kingdom, 839*n*, 840*n*, 844, 854*n*, 864*n*, 866, 867

letter dated 17 July 1992 from United Kingdom, 38, 512–513, 846

letter dated 7 August 1992 from United Kingdom, 38, 56–57, 713, 838*n*, 847

statements in the proceedings on

Afghanistan situation, 408*n*, 409, 947*n*, 972*n*

Angola situation, 262, 264

Cambodia situation, 423, 427, 433, 433*n*

Cyprus situation, 437, 440*n*, 444*n*, 448*n*, 452, 453*n*, 457*n*, 462*n*, 466*n*

Haiti, items relating to, 388*n*

international peace and security, 820, 975*n*, 981*n*, 991*n*

Iraq–Kuwait situation, 16, 19, 21, 569, 569*n*, 572, 576, 579, 581, 586, 591, 593, 593*n*, 599, 609, 610, 612, 619, 623, 626, 630, 630*n*, 631, 632, 634, 636, 643, 657, 666*n*, 674, 675, 678, 694, 700, 709, 712, 713, 716, 723, 871*n*, 882, 884*n*, 889*n*, 897, 901*n*, 903*n*, 905, 908, 908*n*, 909, 910*n*, 914*n*, 915*n*, 921*n*, 922*n*, 930*n*, 938, 938*n*, 939, 939*n*, 958*n*, 968, 970, 970*n*, 978, 978*n*

Liberia situation, 273*n*, 993*n*

Libyan Arab Jamahiriya situation, 92, 213–214, 214–215, 279, 280–281, 281, 284, 286, 291, 867*n*, 868, 868*n*, 870, 870*n*, 872, 872*n*, 873*n*, 887*n*, 903*n*, 904*n*, 910, 933*n*, 935, 962*n*

Namibia situation, 306–307, 306*n*, 309, 949*n*

occupied Arab territories, 5, 17, 27, 763, 765, 770, 776, 781, 784–785, 792, 794, 799, 800, 802, 805–806, 810, 950*n*, 951*n*

Panama situation, 55, 396, 401, 404, 873, 937, 937*n*, 961*n*, 997

Somalia situation, 317, 333, 334, 886*n*, 917*n*, 973*n*

South Africa situation, 339, 339*n*

Yugoslavia (former) situation, 474, 477, 480*n*, 492, 495, 503, 506, 512, 513*n*, 514, 524, 538, 548*n*, 555, 885*n*, 898, 899, 899*n*, 906, 911*n*, 916–917*n*, 924*n*, 941, 958*n*, 970*n*, 971*n*, 972*n*

United Nations Advance Mission in Cambodia (UNAMIC). *See* Cambodia situation

United Nations Angola Verification Mission (UNAVEM). *See* Angola

United Nations Boundary Demarcation Commission, 669, 685–686, 725, 732

- United Nations Charter.** *See* Charter of the United Nations
- United Nations Development Programme (UNDP),** 763
- United Nations Disengagement Observer Force (UNDOF).** *See* Lebanon
- United Nations Force in Lebanon (UNIFIL).** *See* Lebanon situation
- United Nations Good Offices Mission in Afghanistan (UNGOMAP).** *See* Afghanistan situation
- United Nations High Commissioner for Refugees**
invitation to participate under Rule 39, 79
on Iraq–Kuwait situation, 673
on Yugoslavia situation, 56, 544, 546–547, 904*n*
- United Nations Iran–Iraq Military Observer Group (UNIIMOG).** *See* Iran–Iraq situation
- United Nations Iraq–Kuwait Observation Mission (UNIKOM).** *See* Iraq–Kuwait situation
- United Nations Military Observer Group in India and Pakistan (UNMOGIP).** *See* India
- United Nations Mission for the Referendum in Western Sahara (MINURSO).** *See* Western Sahara
- United Nations Observer Group for the Verification of the Elections in Haiti (ONUVEH).** *See* Haiti
- United Nations Observer Group in Central America (ONUCA).** *See* Central America
- United Nations Observer Mission in El Salvador (ONUSAL).** *See* El Salvador
- United Nations Observer Mission in South Africa (UNOMSA).** *See* South Africa
- United Nations Peacekeeping Force in Cyprus (UNFICYP).** *See* Cyprus situation
- United Nations Protection Force (UNPROFOR).** *See* Yugoslavia (former) situation
- United Nations Relief and Works Agency for Palestine Refugees (UNRWA).** *See* Occupied Arab territories
- United Nations Special Commission,** 56, 79
- United Nations Transitional Authority in Cambodia (UNTAC).** *See* Cambodia situation
- United Nations Transition Assistance Group (UNTAG).** *See* Namibia
- United Nations Truce Supervision Organization (UNTSO).** *See* Lebanon situation; Occupied Arab territories
- United Republic of Tanzania**
participation in the proceedings on
Afghanistan situation, 69, 405, 408*n*, 947*n*
Namibia situation, 64, 303, 306*n*
occupied Arab territories, 67, 778
Panama situation, 400*n*
South Africa situation, 78, 337, 342
- United States of America (permanent member of the Security Council)**
Angola ad hoc Commission, participation in, 261
election observers in Angola, 258
letter dated 2 August 1990 from United States, 568, 842
letters dated 20 and 23 December 1991 from United States, 839*n*, 840*n*, 844, 854*n*, 864*n*, 866, 867
letter dated 4 August 1992 from United States, 38, 515–516, 847
letter dated 7 August 1992 from United States, 39, 56–57, 713, 838*n*, 847
objection to invitation to Permanent Observer of Palestine, 58
self-defence claimed by, 276–277, 278–279, 580, 604, 934–937
statements in the proceedings on
Afghanistan situation, 407–708, 411, 857*n*, 947*n*, 972*n*
Angola situation, 264
Cambodia situation, 424, 427, 433, 433*n*
Central American peace efforts, 365, 383
Central America situation, 959*n*
Cuba, items relating to, 384, 385, 387, 839*n*

- Cyprus situation, 452
 Gulf region situation, 7
 Haiti, items relating to, 387, 388, 388*n*, 389
 international peace and security, 815, 975, 980*n*
 Iran–Iraq situation, 16
 Iraq–Kuwait situation, 16, 20, 21, 568, 569, 571, 575, 575*n*, 578, 580, 580*n*, 583, 590, 593, 593*n*, 598, 609, 612, 622, 625, 629, 630, 630*n*, 631, 632, 633, 635, 637, 639, 654, 657, 665, 673, 676, 678, 686, 688, 694, 701, 709, 710, 712, 713, 715, 724, 871*n*, 873–874, 882, 884*n*, 889*n*, 901*n*, 903*n*, 905, 907–908, 910*n*, 915*n*, 921*n*, 922*n*, 923*n*, 938, 938*n*, 939, 939*n*, 957*n*, 958*n*, 967*n*, 968, 968*n*, 969*n*, 970, 970*n*, 978, 978*n*, 984, 985
 Liberia situation, 273, 993*n*
 Libyan Arab Jamahiriya situation, 92, 213–214, 276–277, 279, 280–281, 281, 284–285, 286–287, 291–292, 867*n*, 868, 868*n*, 870*n*, 872, 872*n*, 873*n*, 887*n*, 900, 903*n*, 934, 935, 961*n*
 Mozambique situation, 298
 Namibia situation, 306*n*, 307, 309–310, 949*n*
 occupied Arab territories, 5, 759, 759*n*, 764, 769–770, 770*n*, 771, 772, 772*n*, 773*n*, 777, 778*n*, 783*n*, 787, 793, 800, 802, 804*n*, 805, 806*n*, 807, 808*n*, 810, 951*n*
 Panama situation, 55, 392, 393–394, 394–395, 395–396, 397–398, 399, 400–401, 403–404, 403*n*, 839*n*, 866, 936, 937, 937*n*, 960*n*, 961*n*, 997
 Somalia situation, 316, 333, 334, 340, 886*n*, 887*n*, 917*n*, 974*n*
 Yugoslavia (former) situation, 478, 480*n*, 502, 515, 524, 530*n*, 532, 536*n*, 537, 540, 548*n*, 885*n*, 904*n*, 917*n*, 924*n*, 958*n*, 970*n*, 972*n*

Universal Declaration of Human Rights, 202, 545, 626, 700, 820

UNMOGIP (United Nations Military Observer Group in India and Pakistan). *See* India; Pakistan

UNOMSA (United Nations Observer Mission in South Africa). *See* South Africa

UNPROFOR (United Nations Protection Force). *See* Yugoslavia (former) situation

UNRWA (United Nations Relief and Works Agency for Palestine Refugees). *See* Occupied Arab territories

UNTAG (United Nations Transition Assistance Group). *See* Namibia

UNTSO (United Nations Truce Supervision Organization). *See* Occupied Arab territories

Uruguay

- participation in the proceedings on
 Iraq–Kuwait situation, 570*n*, 575*n*, 624

Use of force

- to ensure humanitarian assistance
 Somalia, 927*n*
 Yugoslavia (former) situation, 503, 520, 521, 524–526, 917, 924
 to implement sanctions, 904–907
 Iraq–Kuwait situation, 905–906
 Yugoslavia (former) situation, 906–907
 to maintain or restore peace, 913, 914
 by regional organizations, authorization of Security Council, 999

Uzbekistan

- admission to membership, 47, 231, 237
 fact-finding mission to, 853

V

Venezuela (elected member of the Security Council during 1992)

- Central American peace efforts supported by, 375, 377

letter dated 2 April 1992 from Venezuela, 35, 838*n*, 844
letter dated 4 August 1992 from Venezuela, 38, 515–516, 847
participation/statements in the proceedings on
 Cambodia situation, 424*n*, 427*n*
 Central American peace efforts, 378, 379–380
 international peace and security, 815–816, 975*n*, 976, 980*n*, 991*n*
 Iraq–Kuwait situation, 624, 684, 704*n*, 717*n*, 727*n*, 728*n*, 874, 979
 Liberia situation, 273*n*, 886*n*
 Libyan Arab Jamahiriya situation, 214*n*, 215, 285–286, 287, 292, 293, 294, 867*n*, 869, 870–871, 872*n*,
 873*n*, 888*n*, 962*n*
 Somalia situation, 317, 333, 335, 886*n*
 South Africa situation, 339*n*
 Yugoslavia (former) situation, 61, 499, 515, 525, 532, 536, 542, 548*n*, 549, 885*n*, 958*n*, 971*n*, 972*n*

Vienna Conventions on diplomatic and consular relations

 Iraq–Kuwait situation, 592, 605

Viet Nam

 participation in the proceedings on
 Afghanistan situation, 69, 405, 408*n*, 947*n*, 972*n*

Voluntary abstention, 92**Voting, 85–104**

 abstention, 91–93
 adoption or resolutions and decisions without vote, 94–104
 non-procedural character of the matter indicated, 89–90
 preliminary question voting, 90
 procedural character of the matter indicated, 88–89

W**Weapons**

See also Special Commission for the elimination of weapons of mass destruction

 biological, 620, 621, 655, 703

 chemical, 620, 621, 631, 655, 703

 establishment of system to regulate armaments, 989–990

 of mass destruction

 arms control and, 815, 816, 818, 989

 Iraq and, 165, 167, 620, 622, 627, 631, 643, 647, 648, 654, 656, 658, 659, 660, 665, 668, 674, 678, 700,
 701, 707, 708, 709, 710, 712, 723, 724, 726, 728–730, 732, 789, 814, 880, 909, 910

 nuclear. *See also* Nuclear Non-Proliferation Treaty

 Iraq, 626, 631, 656, 662, 663, 665, 673, 678, 679, 703, 706, 707, 729, 955

 Israel, 184

 Russian Federation, 814, 815

 South Africa, 183

 United States of America, 814, 815

Western Sahara, 350–357

 ceasefire confirmation, 353, 355

 elections, 946, 949

 issues impeding settlement, 356

 Frente Polisario, 350, 353

 regional organizations' role, 994

repatriation programme, 352
 Secretary-General's diplomatic efforts, 218, 863
 settlement plan, 949
 report on implementation of, 354–355
 settlement proposals, 350–353, 858*n*, 861
 Special Representative in, 356, 949
 summary statements issued on situation, 45
 Technical Commission plan, 351
 tribal chiefs' meeting, 357
 United Nations Mission for the Referendum in (MINURSO), 113–116, 351, 352–353, 355–356
World Health Organization, 662

Y

Yemen (*elected member of the Security Council during 1990 and 1991*)

formation of Republic of Yemen, 27*n*, 227
 letter dated 26 September 1990 from Yemen, 788, 794
 letter dated 24 January 1991 from Yemen, 5, 6, 7*n*, 623
 letter dated 22 May 1991 from Yemen, 804
 participation/statements in the proceedings on
 Gulf region situation, 5–6, 7
 Haiti, items relating to, 388*n*, 389
 Iran–Iraq situation, 17, 565
 Iraq–Kuwait situation, 16, 19–20, 21, 569, 573, 578, 581, 583, 588–589, 596, 607, 615, 623, 630, 630*n*,
 633, 634, 634*n*, 635, 638, 639, 647, 664, 669, 675, 692, 871*n*, 873*n*, 883*n*, 902*n*, 903*n*, 906, 909,
 909*n*, 910, 914*n*, 915*n*, 921*n*, 922*n*, 923*n*, 930*n*, 939, 957*n*, 968, 977, 977*n*
 Libyan Arab Jamahiriya situation, 63, 76, 213*n*, 275, 277*n*, 281, 283*n*, 935*n*, 961*n*
 Middle East situation, 15
 occupied Arab territories, 4, 65, 66, 67, 758, 765, 767, 777, 788, 789, 792, 794, 795, 799, 800, 802, 804,
 856*n*, 951*n*, 974*n*, 975*n*
 Yugoslavia (former) situation, 475, 885*n*, 971*n*

Yugoslavia (*elected member of the Security Council during 1989*)

letter dated 24 September 1991 from Yugoslavia, 33, 473–478, 836*n*, 843, 884*n*
 membership status of Federal Republic of Yugoslavia, 59*n*, 190, 228, 243, 245–248, 530–533
 participation/statements in the proceedings on
 Afghanistan situation, 408*n*, 857*n*, 947*n*, 972*n*
 Iraq–Kuwait situation, 581*n*, 624, 629
 Libyan Arab Jamahiriya situation, 277*n*, 279
 Namibia situation, 306, 306*n*, 308
 occupied Arab territories, 67, 68, 761*n*, 766*n*, 774*n*, 775, 777, 778*n*, 781, 783, 788, 791, 792*n*, 798, 950*n*,
 951*n*
 Panama situation, 398, 937*n*, 960*n*, 961*n*
 Yugoslavia (former) situation, 61, 74, 75, 473, 474, 480, 482, 485, 487, 488, 490, 493*n*, 497, 504, 510*n*,
 513*n*, 545*n*, 884, 904*n*, 958*n*, 959*n*, 970

Yugoslavia (former) situation, 473–557

abstention in voting on situation, 93
 aggravation of situation, provisional measures to prevent, 890–891
 arms embargo on, 159–161, 485–490, 545, 548, 551, 893*n*, 895, 898–899, 911, 963, 970, 999
 border control, 151, 524

- civilians in camps, prisons, and detention centres, 515–516, 519–520, 524, 525, 528, 555
commencement of hostilities, 473–478
Commission of Experts established to examine international humanitarian law violations, 108–109, 188, 206, 208, 209, 217, 537–538, 547, 550, 852–853, 854–855, 891*n*
discussion not to encroach on competence of General Assembly, 191
economic problems created for other States due to sanctions on, 933
ethnic cleansing, 109, 209, 519, 520, 523, 524, 533, 536, 537, 538, 543, 546, 547, 548, 549, 550, 551, 554, 954, 956
European Community Conference on Yugoslavia, 218, 474–475, 477, 479, 482, 484, 486, 488, 491, 497, 498, 506, 514, 525, 545, 548, 858*n*, 860, 890, 891, 899, 904*n*, 911, 941, 994
Geneva Agreement (1991), compliance with, 479–480, 481
Geneva Agreement (1992), 860
humanitarian assistance, 150, 496–504, 507, 510, 520, 523–525, 527, 543–554, 904, 916–917, 924, 971, 999
human rights issues, 546–547
initial proceedings, 473–557
international law violations and war crimes, 536–538, 544, 549, 550, 891, 956
invitations to participate in the proceedings on, 57–58, 59, 79, 83
"Krin authorities" refusal to cooperate, 533
London Agreement, compliance with, 149, 513–514, 515
London Conference, 526–527, 531, 532, 538, 540, 543, 550, 860
negotiation of peace process, 858*n*, 890–891
"no-fly zone," 150–151, 538–542, 996
observers, stationing in, 541–542, 548
oil embargo on, 545, 546
peace and cessation of hostilities, 860, 956
peacekeeping operation in (UNPROFOR), 144, 480, 483–485, 488, 490–491, 493–496, 503, 505–507, 508–510, 514, 516–517, 520–521, 525, 527–530, 533, 541, 545, 550, 554, 556, 890, 918–919, 918*n*, 995, 996, 999
Personal Envoy missions to, 218, 479–480, 481–483, 485, 491
"pink zones" and Croatian authority, 508, 516, 533–534
Protected Areas, 482
regional organizations' role, 994–996
Sarajevo Accord (1992), 484
Sarajevo airport, 148–149, 494, 496–497, 503, 504, 505–507, 510
Secretary-General's role
 diplomatic efforts, 218, 863
 functions entrusted to, 216–217
Security Council Committee activities, 159–161
self-determination, 946, 946*n*
Special Rapporteur on human rights, 191, 207–209
spread of hostilities into Bosnia and Herzegovina, 147–151, 217, 512–515, 519–520, 524, 527–530, 536–555
 aggravation of situation, provisional measures to prevent, 890–891
 border changes not to be recognized, 954
 invitations under Rule 39 to participate in proceedings on, 79, 83
 peace negotiations on, 860, 956
 regional organizations' role, 994–996, 999
 self-defence claims, 544, 963

as threat to peace, 881, 885, 971
 spread of hostilities into Croatia, 146–147, 512–513, 516–517
 regional organizations' role, 996
 spread of hostilities into Macedonia, 151–152, 555–557
 regional organizations' role, 996
 as threat to peace, 879, 880–881, 884–885
 trade embargo, 893*n*, 895–896, 915–916, 923–924, 999
 UN observers sent to, 492
 use of force to ensure humanitarian assistance, 503, 520, 521, 524–526, 917
 use of force to implement sanctions, 906–907

Z**Zaire (elected member of the Security Council during 1991 and 1992)**

participation/statements in the proceedings on
 Gulf region situation, 6
 Haiti, items relating to, 388*n*
 Iraq–Kuwait situation, 16, 17, 573, 573*n*, 585, 592*n*, 593*n*, 601*n*, 609, 609*n*, 610, 616, 634, 634*n*, 643, 648, 692, 871*n*, 884*n*, 901*n*, 915*n*, 957*n*, 967*n*, 969*n*, 977*n*
 Namibia situation, 949*n*
 occupied Arab territories, 790*n*, 792, 793, 796, 801, 804, 856*n*, 951*n*, 974*n*, 977*n*
 South Africa situation, 78, 337, 339*n*
 Yugoslavia (former) situation, 478*n*, 885*n*

Zambia

participation in the proceedings on
 Namibia situation, 64, 303, 306*n*
 South Africa situation, 78, 337, 339*n*
 South West Africa People's Organization (SWAPO). *See* Angola

Zimbabwe (elected member of the Security Council during 1991 and 1992)

participation/statements in the proceedings on
 Angola situation, 264
 Cambodia situation, 424*n*
 Haiti, items relating to, 388*n*
 humanitarian assistance and economic sanctions, 901*n*
 international peace and security, 819–820, 929*n*, 975*n*, 976, 980*n*, 981*n*, 990*n*
 Iraq–Kuwait situation, 57, 192*n*, 630, 639, 648, 674, 692, 704*n*, 713, 720, 725, 883, 897*n*, 902*n*, 968, 969*n*, 970
 Liberia situation, 273, 273*n*, 886*n*, 973*n*
 Libyan Arab Jamahiriya situation, 63, 214–215, 214*n*, 275, 277*n*, 283, 289, 869*n*, 870, 873*n*, 887*n*, 900, 904*n*, 935*n*, 961*n*
 Middle East situation, 15
 Mozambique situation, 297
 Namibia situation, 64, 303, 305–306
 occupied Arab territories, 17, 65, 66, 758, 762, 765, 804, 950*n*, 951*n*
 Somalia situation, 316, 329–330, 340, 887*n*, 925*n*
 South Africa situation, 347
 Yugoslavia (former) situation, 57, 61, 475, 498, 520, 528, 544, 548*n*, 549, 551, 885*n*, 899, 904*n*, 919*n*, 924*n*, 958*n*, 959*n*, 967*n*, 971, 971*n*, 972*n*