
Chapter VI

Relations with other United Nations organs

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Introductory note

Chapter VI, as in previous volumes, deals with the relations of the Security Council with the other principal organs of the United Nations: the General Assembly (part I); the Economic and Social Council (part II); the International Court of Justice (part IV); and the Secretariat (part V). During the period under review, no material relating to the Trusteeship Council (part III) or Military Staff Committee (part VI) required treatment.

Part I Relations with the General Assembly

Note

Part I concerns various aspects of the relationship between the Security Council and the General Assembly.

Section A deals with the election by the General Assembly of non-permanent members of the Council. Section B considers the practice of the General Assembly 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 them. Section D considers those instances in which a decision by the Council must be taken prior to that of the General Assembly, for example, the admission, suspension or expulsion of members, the appointment of the Secretary-General, and the election of the judges of the International Tribunals for the former Yugoslavia and Rwanda, respectively. Section E describes the annual and special reports submitted by the Council to the General Assembly. Section F concerns relations between the Security Council and certain subsidiary organs established by the General Assembly which have reported to or otherwise played a part in the work of the Council. Lastly, section G deals with communications from subsidiary organs established by the General Assembly.

A. Election by the General Assembly of non-permanent members of the Security Council

Article 23

- 1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics,¹ the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.*
- 2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A*

¹ 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.

retiring member shall not be eligible for immediate re-election.

3. *Each member of the Security Council shall have one representative.*

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 of the Security Council to replace those members whose terms of office were to expire on 31 December of the respective year. In each instance, the General Assembly elected the five non-permanent members in the course of one plenary meeting. A table of the 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>
51/305	33rd 14 October 1996	Costa Rica Japan Kenya Portugal Sweden
52/305	30th 14 October 1997	Bahrain Brazil Gabon Gambia Slovenia
53/306	33rd 8 October 1998	Argentina Canada Malaysia Namibia Netherlands
54/306	34th 14 October 1999	Bangladesh Jamaica Mali Tunisia Ukraine

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 review, 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 these 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 recommendation-making powers of the General Assembly under Articles 10 and 11 (1) of the Charter, respectively. A table of those recommendations is set out in section 1 below.

In other instances, the General Assembly did not make recommendations to the Security Council with regard to specific questions relating to the maintenance of international peace and security, nor request action from the Council with regard to such questions, in accordance with Article 11 (2) of the Charter.

The General Assembly did not draw the attention of the Security Council to any situations under Article 11 (3).

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>
51/193 17 December 1996	Report of the Security Council	Encourages the Security Council, in the submission of its reports to the General Assembly, to provide in a timely manner a substantive, analytical and material account of its work. Encourages the Security Council to provide special reports in accordance with Articles 15 and 24 of the Charter. Invites the Security Council, through an appropriate procedure or mechanism, to update the General Assembly on a regular basis on the steps it has taken or is contemplating with respect to improving its reporting to the Assembly.
51/208 17 December 1996	Implementation of the provisions of the Charter of the United Nations related to the assistance to third States affected by the application of sanctions	Renews its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States that are or may be confronted with special economic problems arising from the carrying out of preventative or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance.
52/162 15 December 1997		
53/107 8 December 1998		

<i>General Assembly resolution</i>	<i>Title of agenda item</i>	<i>Recommendation</i>
51/55 10 December 1996	The maintenance of international security — prevention of the violent disintegration of States	Calls upon all States, the relevant international organizations and competent organs of the United Nations to continue to undertake measures in accordance with the Charter of the United Nations as appropriate to help prevent the violent disintegration of States.
53/71 4 December 1998	The maintenance of international security — prevention of the violent disintegration of States	Calls upon all States, the relevant international organizations and competent organs of the United Nations to continue to take measures in accordance with the Charter of the United Nations, as appropriate, to eliminate threats to international peace and security and to help prevent conflicts which can lead to the violent disintegration of States.
51/151 13 December 1996	Cooperation between the United Nations and the Organization of African Unity	Calls upon the United Nations organs, in particular the Security Council and the Economic and Social Council, to continue to involve the Organization of African Unity closely in all their activities concerning Africa.
52/20 24 November 1997		
53/91 7 December 1998		

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.*

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,

nor 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). The General Assembly did, however, adopt a resolution at its tenth emergency special session under the agenda item “Illegal Israeli actions in occupied East Jerusalem and the rest of the Occupied Palestinian Territory”, which followed the earlier rejection by the Security Council of two draft resolutions on a parallel agenda item. Thus, in effect, the Security Council and the General Assembly considered and would have made decisions on the same agenda item (case 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 were being dealt with by the Security Council and of matters with which the

Council had ceased to deal.² The notifications were 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.³ The items in the notifications were the same as those in the summary statements for the relevant period, apart from those items not considered to be related to the maintenance of international peace and security.

The matters being dealt with by the Security Council were divided in the notifications into 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 at a formal meeting since the last notification. As a matter of practice, when the Council subsequently ceased to deal with a matter listed in a notification, the Secretary-General so informed the General Assembly through the circulation of an addendum to the relevant notification. However, no such addendum was issued during the period under review.

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.

Case 1

By a note dated 22 April 1997 the Secretary-General transmitted a letter dated 31 March 1997 from the Permanent Representative of Qatar addressed to the Secretary-General,⁴ in which the representative, of Qatar, on behalf of the League of Arab States (LAS), requested that an emergency special session of the

General Assembly be convened pursuant to resolution 377 A (V), entitled "Uniting for peace",⁵ to consider the situation resulting from "illegal Israeli actions in the Occupied Palestinian Territory, including Jerusalem". The request emanated from "the failure of the Security Council to exercise its role in maintaining international peace and security owing to the use of the veto by a permanent member of the Council on two successive occasions in less than two weeks".⁶ During the first plenary meeting of the emergency special session of the Assembly, a few speakers reaffirmed the explanation given in the letter of the representative of Qatar as to the necessity of meeting within the framework of the resolution on uniting for peace, singling out the repeated use of the veto by a permanent member for particular criticism.⁷ At the end of the session, the General Assembly adopted resolution ES-10/2, which reflected some of the elements contained in the drafts not adopted by the Council.

D. Practice 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 admission, suspension, or expulsion of members (Articles 4, 5 and 6), the appointment of the Secretary-General (Article 97), and the conditions under which a State that is not a United Nations member may become

² See the following notes by the Secretary-General, entitled "Notification by the Secretary-General under Article 12, paragraph 2, of the Charter of the United Nations": A/51/521, A/52/392 and Corr.1, A/53/357 and A/54/354.

³ 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".

⁴ A/ES-10/1.

⁵ Under resolution 377 A (V), on uniting for peace, adopted by the General Assembly in 1950, an emergency special session shall be convened within 24 hours at the request of the Security Council or a majority of the members of the United Nations. In recent practice, requests have tended to originate from, and be supported by, regional blocs.

⁶ At the 3747th meeting, on 7 March 1997, draft resolution S/1997/199 was not adopted; at the 3756th meeting, on 21 March 1997, draft resolution S/1997/241 was not adopted.

⁷ A/ES-10/PV.1, pp. 3-6 (Permanent Observer of Palestine); pp. 6-8 (Qatar); and pp. 13-14 (Indonesia).

a party to the Statute of the International Court of Justice (Article 93 (2)).⁸ In addition, the Statutes of the Tribunals⁹ established for Rwanda and the former Yugoslavia provide for the Security Council to submit a list of candidates to the General Assembly, from which the Assembly would elect the judges of the Tribunals (Article 12 of the Statute of the International Tribunal for the former Yugoslavia; Article 13 of the Statute of the International Tribunal for Rwanda).

This section considers briefly the Council's practice during the period under review in relation to the admission of members, the appointment of the Secretary-General, and the election of the judges of the International Tribunal for the former Yugoslavia and of the International Tribunal for Rwanda. No question arose concerning the conditions of accession to the Statute of the International Court of Justice.

1. Membership in the United Nations

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 recommendations concerning each application for membership together with a record of its discussions of the application.

⁸ The Statute of the International Court of Justice provides for the Security Council to make recommendations to the General Assembly regarding the conditions under which a State that is a party to the Statute but 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).

⁹ The official titles of the two Tribunals are as follows: (1) International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994; and (2) International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991.

During the period under review, the Council recommended the admission of three States to membership in the United Nations.¹⁰ It made no 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.

2. Appointment of the Secretary-General

Article 97

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

Rule 48

... Any recommendation to the General Assembly regarding the appointment of the Secretary-General shall be discussed and decided at a private meeting.

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 were held in private, and the Council voted by secret ballot. A communiqué circulated at the end of each meeting, in accordance with rule 55, indicated the stage reached in the consideration of the recommendation. During the period under review, the Council considered and unanimously adopted one recommendation of this nature (case 2).

Case 2

At its 3714th meeting, held in private on 19 November 1996, the Security Council considered the question of the recommendation regarding the appointment of the Secretary-General of the United Nations. The draft resolution recommended to the General Assembly that Mr. Boutros Boutros-Ghali be

¹⁰ Republic of Kiribati (A/54/1 and resolution 1248 (1999) of 25 June 1999); Republic of Nauru (A/54/2 and resolution 1249 (1999) of 25 June 1999); and Kingdom of Tonga (A/54/3 and resolution 1253 (1999) of 28 July 1999). See chapter VII.

appointed Secretary-General of the United Nations for a second term of office from 1 January 1997 to 31 December 2001.¹¹

Following a vote by secret ballot, the Council did not adopt the draft resolution, which received 14 votes in favour, one vote against and no abstentions. Since the negative vote was cast by a permanent member, the draft resolution was not adopted.

At its 3725th meeting, held in private on 13 December 1996, 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 1090 (1996) recommending to the General Assembly that Mr. Kofi Annan be appointed Secretary-General of the United Nations for a term of office from 1 January 1997 to 31 December 2001. By a letter dated 13 December 1996,¹² the President of the Council transmitted the recommendation to the President of the General Assembly. Acting in accordance with this recommendation, the General Assembly formally appointed Mr. Annan as Secretary-General of the United Nations on 16 December 1996.¹³

3. Election of the judges of the International Tribunal for the former Yugoslavia and of the International Tribunal for Rwanda

Note

The procedure for the election of judges of the two Tribunals is set out in Articles 13 (2), (3) and (4) of the Statute of the International Tribunal for the former Yugoslavia and Articles 12 (2), (3), (4) and (5) of the Statute of the International Tribunal for Rwanda.¹⁴

In each case, in accordance with the Statute, the Secretary-General forwarded to the President of the

Security Council the nominations received. The Security Council then convened a meeting, in accordance with the understanding reached in its prior consultations, and adopted a resolution establishing the list of candidates for judges. Subsequently, the President of the Security Council formally transmitted, via letter, the text of the resolution to the President of the General Assembly. The Assembly then proceeded to elect the judges from the list contained in that resolution.

Case 3

At its 3763rd meeting, on 8 April 1997, the Security Council adopted resolution 1104 (1997) whereby, in accordance with Article 13 (2) (c) of the Statute of the International Tribunal for the former Yugoslavia, it established a list of 19 candidates from which the General Assembly could elect the 11 judges of the Tribunal. By a letter of the same date,¹⁵ the President of the Security Council transmitted to the President of the General Assembly the text of resolution 1104 (1997). During the fifty-first session, at the 98th plenary meeting on 20 May 1997, in accordance with Article 13 (2) (d) of the Statute, the General Assembly elected 11 judges for the Tribunal, that is, those candidates who received the absolute majority of the votes of States Members of the United Nations and of the non-member States maintaining permanent missions at United Nations Headquarters. In accordance with Article 13 (4) of the Statute, the judges were elected for a term of four years, beginning on 17 November 1997.

Case 4

At its 3934th meeting, on 30 September 1998, the Security Council adopted resolution 1200 (1998) whereby, in accordance with Article 12 (3) (c) of the Statute of the International Tribunal for Rwanda, it established a list of 18 candidates from which the General Assembly could elect the six judges of the Tribunal. In accordance with Article 12 (2) of the Statute, the members of the Appeals Chamber of the International Tribunal for the former Yugoslavia would also serve as members of the Appeals Chamber of the International Tribunal for Rwanda. By a letter of the same date,¹⁶ the President of the Security Council

¹¹ S/1996/952.

¹² A/51/732.

¹³ A/51/L.66.

¹⁴ For the text of the Statute of the International Tribunal for the former Yugoslavia, see S/25704, annex, which was adopted in Council resolution 827 (1993) of 25 May 1993. For the text of the Statute of the International Tribunal for Rwanda, see Council resolution 955 (1994) of 8 November 1994, annex.

¹⁵ A/51/867.

¹⁶ A/53/442.

transmitted to the President of the General Assembly the text of resolution 1200 (1998) with the nominations. During the fifty-third session, at the 52nd plenary meeting on 3 November 1998, in accordance with Article 12 (3) (d) of the Statute, the General Assembly elected nine judges for the Tribunal, that is, those candidates who received the absolute majority of the votes of States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters. In accordance with Article 12 (5) of the Statute, the judges were elected for a term of four years, beginning on 25 May 1999.

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.

In accordance with Article 24 (3) of the Charter, the Security Council continued to submit annual reports to the General Assembly.¹⁷ Following an explanatory statement by the Secretariat, each report was adopted, without a vote, at a meeting of the Council.

¹⁷ Annual reports were adopted by the Security Council at the following public meetings: fifty-first report (covering the period 16 June 1995 to 15 June 1996), adopted at the 3711th meeting held on 13 November 1996; fifty-second report (covering the period 16 June 1996 to 15 June 1997), adopted at the 3815th meeting held on 12 September 1997; fifty-third report (covering the period 16 June 1997 to 15 June 1998), adopted at the 3923rd meeting held on 9 September 1998; fifty-fourth report (covering the period 16 June 1998 to 15 June 1999), adopted at the 4040th meeting held on 2 September 1999; and fifty-fifth report (covering the period 16 June 1999-15 June 2000), adopted at the 4192nd meeting held on 31 August 2000.

Pursuant to a note by the President of the Security Council¹⁸ dated 12 June 1999, a significant number of changes to the content of the annual report were agreed upon by Council members. In addition to prescribing the type of information to be included in the report in relation to each subject dealt with by the Council, the revised format also included additional substantive material, such as information regarding the work of the subsidiary organs of the Council, including the sanctions committees; information regarding the documentation and working methods and procedures of the Council; and matters brought to the attention of the Council but not discussed by it during the period covered. Two new appendices were also added, the first containing the full text of all resolutions, decisions and presidential statements adopted or voted upon by the Council during the year in question, and the latter providing information about meetings with troop-contributing countries. The final change outlined in the note was the inclusion of an attachment, as an addendum to the report, of brief assessments of the work of the Council prepared by members following their terms as President.¹⁹

During the period covered by this Supplement, the Council did not submit any special reports to the General Assembly — under, for example, rule 60 (3) of the Council's provisional rules of procedure.²⁰

F. 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

¹⁸ S/1997/451.

¹⁹ The note prescribed the inclusion of the following disclaimer at the beginning of the addendum containing the assessments: "The attachment of the assessments of former Presidents on the work of the Security Council as an addendum to the report is intended to have an informative purpose and should not necessarily be considered as representing the views of the Security Council".

²⁰ The 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".

Security Council, either because they have been placed in a special relationship to the Council by resolution of the General Assembly, or because the Council has made use of their services or invited their officers to participate in its meetings.

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 following: the Special Committee on Peacekeeping Operations; the United Nations Special Mission in Afghanistan (UNSMA); the International Civilian Mission in Haiti (MICIVIH); the United Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala (MINUGUA); the Open-Ended Working Group on the Question of Equitable Representation on and increase in the Membership of the Security Council; and the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Those organs submitted reports and recommendations to the Security Council, and/or to the General Assembly, as appropriate, pursuant to a request by the General Assembly.

During the period under consideration, one decision adopted by the Security Council contained a reference to MINUGUA (see case 8).²¹ The Council also mentioned four other subsidiary organs (see cases 5-7) established by the General Assembly in its decisions. In several instances, the Council made references to the Working Group (see case 9).

The table below gives an account of the communications from the Committee on the exercise of the Inalienable Rights of the Palestinian People; their participation in Council meetings is recorded in chapter III of the present supplement.

Case 5

By a statement of the President dated 30 August 1996,²² in connection with the agenda item entitled "Demining in the context of United Nations peacekeeping", the Council members noted that the early deployment of mine clearance units would often

²¹ Resolution 1094 (1997).

²² S/PRST/1996/37.

be important to the effectiveness of a peacekeeping operation, and encouraged the Special Committee on Peacekeeping Operations to examine options for achieving such early deployment. It also encouraged Member States to examine whether and in what form they might be able to help in that respect. Furthermore, the Council members encouraged the Special Committee on Peacekeeping Operations, given its responsibility for a comprehensive review of the whole question of peacekeeping operations, to continue and intensify its considerations of the operational demining aspects of peacekeeping operations. Those considerations could include an analysis of mine clearance experience in previous peacekeeping operations.²³

By a statement of the President dated 14 July 1997,²⁴ the Council members noted the efforts by the General Assembly and its Special Committee on Peacekeeping Operations in carrying out their task to review all aspects of peacekeeping operations, including enhancing the capacity of the United Nations system to accommodate the growing demand for civilian police in peacekeeping operations.

At its 4046th meeting, on 16 September 1999, the Council met to consider the agenda item entitled "Protection of civilians in armed conflict". During the course of the deliberations, while speaking on recommendations in integrating human rights and humanitarian concerns with peacekeeping activities, the representative of Gabon agreed with the Special Committee on Peacekeeping Operations that operations should be multidisciplinary so as to include activities related to civilian police, humanitarian assistance, disarmament and demobilization, combating illicit trafficking in small arms and light weapons and human rights.²⁵

Case 6

During the period under review, by a statement of the President dated 15 February 1996,²⁶ the Council members reaffirmed their full support for the efforts of the United Nations Special Mission in Afghanistan to bring about a peaceful solution to the conflict through

²³ *Ibid.*, p. 1.

²⁴ S/PRST/1997/38.

²⁵ S/PV.4046, p. 24.

²⁶ S/PRST/1996/6.

the establishment of a fully representative, broad-based, authoritative council acceptable to all Afghans. It also called upon all Afghans to cooperate fully with the Special Mission as it worked towards this goal.

At its 3650th meeting, on 9 April 1996, the Council met to consider the situation in Afghanistan. During the deliberation, Council members unanimously commended and fully supported the initiatives carried out by the Special Mission. The representative of Germany recalled General Assembly resolution 50/88 which provided for the Special Mission to facilitate national reconciliation through “the creation of a transitory mechanism, transfer of power and an immediate and durable cease-fire”. He stated that the Head of the Special Mission had invested enormous efforts to work with the parties towards achieving these goals and thanked them for their work. He further stated that his delegation agreed with others that the Special Mission should be encouraged to somewhat broaden its approach by also seeking solutions to other questions that had to be addressed within the framework of the mandate of the Commission. They were convinced that such a broader approach could open up new opportunities for success in the work of the Special Mission.²⁷

By resolution 1076 (1996) of 22 October 1996, the Security Council reaffirmed its full support for the efforts of the United Nations, in particular the activities of the Special Mission in facilitating the political process towards the goals of national reconciliation and a lasting political settlement with the participation of all parties to the conflict and all segments of Afghan society. Furthermore, it called upon all Afghan parties to cooperate with the Special Mission, and requested the Secretary-General to continue to keep the Security Council regularly informed, on the basis of information received from the Special Mission, on the political, military and humanitarian situation.

In six subsequent presidential statements,²⁸ the Council members supported the activities of the Special Mission and called upon all Afghan parties to cooperate fully with the Special Mission. By a letter dated 13 May 1997 addressed to the Secretary-

General,²⁹ the President of the Council reaffirmed support for the continuing efforts of the Special Mission to facilitate national reconciliation in Afghanistan on the basis of General Assembly resolution 51/195 and resolution 1076 (1996).

By resolutions 1193 (1998) of 28 August 1998 and 1214 (1998) of 8 December 1998, the Council reaffirmed its full support for the efforts of the United Nations, in particular the activities of the Special Mission.

Case 7

In several decisions taken during the period under review, in connection with the agenda item entitled “The question concerning Haiti”,³⁰ the Council commended and supported the contribution of the International Civilian Mission in Haiti. United Nations participation in the Mission had been authorized by General Assembly resolution 47/20 B in connection with the agenda item entitled “The situation of democracy and human rights in Haiti”.

By resolution 1141 (1997) of 28 November 1997, the Council noted the key role played by MICIVIH in helping to establish a fully functioning Haitian National Police of adequate size and structure as an integral element of the consolidation of democracy and the revitalization of the system of justice in Haiti.

By resolution 1277 (1999) of 30 November 1999, the Council commended the valuable contributions of MICIVIH in assisting the Government of Haiti by supporting and contributing to the professionalization of the Haitian National Police Force as an integral element of the consolidation of the system of justice in Haiti, as well as by their efforts in developing national institutions.

Case 8

By resolution 1094 (1997) of 20 January 1997, the Council decided, in accordance with the recommendations contained in the report of the Secretary-General of 17 December 1996, to authorize for a three-month period the attachment to the United

²⁷ S/PV.3650, pp. 10-11.

²⁸ S/PRST/1996/40, S/PRST/1997/20, S/PRST/1997/35, S/PRST/1997/55, S/PRST/1998/22 and S/PRST/1999/29.

²⁹ S/1997/366.

³⁰ Resolution 1048 (1996) of 29 February 1996; resolution 1063 (1996) of 28 June 1996; and resolution 1086 (1996) of 5 December 1996.

Nations Mission for the Verification of Human Rights and of Compliance with the Commitments of the Comprehensive Agreement on Human Rights in Guatemala of a group of 155 military observers and requisite medical personnel for the purposes of verification of the agreement on the definitive ceasefire, and requested the Secretary-General to notify the Council no later than two weeks before the operation was to begin.

By a statement of the President dated 5 March 1997,³¹ the Council members welcomed the deployment on 3 March 1997 of a group of United Nations military observers attached to MINUGUA. In a subsequent statement by the President,³² the Council members welcomed the successful conclusion of the military observer mission attached to MINUGUA, in accordance with resolution 1094 (1997).

Case 9

By a letter dated 15 March 1999 addressed to the Secretary-General and the President of the Security Council,³³ the representative of Venezuela made several remarks regarding the discussion that had taken place, both in the Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council. In this regard, he stated that the Arria Formula constituted a treasury of Security Council procedures, which was the product of experience and of “a pragmatic vision of its responsibilities”. He further stated that the informal mechanism should be used at the discretion of the President of the Security Council and with the authorization of its members. Nevertheless, the Arria Formula should be used in accordance with its original concept and should not be invoked in order to receive representatives of countries which were full Members of the United Nations, as that would be contrary to the principle of sovereign equality of States as set out in Article 2 of the Charter of the United Nations.

At its 4072nd meeting, on 29 November 1999, the Council considered the agenda item entitled the “Role of the Security Council in the prevention of armed conflicts”. During the course of the debate, the representative of Belarus noted that his delegation

supported the proposal made by many States during the general debate at the session of the General Assembly regarding the need to discuss, within the General Assembly, questions of humanitarian intervention. He believed in the need for a just, fair and collective discussion, which was the fundamental basis for the work of the United Nations. In his view, the General Assembly should set up a special open-ended working group, which could institutionalize discussion and possibly work out general conclusions and recommendations on that matter.³⁴

Subsequently, the Council met at its 4081st meeting, on 15 December 1999, to discuss the agenda item entitled “The situation in Africa”. During the course of the debate, the representative of Colombia noted that in order to make better use of the scarce resources available within the Organization to achieve peace in Africa, it was necessary to improve the coordination between and harmonize the management of the various organs of the United Nations, particularly of the Security Council, the General Assembly and the Economic and Social Council. In this regard, his delegation agreed with the decision of the General Assembly to establish an Open-Ended Working Group to monitor the implementation of the recommendations made by the Secretary-General in his report, taking advantage, moreover, of the conclusions arrived at by the Economic and Social Council at its last session.³⁵

The representative of Italy referred to a statement that was made by the President of the Organization of African Unity (OAU) in the General Assembly, during which the latter had emphasized that the General Assembly had not yet defined the role of the Open-Ended Working Group that it had decided to set up at its fifty-third session. In that regard, he proposed that the Working Group should make sure that Africa remained at the top of the priorities of the United Nations. He further stated that, as the Secretary-General himself had pointed out in his address of 8 December 1999, the Working Group should consolidate and ensure the consistency of efforts to implement such a high priority. Otherwise, the proliferation of initiatives would threaten to create more problems than solutions.³⁶

³¹ S/PRST/1997/9.

³² S/PRST/1997/28.

³³ S/1999/286.

³⁴ S/PV.4072, p. 6.

³⁵ S/PV.4081 (Resumption 1), p. 17.

³⁶ *Ibid.*, p. 29.

G. Communications from subsidiary organs established by the General Assembly

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/1996/667	16 August 1996	Letter dated 16 August 1996 from the Chairman, conveying the Committee's objection to the deletion from the list of items of which the Council is seized related to the exercise of the inalienable rights of the Palestinian people, the Palestine question and the Middle East.
S/1996/795	26 September 1996	Letter dated 26 September 1996 from the Chairman, drawing attention to the escalation of violence in the occupied Palestinian territory following Israel's decision to open a new entrance to the archaeological tunnel in East Jerusalem which runs under Arab property along the western wall of the Al-Haram al-Sharif, the third-largest site of Islam.
S/1997/172	28 February 1997	Letter dated 28 February 1997 from the Acting Chairman, expressing concern at Israel's decision to build a new Jewish settlement in the Jabal Abu Ghneim area, south of East Jerusalem.
S/1998/134	17 February 1998	Letter dated 17 February 1998 from the Chairman, reiterating the Committee's objection to the deletion from the list of items related to the exercise of the inalienable rights of the Palestinian people.
S/1999/151	11 February 1999	Letter dated 11 February 1999 from the Chairman reiterating the Committee's objection to the deletion from the list of items related to the exercise of the inalienable rights of the Palestinian people, the Palestine question and the Middle East.
S/1999/512	4 May 1999	Letter dated 4 May 1999 from the Chairman calling upon the Government of Israel to stop its "illegal policy" and actions aimed at creating facts on the ground through, inter alia, establishing new and expanding the existing settlements, stifling the Palestinian economic development and livelihood and denying the Palestinian people its inalienable rights. The Chairman also reiterated its position of principle in support of the exercise by the Palestinian people of its inalienable rights, including the right to self-determination and the establishment of a sovereign State.

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

This part concerns the relationship between the Security Council and the Economic and Social Council. Section A considers decisions of the Council which contain reference either to Article 65 of the Charter of the United Nations or to the Economic and Social Council. Section B considers deliberations (cases 10-13) of the Council during the course of which the importance of closer ties between the two organs was stressed, particularly in the context of post-conflict peacebuilding.

A. Requests or references to the Economic and Social Council in decisions of the Security Council

During the period under consideration, the Security Council did not formally address a request for information or assistance to the Economic and Social Council. The Council did, however, make an explicit reference to Article 65 of the Charter in its decision.³⁷ In several other decisions, in the context of a variety of agenda items, the Council made a reference to the Economic and Social Council (see tables in subsections 1 and 2 below).

1. Resolutions containing references to the Economic and Social Council

<i>Resolution</i>	<i>Item</i>	<i>Relevant provisions</i>
1170 (1998)	The situation in Africa	The Security Council stressed that the challenges in Africa demanded a comprehensive response, and in this context, expressed the hope that the General Assembly, the Economic and Social Council, other relevant bodies of the United Nations, regional and subregional organizations, international financial institutions and other relevant organizations, as well as Member States would consider the report and its recommendations and take action as they deemed appropriate within their respective areas of competence (para. 2).

³⁷ S/PRST/1998/38.

<i>Resolution</i>	<i>Item</i>	<i>Relevant provisions</i>
1212 (1998)	The question concerning Haiti	The Security Council stressed the commitment of the international community to a long-term programme of support for Haiti and invited United Nations bodies and agencies, especially the Economic and Social Council, to contribute to the designing of such a programme (para. 8).
1230 (1999)	The situation in the Central African Republic	The Security Council stressed the commitment of the international community to a long-term programme of support for the Central African Republic and further urged the Economic and Social Council, the United Nations Development Programme, the International Monetary Fund, the World Bank and the appropriate regional financial institutions to contribute to the designing of such a programme (para. 16).

2. Presidential statements containing references to the Economic and Social Council

<i>Statement</i>	<i>Item</i>	<i>Relevant provisions</i>
S/PRST/1998/29	The situation in Africa	The Security Council stressed the urgent need for Member States, the United Nations system, including the General Assembly and the Economic and Social Council, the international financial institutions and other relevant organizations to consider appropriate action in response to the comprehensive recommendations set out by the Secretary-General in his report (para. 3).
S/PRST/1998/38	Maintenance of peace and security and post-conflict peacebuilding	The Security Council underlined the fact that economic rehabilitation and reconstruction often constituted the major tasks facing societies emerging from conflict and that significant international assistance should be indispensable to promote sustainable development in such cases. In that context, it recalled that Article 65 of the Charter of the United Nations provided that the Economic and Social Council may furnish information to the Security Council and shall assist the Council upon its request (para. 4).

<i>Statement</i>	<i>Item</i>	<i>Relevant provisions</i>
S/PRST/1999/34	Role of the Security Council in the prevention of armed conflicts	The Security Council would consider the possibility of holding further orientation debates and strengthening its cooperation with the Economic and Social Council (para. 12).

B. Constitutional discussion arising in connection with the Economic and Social Council

The issue of relations between the Security Council and the Economic and Social Council arose frequently in Security Council debates, particularly in the context of post-conflict peacebuilding in Africa and Haiti. During the debates of the Council, emphasis was placed on the interrelation between peace and development and on the need for the coordination of efforts by the Security Council, the Economic and Social Council and other United Nations organs involved in conflict management.

The section below will highlight several case studies, each addressing a different issue before the Security Council, with a view to outlining the evolving relationship between the Security Council and the Economic and Social Council. The case studies analysed include the following: the maintenance of peace and security and post-conflict peacebuilding (case 10); the situation in Haiti (case 11); the situation in Africa (case 12); and the role of the Security Council in the prevention of armed conflicts (case 13).

In his report to the General Assembly on the work of the Organization,³⁸ the Secretary-General touched upon the role of the Security Council and cooperation between the General Assembly and the Economic and Social Council in the context of conflict prevention. He stated that under the Charter, there was “a dormant provision” that the Economic and Social Council might furnish information and assistance to the Security Council upon a request from the latter (Article 65). In that regard, he recommended that as the Security Council was increasingly required to address economic, social and humanitarian crises that were threatening global security, it might wish to invoke this mechanism.

³⁸ A/53/1, paras. 29 and 30.

He believed that this would help to achieve better communication and coordination between the organs of the United Nations whose primary focus was on economic, social and humanitarian affairs.³⁹

During the period under consideration, there were two instances during which Article 65 was explicitly mentioned: the report of the Secretary-General on the protection for humanitarian assistance to refugees and others in conflict situations,⁴⁰ and in connection with the agenda item entitled “Report of the Secretary-General on the protection for humanitarian assistance to refugees and others in conflict situations”.⁴¹

³⁹ *Ibid.*

⁴⁰ At the 3968th meeting of the Council, on 21 January 1999, the President pointed out, in connection with the report of the Secretary-General on the protection for humanitarian assistance to refugees and others in conflict situations (S/1998/883), that it was important to reach some understanding on the limits of the Council’s action in humanitarian affairs, with the Council reserving its attention for cases that truly threatened international peace and security, while other organs, such as the Economic and Social Council, dealt with other cases. He informed the Council that he had received a visit from the President of the Economic and Social Council who intended to have that body deal with such matters as post-conflict reconstruction and rebuilding, including the implementation of Article 65 of the Charter (S/PV.3968, p. 22).

⁴¹ At the 3932nd meeting of the Council, on 29 September 1998, the representative of Brazil, while referring to the Secretary-General’s report on the work of the Organization (A/53/1), noted that the report defended the promotion of new forms of cooperation between the Security Council, the General Assembly and the Economic and Social Council in tackling the economic, social and humanitarian prerequisites of human security (S/PV.3932, pp. 6-8); the representative of China was in favour of the Secretary-General’s recommendation regarding strengthening coordination between the Security Council and other institutions like the General Assembly and the Economic and Social Council (*Ibid.*, p. 5).

Case 10*Maintenance of peace and security and post-conflict peacebuilding*

At its 3954th meeting, on 16 December 1998, the Council held an open debate on the item entitled "Maintenance of peace and security and post-conflict peacebuilding". During the debate, the representative of China noted that the role and capacity of the organs of the United Nations in the socio-economic field should be strengthened. He expressed concern at the marginalization of relevant United Nations functions, including those of the Economic and Social Council, on major international economic development and assistance issues. His delegation was strongly opposed to the weakening of the role of United Nations organs in the socio-economic fields that placed a large number of social issues on the Security Council agenda. He expressed the view that not all problems of conflict areas should be placed in the hands of the Security Council, because this was not good for the normal functioning of other United Nations bodies, including the General Assembly. At the same time, such practices might affect priorities in the work of the Security Council and impair its efficiency.⁴² The representative of the Russian Federation stated that in concentrating primarily on a solution to the social, economic and humanitarian tasks of recovery, peacebuilding fell within the sphere of competence of the Economic and Social Council, which should work in close contact with other international financial, economic and humanitarian organizations, in particular in providing material and financial resources for peacebuilding activities. In that context, his delegation attached great significance to the reactivation of Article 65 of the Charter. He further stated that this chapter of the Charter was fully applicable on the preventive level, insofar as the Security Council could and would draw the attention of the Economic and Social Council to the relevant problems of various regions, since the Security Council, within the framework of its competence, closely followed destabilizing trends in the social, economic and humanitarian fields which could lead to the emergence or escalation of conflicts.⁴³

The representative of Brazil noted that the Secretary-General had recognized the importance of

⁴² S/PV.3954, p. 3.

⁴³ *Ibid.*, pp. 4-5.

promoting new forms of cooperation between the Security Council, the General Assembly and the Economic and Social Council in his latest report on the work of the Organization.⁴⁴ He recalled the statement given by the representative of the Russian Federation who acknowledged that Article 65 of the Charter had been quoted by the Secretary-General as providing a basis for achieving better communication and coordination between the Security Council and the Economic and Social Council. He noted that resolution 1212 (1998) set the stage, in an innovative way, for placing the situation in Haiti within a different context by inviting United Nations bodies and agencies, especially the Economic and Social Council.⁴⁵ The representative of Slovenia noted that the experience of past years had also confirmed the need for all the relevant United Nations organs and agencies to take part in a cooperative manner.⁴⁶

In the ensuing debate, the representative of Indonesia supported the plan proposed by the Secretary-General to broaden the role of the Security Council by invoking Article 65 of the Charter because of the increasing need for the Council to be provided with accurate and relevant information on economic, social and humanitarian crises that threatened international peace and security.⁴⁷

At its 3961st meeting, on 29 December 1998, the Council again considered the item entitled "Maintenance of peace and security and post-conflict peacebuilding". By a statement of the President,⁴⁸ the Council members underlined that economic rehabilitation and reconstruction often constituted the major tasks facing societies emerging from conflict and that significant international assistance had become indispensable to promote sustainable development in such cases, and in that context recalled Article 65 of the Charter.

Case 11*Question concerning Haiti*

At its 3949th meeting, on 25 November 1998, the Council met to consider the question concerning Haiti. During the deliberations of the Council, speaking prior

⁴⁴ A/53/1, para. 30.

⁴⁵ S/PV.3954, pp. 14-16.

⁴⁶ *Ibid.*, pp. 16-19.

⁴⁷ S/PV.3954 (Resumption 1), p. 20.

⁴⁸ S/PRST/1998/38.

to the vote, the representative of Brazil highlighted paragraph 8 of the draft resolution,⁴⁹ which invited United Nations bodies and agencies, especially the Economic and Social Council, to contribute to the design of a long-term programme of support for the economic rehabilitation and reconstruction of Haiti. He noted that this was a small step by the Council to revive Article 65 of the Charter, a provision that the Secretary-General had described as dormant and to which he had referred in his report on the work of the Organization in the part concerning the prevention of conflicts. He further stated that Haiti could benefit from the role of the Economic and Social Council, especially in the area of post-conflict peacebuilding. In that regard, his delegation was sure that the Economic and Social Council would be up to the challenge contained in the resolution for the benefit of Haiti and other countries in the future.⁵⁰

At the same meeting, the Council adopted resolution 1212 (1998) in which it emphasized that economic rehabilitation and reconstruction constituted important tasks facing the Government and people of Haiti and that significant international assistance was indispensable for sustainable development in Haiti. The Council specifically invited "United Nations bodies and agencies, especially the Economic and Social Council" to contribute to the designing of a long-term assistance programme to Haiti.

By a letter dated 16 February 1999 addressed to the President of the Security Council,⁵¹ the President of the Economic and Social Council noted that Article 65 had been cited by several delegations at an Economic and Social Council organizational session as well as by the Secretary-General. In that regard, he referred to a statement by the President that was adopted at the meeting on maintenance of peace and security and post-conflict peacebuilding, during which Article 65 was cited in the context of economic assistance to societies emerging from conflict. He noted that two subjects had been raised as possible areas for concrete implementation of Article 65: one concerned the problems of Africa, the other was the situation in Haiti. With regard to Haiti, the President of the Economic and Social Council referred to paragraph 8 of resolution 1212 and sought the advice of the

President of the Security Council as to whether such an invitation for the design of a long-term programme for Haiti should be interpreted as a formal request in accordance with the second part of Article 65 of the Charter and, if this was the case, what concrete contribution the Security Council expected from the Economic and Social Council.⁵²

In response, by a letter dated 7 April 1999 addressed to the President of the Economic and Social Council,⁵³ the President of the Security Council confirmed that in paragraph 8 of its resolution 1212 (1998), the Council had invited the Economic and Social Council to contribute to the designing of a long-term programme of support for Haiti. He stated that the members of the Security Council would continue to follow that matter and might have specific suggestions to make as to how the two Councils could cooperate in this regard.

Thereafter, on 7 May 1999, the Economic and Social Council adopted resolution 1999/4 which created an Ad Hoc Advisory Group on Haiti that would submit to it, at its substantive session of 1999, its recommendations on how to ensure that international community assistance to the efforts to support the Government of Haiti in achieving sustainable development was adequate, coherent, well coordinated and effective. The Advisory Group visited Haiti from 27 to 29 June 1999 and issued a report on 2 July 1999, in which it made specific recommendations regarding the development of a long-term strategy and programme of support for Haiti, addressing in particular the issue of capacity-building of both governmental and civil society institutions.

By a letter dated 31 July 1999 addressed to the President of the Security Council,⁵⁴ the President of the Economic and Social Council referred to resolution 1212 (1998) inviting the Economic and Social Council to contribute to the designing of a long-term strategy and development programme of support for Haiti. He stated that given the previous action of the Security Council with respect to Haiti, of particular interest might be the recommendations made to the General Assembly, in paragraph 8 of Economic and Social Council resolution 1999/11, to review all aspects of the

⁴⁹ S/1998/1117.

⁵⁰ S/PV.3949, p. 5.

⁵¹ S/1999/170.

⁵² *Ibid.*, para. 5.

⁵³ S/1999/403.

⁵⁴ S/1999/865.

mandate and operations of the International Civilian Mission in Haiti and to consider renewing the mandate of the United Nations component of the Mission and, in paragraph 10, to consider devising a United Nations special training and technical assistance programme for the Haitian National Police. He noted that this contribution by the Economic and Social Council would strengthen the continued resolve of the United Nations to support Haiti, complementing the efforts of the Security Council in that regard, and enhance the cooperation between the two organs, as contemplated in Article 65 of the Charter.

In response, in a letter dated 20 August 1999 from the President of the Security Council addressed to the President of the Economic and Social Council,⁵⁵ the President of the Security Council acknowledged the letter dated 31 July 1999 from the President of the Economic and Social Council⁵⁶ concerning the adoption by the Economic and Social Council of resolution 1999/11, relating to the long-term strategy and development programme of support for Haiti, in line with Security Council resolution 1212 (1998). He noted that in the view of the members of the Security Council, it was essential that, in order to ensure sustainable development in Haiti, the efforts of the international community be geared towards supporting the Government of Haiti in addressing the important issue of capacity-building of its governmental institutions. He further noted that the Council had expressed the hope that this important contribution of the Economic and Social Council would serve to strengthen the cooperation between the Security Council and the Economic and Social Council, as the United Nations attempted to assist the people of Haiti in rebuilding their country.

Case 12

The situation in Africa

At its 3875th meeting, on 24 April 1998, the Council considered the agenda item entitled "The situation in Africa". During the debate, the representative of Brazil⁵⁷ expressed his appreciation for the report of the Secretary-General on the situation

in Africa.⁵⁸ He noted that the objective analysis and the practical action-oriented recommendations contained in that report called for careful examination not only by the Security Council, but also by the General Assembly, the Economic and Social Council and other components of the United Nations system. He further noted that in the search for adequate intergovernmental bodies to deal with the transition from peacekeeping to reconstruction, the Charter could provide some guidance. His delegation was particularly interested in looking at ways to activate Article 65, which dealt with assistance from the Economic and Social Council to the Security Council.⁵⁹

At its 3886th meeting, on 28 May 1998, the Council adopted resolution 1170 (1998), stressing that the challenges in Africa demanded a comprehensive response, and in that context expressed the hope that the General Assembly, the Economic and Social Council, other relevant bodies of the United Nations, regional and subregional organizations, international financial institutions and other relevant organizations, as well as Member States would consider the report and its recommendations, and take action as they deemed appropriate within their respective areas of competence.

By a statement of the President dated 24 September 1998,⁶⁰ the Council stressed that the quest for peace in Africa required a comprehensive, concerted and determined approach, encompassing the eradication of poverty, the promotion of democracy, sustainable development and respect for human rights, conflict prevention and resolution, including peacekeeping and humanitarian assistance. The Council underlined the need for genuine political will, in Africa and beyond, to achieve durable results towards those ends, and stressed the urgent need for Member States, the United Nations system, including the General Assembly and the Economic and Social Council, the international financial institutions and other relevant organizations to continue to consider appropriate action in response to the comprehensive recommendations set out by the Secretary-General in his report.⁶¹

⁵⁵ S/1999/905.

⁵⁶ S/1999/865.

⁵⁷ S/PV.3875, pp. 22-23 (Brazil).

⁵⁸ S/1998/318.

⁵⁹ S/PV.3875, p. 23.

⁶⁰ S/PRST/1998/29.

⁶¹ *Ibid.*, para. 3.

By a letter dated 16 February 1999 addressed to the President of the Security Council,⁶² the President of the Economic and Social Council referred to resolution 1170 (1998) on the causes of conflict and the promotion of durable peace and sustainable development in Africa, as well as to the statement by the President⁶³ issued at the end of the Council's meeting on the situation in Africa. In both meetings, the Council had stressed that the United Nations system, including the General Assembly and the Economic and Social Council, needed to consider appropriate action in response to the comprehensive recommendations set out by the Secretary-General in his report. In that regard, the President stated that the Economic and Social Council would devote the coordination segment of its substantive session in 2000 to the theme "Development of Africa: implementation and coordinated follow-up by the United Nations system of initiatives on African development". Furthermore, both the high-level segment (entitled "The role of employment and work in poverty eradication: the empowerment and advancement of women") and the humanitarian segment (entitled "International cooperation and coordinated responses to the humanitarian emergencies, in particular in the transition from relief to rehabilitation, reconstruction and development") would provide useful elements for the Security Council's emphasis on a "comprehensive, concerted and determined approach" to the problems of Africa.⁶⁴

At its 4081st meeting, on 15 December 1999, the Council met to consider approaches to address the situation in Africa. With regard to the identification of additional instruments that the Council could offer to help solve conflicts in Africa, a wide variety of important proposals were raised. Several representatives proposed better cooperation between the Council and the Economic and Social Council, especially in post-conflict peacebuilding.⁶⁵ The representative of the Russian Federation noted that one of the key components of the strategy for strengthening peace in Africa had to be the promotion by the United Nations of the establishment of an effective pan-African system, which was geared to both prevent and settle

conflicts and also to a comprehensive solution to the task of post-conflict rehabilitation. In that regard, he stated that there was the need for coordinated action on the part of various bodies and agencies of the United Nations system. One of the real opportunities for establishing such work was the application of Article 65 of the Charter.⁶⁶

The representative of New Zealand noted that the root causes of much of the conflict in the region included the high level of poverty and underdevelopment and the inequalities in opportunity among different groups. In this regard, he suggested that the Security Council make far greater use of its relationship with the Economic and Social Council, as provided for in Article 65 of the Charter.⁶⁷ Referring explicitly to Article 65, the representative of Italy stated that better use should be made of the Article's existing mechanisms and instruments.⁶⁸

Case 13

Role of the Security Council in the prevention of armed conflicts

At its 4072nd meeting, on 29 November 1999, the Council considered the item entitled "Role of the Security Council in the prevention of armed conflicts". During the course of the debate, the representative of Bahrain noted that the Security Council worked apart from other bodies and institutions of the United Nations system, whereas the subjects and issues discussed in the Council were complementary and could not be separated from each other. He pointed out that the Council had been examining the issue of the maintenance of peace, but "peacebuilding institutions" such as the Economic and Social Council had then intervened, without any real coordination between the two bodies and without a discernible line between the beginning of the role of one and the end of the role of the other. He further noted that the lack of cooperation between the two bodies might lead to a dangerous renewal of conflict, if the Security Council did not urge the Economic and Social Council to fill the gap left by armed conflicts by rebuilding peacekeeping institutions through the implementation of economic and social development programmes. Furthermore, he noted that areas of tension would continue to exist as long as

⁶² S/1999/170.

⁶³ S/PRST/1998/29.

⁶⁴ *Ibid.*, para. 4.

⁶⁵ S/PV.4081, p. 6 (China); p. 11 (Argentina); p. 14 (Bahrain); and pp. 17-18 (Russian Federation).

⁶⁶ *Ibid.*, p. 18.

⁶⁷ S/PV.4081 (Resumption 1) and Corr.1, p. 14.

⁶⁸ *Ibid.*, p. 29.

there was a lack of coordination between the Security Council and the Economic and Social Council. He noted, however, that the Security Council had coordinated its activities with the Economic and Social Council by delegating to that body the task of building peace institutions in Haiti after a lengthy conflict. In concluding, he observed that the Council had a duty to play a role as coordinator to establish complementarity with other United Nations bodies, including between the Security Council and the Economic and Social Council so as to prevent conflicts before they erupted.⁶⁹ Other speakers also supported proposals aimed at further coordination and cooperation between the Security Council and the Economic and Social Council.⁷⁰

By a statement of the President dated 30 November 1999,⁷¹ the Council members stated that they would continue to review their activities and strategies for the prevention of armed conflicts. In addition, they would consider the possibility of holding further orientation debates and strengthening their cooperation with the Economic and Social Council.⁷²

⁷¹ S/PRST/1999/34.

⁷² *Ibid.*

⁶⁹ S/PV.4072 and Corr.1, pp. 16-19.

⁷⁰ *Ibid.*, p. 35 (United Arab Emirates); p. 41 (Sudan) and p. 45 (Belarus).

Part III

Relations with the Trusteeship Council

Part III 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” — shall be exercised by the Security Council. Article 83 (2) 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.

During the period under review, although remaining in existence, the Trusteeship Council did not carry on any activity.⁷³

⁷³ By its resolution 956 (1994), the Security Council determined, in the light of the entry into force on 1 October 1994 of the new status agreement for Palau, that the objectives of the Trusteeship Agreement for the Trust Territory of the Pacific Islands had been fully attained, and that the Trusteeship Council had successfully completed the task entrusted to it under the Charter.

Part IV

Relations with the International Court of Justice

Note

Part IV concerns the relationship between the Security Council and the International Court of Justice. Section A deals with the election of the members of the Court, which requires that action be taken by the Security Council in conjunction with the General Assembly, but with both organs proceeding independently. During the period under review, three rounds of elections took place to elect 11 members to fill casual and regular vacancies (see cases 14-16), and one election was set for the year 2000 (see case 17 and the fourteenth *Supplement*).

Section B deals with the discussion that arose in the Security Council regarding the respective roles of the Security Council and the Court. It discusses the alleged involvement of nationals of the Libyan Arab Jamahiriya in the destruction of two civilian airliners (see case 18). It also deals with the border dispute between Cameroon and Nigeria (see case 19). Furthermore, it deals with a territorial dispute between the United Arab Emirates and the Islamic Republic of Iran, which was referred to the Court, but not taken up (see case 20).

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, 8 and 10 to 14 of the Statute of the International Court of Justice; rules 150 and 151 of the rules of procedure of the General Assembly; and rules 40 and 61 of the provisional rules of procedure of the Security Council.

For each of the three elections that took place during the period under review, the Security Council began the election procedure to fill one or several vacancies by fixing the date of election, in accordance with Article 14 of the Statute of the Court. The Security Council and the General Assembly then

proceeded independently with the elections.⁷⁴ During the meeting of the Security Council, the President 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.⁷⁵ He reminded the Council that Article 10 (1) of the Statute of the Court provides that, “those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected”, adding that the required majority in the Security Council was, therefore, eight votes. He explained further that the voting would proceed by secret ballot.

Case 14

At its 3636th meeting, on 28 February 1996, the Council met to elect a member of the Court, 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. The President of the Council 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 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 its 101st plenary meeting. 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 yet expired, he was elected for the remainder of his predecessor’s term of office, expiring on 5 February 2000.

Case 15

At its 3709th meeting, on 6 November 1996, the Council proceeded with the election of five members

⁷⁴ For the verbatim records of the relevant Security Council meetings, see S/PV.3636, S/PV.3709, S/PV.4059 and S/PV.4075. For the verbatim records of the relevant General Assembly plenary meetings, see A/50/PV.101, A/51/PV.54 and A/54/PV.45.

⁷⁵ See S/1996/51.

of the Court, to fill the seats which would become vacant on 5 February 1997. The election required three ballots. On the first ballot, four candidates received the required majority of votes in the Security Council. On the second ballot, no additional candidate received the required majority. On the third ballot, one more candidate obtained the required majority. The President of the Council 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 members of the Council that he had received a letter from the President of the General Assembly informing him that the same candidates had received an absolute majority in the General Assembly at its 54th plenary meeting. The candidates in question were therefore elected as members of the Court for a term of office of nine years, beginning on 6 February 1997.

Case 16

At its 4059th meeting, on 3 November 1999, the Council met to elect five members of the Court, to fill the seats which would become vacant on 5 February 2000. On the first ballot, all five candidates obtained the required majority of votes in the Council. The President of the Council 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 members of the Council that he had received a letter from the President of the General Assembly informing him that the same candidates had received an absolute majority in the General Assembly at its 45th plenary meeting. The candidates in question were therefore elected members of the Court for a term of office of nine years, beginning on 6 February 2000.

Case 17

At its 4075th meeting, on 30 November 1999, the Council met to set the date of an election of a member of the Court, to fill a vacancy in the Court caused by the resignation of one of its members. By resolution 1278 (1999) of 30 November 1999, the Council decided that the election should take place on 2 March 2000 at a meeting of the Security Council and at a meeting of the General Assembly in its fifty-fourth session.

B. Consideration of the relationship between the Security Council and the Court

Article 94 of the Charter of the United Nations

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

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

Article 96

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

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

Article 41 of the Statute of the International Court of Justice

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

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

Case 18

At its 3819th meeting, on 25 September 1997, the Security Council met to discuss the situation in Africa. With particular reference to the alleged involvement of the nationals of the Libyan Arab Jamahiriya in the destruction of two civilian aircraft, the representative of Zimbabwe called for the consideration of trying the two accused Libyans under Scottish law, by Scottish

judges but in a third country or at the International Court of Justice.⁷⁶

Speaking in the same vein, the Secretary-General of the Organization of African Unity expressed the view that the Council might wish to give serious consideration to the proposal jointly presented by OAU and the League of Arab States (LAS) aimed at seeking a just and equitable solution to the dispute.⁷⁷ Similarly, the representative of Egypt urged the Council to consider how to facilitate bringing the suspects to trial as soon as possible, so as to preserve and respect the legitimacy of the Council.⁷⁸

On the contrary, the representative of the United Kingdom stressed that the only place the suspects could face trial under Scottish law was Scotland, as there was no legal authority for a Scottish court to meet outside Scotland and no legal authority in the law of the Netherlands for a court of another jurisdiction to sit at The Hague.⁷⁹ The representative of the United States underlined that there could be no compromise with the Libyan Arab Jamahiriya when it came to terrorism and stressed that the responsibility for the effect of the actions of the Security Council rested squarely with the Government of the Libyan Arab Jamahiriya.⁸⁰

At its 3864th meeting, on 20 March 1998, the Council met to discuss the situation involving the alleged involvement of the nationals of the Libyan Arab Jamahiriya in the destruction of two civilian aircraft (Pan Am flight 103 over Lockerbie, Scotland, in 1988, and UTA flight 772 over Niger in 1989), after having received letters dated 20 and 23 December 1991⁸¹ from the representatives of France, the United Kingdom of Great Britain and Northern Ireland, and the United States of America concerning the matter.

During the deliberations, the representative of the Libyan Arab Jamahiriya stated that his country had been suffering from collective sanctions for the past six years, without a court judgment or a legal basis for them. Like the families of the bombing victims, the Libyan Arab Jamahiriya was anxious to have the two suspects brought to trial in a just and fair court in a

neutral country and to uncover the truth. He stated that his Government had urged the suspects to appear before a Scottish court, but they had refused on their lawyers' advice, stating they had already been condemned in the United Kingdom and the United States as a result of biased media coverage and official statements. Moreover, the representative of the Libyan Arab Jamahiriya specifically referred to Article 94 (1) of the Charter, stating that "each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party" in reference to the obligation of the United Kingdom and the United States to accept the Council's decisions and jurisdiction. The representative of the Libyan Arab Jamahiriya also specifically referred to Article 94 (2) of the Charter stating that the Security Council could decide on a resolution adopting certain measures, as the Council could "make recommendations or decide upon measures to be taken to give effect to a judgment".⁸²

The representative of the United States, however, expressed the view that the Court's preliminary rulings in no way questioned the legality of the Security Council actions affecting the Libyan Arab Jamahiriya or the merits of the case against the two accused suspects. He claimed that contrary to the assertions of the Government of the Libyan Arab Jamahiriya, the Court was not calling for the review or suspension of Security Council resolutions. The Court had made clear that it was not dealing with the substance or the merits of the case.⁸³ The representative of the United Kingdom expressed the hope that OAU and LAS would not be used to undermine the Council's resolutions, and that their influence would eventually be used to bring about acceptance of international law and justice for the victims. He stated that an expert mission sent by the Secretary-General had concluded that the Scottish legal system was fair and independent, that the accused would receive a fair trial under the Scottish judicial system, and that their rights would be fully protected during all phases of the trial proceedings in accordance with international standards.⁸⁴

Other speakers took note of the Court's rulings and called for a generally acceptable solution,⁸⁵ while

⁷⁶ S/PV.3819, pp. 2-4.

⁷⁷ *Ibid.*, p. 7.

⁷⁸ *Ibid.*, p. 14.

⁷⁹ *Ibid.*, p. 27.

⁸⁰ *Ibid.*, p. 29.

⁸¹ S/23306, S/23307, S/23308 and S/23317.

⁸² S/PV.3864 and Corr.1, pp. 9-10.

⁸³ *Ibid.*, pp. 12-14.

⁸⁴ *Ibid.*, pp. 30-32.

⁸⁵ *Ibid.*, pp. 39-40 (The United Kingdom on behalf of the

others noted that the decision of the Court was a good basis for an agreement as to the conduct of a fair trial and for the suspension and early lifting of sanctions.⁸⁶ The representative of Pakistan specifically referred to Article 96 of the Charter, stating that when the United Nations itself was faced with a legal problem, either the General Assembly or the Security Council might also request an advisory opinion of the Court. This showed the significance that the authors of the Charter had attached to the Court in the arbitration of legal issues.⁸⁷

The representative of LAS stated that his organization, in cooperation with OAU and the Organization of the Islamic Conference (OIC), had submitted three options to the Security Council as a basis on which to solve the problem. Those proposals consisted of either a trial of the suspects in a neutral country or at the headquarters of the Court, or by a special penal court. It was his opinion that the Security Council should take into account the judgment of the highest judiciary authority of the United Nations because it gave a new legal dimension to the very nature of the dispute and indicated a way by which the Security Council could deal with it. He stated that the judgment of the Court had determined that the Lockerbie incident was indeed a legal dispute between the Libyan Arab Jamahiriya and the United Kingdom and the United States that fell within the jurisdiction of the Court and that all the parties to the dispute should respect it and abide by it.⁸⁸ Speaking along the same

line, other speakers called for the consideration of the proposals by OAU and LAS, according to which a trial could be held in a third and neutral country, or with the suspects tried by Scottish judges at the Court, or by a special tribunal at the headquarters of the Court.⁸⁹

At its 3875th meeting, on 24 April 1998, the Security Council met to discuss the situation in Africa, in connection with the report of the Secretary-General.⁹⁰ During the debate, the representative of Egypt noted that while affirming the need to respect the norms of international law and the resolutions of the Security Council, his Government expected the Council to give serious consideration to the options proposed by OAU and LAS for resolving this crisis in a way that would ensure justice.⁹¹ The representative of the Libyan Arab Jamahiriya referred to the International Court of Justice as the seat of a possible tribunal and as a possible venue to resolve the dispute.⁹² The representative of the United Arab Emirates urged the Council to lift the sanctions against the Libyan Arab Jamahiriya in light of the two decisions taken by the Court.⁹³

At its 3920th meeting, on 27 August 1998, the Council again considered the situation involving the alleged involvement of Libyan nationals in the destruction of two civilian aircraft. The representative of the Libyan Arab Jamahiriya recalled that on 27 February 1998 the Court had issued a judgment against the United States and the United Kingdom, reasserting the jurisdiction of the Court over the case on the basis of the 1971 Montreal Convention arising from the aerial incident at Lockerbie, and rejecting the appeal put forward by the two other States contesting that jurisdiction.⁹⁴

European Union and associated and aligned countries: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia; and Iceland); pp. 14-15 (Costa Rica); pp. 15-16 (Russian Federation); pp. 22-24 (Japan); pp. 24-25 (Slovenia); pp. 25-26 (Sweden); and pp. 26-27 (Brazil).

⁸⁶ *Ibid.*, pp. 17-19 (China); pp. 20-22 (Bahrain); pp. 34-36 (League of Arab States); pp. 36-38 (Organization of African Unity); pp. 38-39 (Organization of the Islamic Conference); pp. 40-42 (Group of African States); pp. 46-47 (Indonesia); pp. 47-48 (Syrian Arab Republic); pp. 48-49 (United Arab Emirates); p. 51 (Yemen); pp. 59-61 (Ghana); p. 61 (Zimbabwe); pp. 61-62 (Namibia); p. 62 (Morocco); pp. 64-65 (Guinea-Bissau); pp. 66-67 (Nigeria); pp. 67-69 (India); pp. 69-70 (United Republic of Tanzania); pp. 70-71 (Cuba); pp. 71-72 (Oman); pp. 72-73 (Islamic Republic of Iran); and pp. 73-75 (Malaysia).

⁸⁷ *Ibid.*, p. 60.

⁸⁸ *Ibid.*, pp. 34-35.

⁸⁹ *Ibid.*, pp. 20-22 (Bahrain); pp. 19-20 (Kenya); p. 28 (Gabon); pp. 34-36 (League of Arab States); pp. 36-38 (Organization of African Unity); pp. 38-39 (Organization of the Islamic Conference); pp. 40-42 (Group of African States); pp. 46-47 (Indonesia); pp. 47-48 (Syrian Arab Republic); pp. 51-52 (Jordan); pp. 53-54 (Egypt); pp. 55-56 (Ghana); pp. 64-65 (Guinea-Bissau); pp. 69-70 (United Republic of Tanzania); and pp. 73-75 (Malaysia).

⁹⁰ S/1998/318.

⁹¹ S/PV.3875 (Resumption), pp. 24-26.

⁹² *Ibid.*, pp. 45-48.

⁹³ *Ibid.*, p. 65.

⁹⁴ S/PV.3920, pp. 2-5.

Following the deliberations, the Council adopted resolution 1192 (1998) of 27 August 1998, by which it welcomed the initiative for the trial of the two persons charged with the bombing of Pan Am flight 103 before a Scottish court sitting in the Netherlands, as contained in the letter dated 24 August 1998 from the representatives of the United Kingdom of Great Britain and Northern Ireland and of the United States of America addressed to the Secretary-General⁹⁵ and the willingness of the Government of the Netherlands to cooperate in the implementation of the initiative. By the same resolution, the Council decided that all States should cooperate to that end, and in particular that the Government of the Libyan Arab Jamahiriya should ensure the appearance in the Netherlands of the two accused for the purpose of trial by the court, and that it should ensure that any evidence or witnesses in the Libyan Arab Jamahiriya were, upon the request of the court, promptly made available at the court in the Netherlands for the purpose of the trial.

Case 19

During the period under review, the Security Council was seized with the dispute between Cameroon and Nigeria concerning the peninsula of Bakassi. While no meeting of the Council itself addressed this issue, and no resolutions regarding this issue were adopted, the Security Council received several letters on the matter.

By a letter dated 22 February 1996 addressed to the President of the Council,⁹⁶ the representative of Cameroon recalled that in March 1994, his Government had referred this matter to the International Court of Justice. Annexed to his letter was a letter dated 28 January 1996 from the Minister for Foreign Affairs of Cameroon addressed to the Minister for Foreign Affairs of Nigeria, calling on the latter to heed “the voice of wisdom”, which counselled the withdrawal of troops from the Bakassi peninsula and the return of the civilian population displaced from the area, pending completion of the process of judicial settlement set in motion at the Court. Furthermore, the representative of Cameroon reaffirmed the willingness of his Government to work for the maintenance of

peace in the Bakassi peninsula, while awaiting the judgment of the Court.

A statement by the Presidency on behalf of the European Union was also annexed to the letter, which expressed the hope that a peaceful solution would be found through the Court. The European Union called on the parties to the dispute to refrain from any military intervention, in conformity with international law and, in particular, with the Charter of the United Nations, and expressed the hope that a peaceful solution would be found to this conflict through its referral to the ICJ.

In response, by a letter dated 27 February 1996 addressed to the President of the Council,⁹⁷ the representative of Nigeria stated that the allegations of the Cameroonian authorities were unfounded. He claimed that they had embarked on a course of propaganda against Nigeria in order to bring “undue pressure” on its Government. He further stated that it would appear also that their tactics were aimed at forcing a decision on the peninsula question in their favour, regardless of ongoing peaceful negotiations and processes at the Court.

Subsequently, by identical letters dated 29 February 1996 addressed to the Presidents of Nigeria and Cameroon,⁹⁸ the President of the Council requested both parties to take the necessary measures to withdraw their forces to the positions they had occupied before the Court was informed of the dispute. In his letter, the President noted that the dispute had already been referred to the Court and the case was pending before it. He urged both nations to reach a peaceful settlement through the Court.

By a letter dated 11 March 1996 addressed to the President,⁹⁹ the representative of Cameroon reaffirmed the determination of his Government to make every effort to settle the dispute by peaceful means, specifically by recourse to the Court.

In a letter dated 15 April 1996 addressed to the President,¹⁰⁰ the representative of Cameroon expressed full support for the protective measures decided on by the Court, which included the return of the forces to

⁹⁵ S/1998/795.

⁹⁶ S/1996/125.

⁹⁷ S/1996/140.

⁹⁸ S/1996/150.

⁹⁹ S/1996/184.

¹⁰⁰ S/1996/287.

the positions held prior to the submission of the case to the Court.

By a letter dated 24 May 1996 addressed to the President of the Council,¹⁰¹ the Secretary-General referred to a previous letter dated 29 February 1996¹⁰² by which the members of the Council had welcomed his proposal to send a fact-finding mission to the Bakassi peninsula. In that regard, the Secretary-General had dispatched his Special Envoy, Mr. Lakhdar Brahimi, to the region in order to consult with the Heads of State of the two countries concerned. He informed the Council of Mr. Brahimi having reported to him that according to the President of Cameroon, his country would abide by any decision reached by the Court and would welcome any action by the United Nations, including the dispatch of a fact-finding mission to the disputed area and to the region. The President of Cameroon also suggested that some United Nations military observers be stationed in the area to help prevent any renewed confrontation. On the part of Nigeria, Mr. Brahimi reported that the President, while indicating his preference for a bilateral solution to the dispute, recognized that a mission of the United Nations could help in this regard. The Secretary-General further stated that in a letter dated 12 May 1996 addressed to him, the President of Nigeria had indicated his awareness that the Court had urged the two countries to lend assistance to a United Nations mission to Bakassi and said that, in deference to that order, the Government of Nigeria accepted in principle the idea of such a mission.

By a letter dated 31 October 1996 addressed to the Secretary-General,¹⁰³ the President of the Council noted that its members were encouraged by the progress reported by the fact-finding mission, and fully supported the efforts of the Secretary-General to find ways to reduce the tension in the disputed area and to improve relations between Nigeria and Cameroon while the dispute was before the Court.

By a letter dated 16 December 1996 addressed to the President of the Council,¹⁰⁴ the representative of Cameroon transmitted a copy of a note verbale that was sent to the representative of Nigeria, which

mentioned the pending dispute before the Court and the alleged violation of the Court's protective measures by Nigeria through electrification and water-supply projects.

In the same vein, by a letter dated 13 March 1998 addressed to the President,¹⁰⁵ the representative of Cameroon transmitted the text of the communiqué issued on 8 March 1998 by the Government of Cameroon in response to a statement made by the Nigerian authorities concerning the situation in the Bakassi peninsula. In the text, the representative of Cameroon emphasized that his Government had referred the case to the Court and had made its protests at the alleged manipulation of international public opinion by Nigeria.

In a letter dated 11 December 1998 addressed to the President,¹⁰⁶ the representative of Cameroon informed the Council that the Nigerian authorities had held municipal elections on 5 and 6 December 1998 in the occupied part of Cameroonian territory in the Bakassi peninsula. The representative asserted that Nigeria's action was in flagrant violation of international law, and, in particular, of the interim measures of protection ordered by the Court in The Hague on 16 March 1996.

Case 20

During the period under review, the Security Council was seized with the dispute between the Islamic Republic of Iran and the United Arab Emirates concerning the three islands of Greater Tunb, Lesser Tunb and Abu Musa. While no meeting of the Council addressed this issue, and no resolutions regarding this issue were adopted, several letters were circulated as documents of the Security Council.

By letters dated 3 April 1996 and 4 June 1996 addressed to the Secretary-General,¹⁰⁷ the representative of Oman transmitted a press communiqué issued by the Ministerial Council of the Gulf Cooperation Council at its fifty-eighth session. In the text, the Ministerial Council reaffirmed its support and assistance to the United Arab Emirates, and called upon the Islamic Republic of Iran to agree to submit the dispute to the International Court of Justice.

¹⁰¹ S/1996/390.

¹⁰² S/1996/150.

¹⁰³ S/1996/892.

¹⁰⁴ S/1996/1052.

¹⁰⁵ S/1998/228.

¹⁰⁶ S/1998/1159.

¹⁰⁷ S/1996/305 and S/1996/409, respectively.

By a letter dated 26 August 1996 addressed to the Secretary-General,¹⁰⁸ the representative of the United Arab Emirates reaffirmed its willingness to settle the question of the three islands through peaceful means, including recourse to the Court.

By a letter dated 19 September 1996 addressed to the Secretary-General,¹⁰⁹ the representative of Saudi Arabia transmitted a copy of resolution 5595 adopted by the Council of the League of Arab States at its 106th ordinary session. In the text, the Council called on the Islamic Republic of Iran to accept that the matter be referred to the Court.

By identical letters dated 2 January 1997 addressed to the Secretary-General and the President,¹¹⁰ the representative of the United Arab Emirates transmitted a note verbale dated 22 April 1996 addressed to the Ministry of Foreign Affairs of the Islamic Republic of Iran reaffirming its commitment to pursuing all peaceful means, including recourse to the Court, with a view to resolving the dispute concerning the three islands.

¹⁰⁸ S/1996/692.

¹⁰⁹ S/1996/769.

¹¹⁰ S/1997/8.

By a letter dated 16 April 1997 addressed to the President of the Council,¹¹¹ the representative of Kuwait in his capacity as Chairman of the Group of Arab States transmitted resolution 5637 adopted at the 107th regular session of the Council of LAS calling on the Islamic Republic of Iran to agree to refer the case to the Court. This was reiterated in a letter dated 6 April 1999 from the Permanent Observer of the League of Arab States addressed to the President,¹¹² in which he called on the Government of the Islamic Republic of Iran to put an end to the occupation of the three islands and to refrain from building any infrastructure on the three islands with a view to changing their demographic structure, to dismantle the facilities installed unilaterally on the three islands and to resort to peaceful means in order to settle the dispute in accordance with the principles and rules of international law, inter alia, by bringing the matter before the Court.

This call was supported in several other communications addressed to the Secretary-General,¹¹³ by which several delegations from LAS called for a peaceful settlement to be reached through direct negotiations or by referral to the Court.

¹¹¹ S/1997/329.

¹¹² S/1999/395.

¹¹³ S/1997/429, S/1997/448, S/1998/2, S/1998/9, S/1998/217, S/1998/245, S/1998/319, S/1998/615, S/1998/842, S/1999/236, S/1999/305 and S/1999/802.

Part V

Relations with the Secretariat

Article 98

The Secretary-General shall act in that capacity¹¹⁴ 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....

¹¹⁴ Article 97 of the Charter stipulates that the Secretary-General shall be the chief administrative officer of the Organization.

Article 99

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

Note

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 Charter¹¹⁵ (section A) and with the Secretary-General's power of initiative under Article 99 (section B).

A. Functions other than those of an administrative nature entrusted to the Secretary-General by the Security Council

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. His functions in that regard continued to expand, as the activities of the Security Council continued to expand and diversify. In addition to carrying on with his responsibilities in the area of peaceful settlement of disputes (political/diplomatic functions) and peacekeeping (security functions), the Secretary-General was entrusted with the implementation of sanctions regimes (legal functions). The practice described below is illustrative and does not purport to be comprehensive.¹¹⁶

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 Burundi, the Council welcomed the sending by the Secretary-General of a technical security mission to Burundi to examine ways to improve existing security arrangements for United Nations personnel and premises and the protection of humanitarian operations;¹¹⁷

(b) In relation to the situation concerning Rwanda, the Council requested the Secretary-General to maintain the Commission of Inquiry on the basis set

out in paragraph 91 (c) of its report,¹¹⁸ to follow up on its earlier investigations and to stand ready to pursue any further allegations of violations, especially of expected arms shipments. The Council also requested the Secretary-General to consult with States neighbouring Rwanda, in particular Zaire,¹¹⁹ on appropriate measures, including the possible deployment of United Nations observers in the airfields and at other transportation points in and around border crossing points;¹²⁰

(c) In relation to the situation in the former Yugoslav Republic of Macedonia, the Council requested the Secretary-General to keep the Council regularly informed of any developments on the ground and other circumstances affecting the mandate, and also requested the Secretary-General to review the composition, strength and mandate of the United Nations Preventive Deployment Force;¹²¹

(d) In relation to the situation in Afghanistan, the Council requested the Secretary-General to continue investigations into alleged mass killings of prisoners of war and civilians as well as ethnically based forced displacement of large groups of the population and other forms of mass persecution in Afghanistan;¹²²

(e) In relation to the situation in Afghanistan, the Council encouraged the Secretary-General to continue his efforts to dispatch a mission to Afghanistan to investigate numerous reports of grave breaches and serious violations of international humanitarian law in that country, in particular mass killings and mass graves of prisoners of war and civilians and the destruction of religious sites;¹²³

(f) In relation to the situation in Guinea-Bissau, the Council requested the Secretary-General to make recommendations to the Council on a possible role of the United Nations in the process of peace and reconciliation in Guinea-Bissau, including the early

¹¹⁵ 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 also chapter I, part IV.

¹¹⁶ For details of these and other instances in which the Security Council entrusted functions to the Secretary-General, see the relevant case studies in chaps. VIII and X.

¹¹⁷ Resolution 1040 (1996).

¹¹⁸ S/1996/195.

¹¹⁹ By a communication dated 20 May 1997, the Secretariat was informed by the Member State known formerly as "Zaire" that the name of the State had been changed on 17 May to "Democratic Republic of the Congo".

¹²⁰ Resolution 1053 (1996).

¹²¹ Resolution 1058 (1996).

¹²² Resolution 1193 (1998).

¹²³ Resolution 1214 (1998).

establishment of arrangements for liaison between the United Nations and the Economic Community of West African States Monitoring Group;¹²⁴

(g) In relation to the situation in the Central African Republic, the Council welcomed, in resolution 1271 (1999), the proposal of the Secretary-General to dispatch a small multidisciplinary mission to Bangui in order to examine, in accordance with the wishes expressed by the Government of the Central African Republic, the conditions for the maintenance of the United Nations presence beyond 15 February 2000, and requested the Secretary-General to inform the Council as soon as possible with detailed proposals in that regard.

Good offices

The Secretary-General was often requested to exercise or continue to exercise his “good offices” function, that is, his independent political role in preventing or mediating conflicts between or within States, or his role in that regard was endorsed:

(a) In relation to the situation in Cyprus, the Council welcomed the report of the Secretary-General¹²⁵ on his mission of good offices in Cyprus, and stressed its support for the Secretary-General’s mission of good offices and the importance of the concerted efforts to work with the Secretary-General towards an overall comprehensive settlement;¹²⁶

(b) In relation to the situation in Angola, the Council stressed that the good offices, mediation and verification functions of the Special Representative of the Secretary-General, in close collaboration with the Joint Commission, remained essential for the successful completion of the Angolan peace process;¹²⁷

(c) In relation to the situation in Tajikistan and along the Tajik-Afghan border, the Council commended the efforts of the Special Representative of the Secretary-General and of the personnel of the Mission, and encouraged them to continue assisting the parties in the implementation of the General Agreement through their good offices;¹²⁸

(d) In relation to the situation between Eritrea and Ethiopia, the Council requested the Secretary-General to make available his good offices in support of a peaceful resolution of the conflict.¹²⁹

Joint efforts to promote a political settlement

In several instances during the period under review, the Secretary-General was asked to undertake diplomatic efforts in conjunction with regional arrangements or other actors in order to achieve a political settlement, as follows:¹³⁰

(a) In connection with the situation in Croatia, the Council welcomed the recommendations made by the Secretary-General in his report for specific action which had to be taken to improve the human rights situation in the Republic of Croatia, inter alia, in the framework of the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium,¹³¹ as part of the peace process towards a comprehensive political settlement in the region;¹³²

(b) In connection with the situation in Cyprus, the Council stressed the importance of the eventual demilitarization of the Republic of Cyprus as an objective in the context of an overall comprehensive settlement, and called upon the Secretary-General to promote efforts in that direction;¹³³

(c) In connection with the situation in Georgia, the Council reaffirmed its full support for the efforts of the Secretary-General aimed at achieving a comprehensive political settlement of the conflict, including on the political status of Abkhazia, respecting fully the sovereignty and territorial integrity of Georgia, as well as for the efforts that were being undertaken by the Russian Federation in its capacity as facilitator to intensify the search for a peaceful settlement of the conflict;¹³⁴

¹²⁴ Resolution 1216 (1998).

¹²⁵ S/1996/1055.

¹²⁶ Resolution 1092 (1996).

¹²⁷ Resolution 1098 (1997).

¹²⁸ Resolution 1128 (1997).

¹²⁹ Resolution 1177 (1998).

¹³⁰ See chap. XII for a more comprehensive listing of instances of cooperation between the United Nations and regional arrangements to achieve a pacific settlement of a dispute, and the role of the Secretary-General in those instances.

¹³¹ S/1995/951, annex.

¹³² S/PRST/1996/39.

¹³³ Resolution 1117 (1997).

¹³⁴ Resolution 1036 (1996).

(d) In connection with the situation in Burundi, the Council expressed its fullest support for the efforts of the Secretary-General and others, in support of the Convention on Governance, to facilitate a comprehensive political dialogue with the objective of promoting national reconciliation, democracy, security and the rule of law in Burundi. The Council also requested the Secretary-General, in consultation as appropriate with OAU and with Member States concerned, to consider what further steps might be necessary to prevent the situation from deteriorating further, and to develop contingency plans as appropriate;¹³⁵

(e) In relation to the situation in Tajikistan and along the Tajik-Afghan border, the Council stressed the need for an early resumption of talks between the Government of Tajikistan and the United Tajik Opposition, expressing the hope that substantive progress would be achieved as soon as possible towards a political settlement of the conflict and encouraging the efforts of the Secretary-General and his Special Representative in this direction;¹³⁶

(f) In relation to the situation in the Middle-East, the Council requested the Secretary-General to continue consultations with the Government of Lebanon and other parties directly concerned with the implementation of resolution 1068 (1996) and to report to the Security Council thereon;¹³⁷

(g) In relation to the situation in Burundi, the Council declared its readiness to assist the people of Burundi with appropriate international cooperation to support a comprehensive political settlement, and in that context, requested the Secretary-General, in consultation with the international community, to undertake preparations, when appropriate, to convene a pledging conference to assist in the reconstruction and development of Burundi following the achievement of a comprehensive political settlement;¹³⁸

(h) In relation to the situation in Afghanistan, the Council requested the Secretary-General, in cooperation, as he deemed it necessary, with interested States and international organizations, in particular

OIC, to continue his efforts to promote the political process;¹³⁹

(i) In relation to the situation in Cyprus, the Council welcomed the efforts of the Special Representative of the Secretary-General, and of those working in support, to prepare the ground for open-ended direct negotiations in the first half of 1997 between the leaders of the two Cypriot communities in order to secure an overall settlement;¹⁴⁰

(j) In relation to the situation in Sierra Leone, the Council encouraged the Secretary-General, through his Special Envoy, in cooperation with the Economic Community of West African States Committee of four Ministers for Foreign Affairs on Sierra Leone, to assist the search for a peaceful resolution of the crisis and, to that end, to work for a resumption of discussions with all parties to the crisis;¹⁴¹

(k) In connection with the situation concerning Western Sahara, the Council requested the Secretary-General to begin the identification of eligible voters in accordance with the settlement plan and the agreements reached between the parties with the aim of finishing the process by 31 May 1998;¹⁴²

(l) In connection with the situation between Eritrea and Ethiopia, the Council requested that the Secretary-General provide technical support to the parties to assist in the eventual delimitation and demarcation of the common border between Ethiopia and Eritrea and, for that purpose, established a trust fund and urged all Member States to contribute to it;¹⁴³

(m) In connection with the situation concerning the Democratic Republic of the Congo, the Council requested the Secretary-General to work closely with the Secretary-General of OAU in promoting a peaceful resolution of the conflict, to make recommendations on the possible role of the United Nations to that end, and to keep the Council informed of developments.¹⁴⁴

¹³⁵ Resolution 1040 (1996).

¹³⁶ Resolution 1061 (1996).

¹³⁷ Resolution 1068 (1996).

¹³⁸ Resolution 1072 (1996).

¹³⁹ Resolution 1076 (1996).

¹⁴⁰ Resolution 1092 (1996).

¹⁴¹ Resolution 1132 (1997).

¹⁴² Resolution 1133 (1997).

¹⁴³ Resolution 1177 (1998).

¹⁴⁴ Resolution 1234 (1999).

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. Concerning peacekeeping, in addition to carrying out responsibilities with regard to ongoing missions,¹⁴⁵ the Secretary-General took on additional functions in relation to fifteen new peacekeeping operations established during 1996-1999.¹⁴⁶ Most of the new missions were multifunctional, with political, humanitarian, social and human rights components. They were given the task of helping to regroup and demobilize combatants, destroy weapons, coordinate humanitarian assistance, monitor human rights and organize elections. The Secretary-General had the responsibility for the executive direction and command of these peacekeeping operations, for example, their establishment, deployment, withdrawal, the implementation of their mandates and the establishment of trust funds. Some of these missions, such as those in Haiti and Croatia, involved the interposition of civilian police for the restoration of order. Other peacekeeping operations with administrative responsibilities were UNMIK in the Federal Republic of Yugoslavia and UNTAET in East Timor.

¹⁴⁵ For further details of these decisions, please refer to chap. V of the present Supplement.

¹⁴⁶ United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES), United Nations Mission of Observers in Prevlaka (UNMOP), United Nations Support Mission in Haiti (UNSMIH), United Nations Verification Mission in Guatemala (MINUGUA), United Nations Observer Mission in Angola (MONUA), United Nations Transition Mission in Haiti (UNTMIH), United Nations Civilian Police Mission in Haiti (MIPONUH), United Nations Civilian Police Support Group (UNPSG), United Nations Mission in the Central African Republic (MINURCA), United Nations Observer Mission in Sierra Leone (UNOMSIL), United Nations Interim Administration Mission in Kosovo (UNMIK), United Nations Mission in Sierra Leone (UNAMSIL), United Nations Transitional Administration in East Timor (UNTAET), United Nations Mission in East Timor (UNAMET) and United Nations Organization Mission in the Democratic Republic of the Congo (MONUC).

Political and peacebuilding missions

During the period under review, the Secretary-General was given a leading role in dispatching and directing political and peacebuilding missions. Those missions were multifaceted peacebuilding and political operations, which assisted the parties in the implementation of complex peace agreements. They focused on the consolidation of peace; promoting reconciliation and the strengthening of democratic institutions; and support for local human rights initiatives. This was the case, for example, for the operations in Liberia (UNOL)¹⁴⁷ and Guinea-Bissau (UNOGBIS).¹⁴⁸

In other instances, the Secretary-General was entrusted the leading role in the composition of a political office. In this regard, the Council authorized the establishment of the United Nations Office in Angola (UNOA)¹⁴⁹ and welcomed the decision of the Secretary-General to establish a United Nations observer mission (UNPOB)¹⁵⁰ in Papua New Guinea.

Support to international tribunals

During the period under review, the Secretary-General was mainly requested to make practical arrangements for the election of the judges to enhance the effective functioning of the International Tribunal for the former Yugoslavia and the International Tribunal for Rwanda, respectively.

By resolutions 1165 (1998) and 1166 (1998), the Council requested the Secretary-General to make practical arrangements for the elections of the judges to enhance the effective functioning of the Tribunals, including the timely provision of personnel and facilities, in particular for the third Trial Chamber and related offices of the Prosecutor, and further requested him to keep the Security Council closely informed of progress.¹⁵¹

¹⁴⁷ See S/1998/1080.

¹⁴⁸ Resolution 1233 (1999).

¹⁴⁹ Resolution 1268 (1999).

¹⁵⁰ S/PRST/1998/10.

¹⁵¹ For the International Tribunal for Rwanda, see resolution 1165 (1998); for the International Tribunal for the former Yugoslavia, see resolution and 1166 (1998).

Implementation of sanctions regimes

During the period under review, the Security Council established three sanctions regimes.¹⁵² In addition to providing all necessary assistance to the sanctions committees established to monitor implementation of the sanctions, the Secretary-General was also requested to reactivate the International Commission of Inquiry, in the case of Rwanda;¹⁵³ and to establish a group of experts, in the case of Iraq.¹⁵⁴

B. Matters brought to the attention of the Security Council by the Secretary-General

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.

During the period under review, the Secretary-General did not invoke Article 99, either expressly or by implication. However, he drew the attention of the Security Council to a deteriorating situation which was already on the Council's agenda, and requested the

Council to consider taking appropriate action.¹⁵⁵ In addition, the Secretary-General exercised the implicit rights conferred upon him under Article 99¹⁵⁶ by, for example, sending a mission to the Federal Republic of Yugoslavia,¹⁵⁷ and by sending a good offices mission to the Great Lakes region to assist the Government of Zaire in addressing the political and security aspects of the problems in the eastern part of the country.¹⁵⁸

¹⁵² The following new sanctions committees were established by the Security Council during the period under consideration: Committee established pursuant to resolution 1132 (1997) concerning Sierra Leone; Committee established pursuant to resolution 1160 (1998) concerning Kosovo, Federal Republic of Yugoslavia; and Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban. For further details, see chap. V.

¹⁵³ Resolution 1161 (1998).

¹⁵⁴ Resolution 1153 (1998).

¹⁵⁵ Thus, for example, in connection with the situation in Burundi, by a letter dated 29 December 1999 addressed to the President of the Security Council (S/1999/1296), the Secretary-General stated that the designation of former President Nelson Mandela as the new facilitator was expected to reinvigorate the peace process. In view of this, it was desirable to raise the profile of the United Nations within the overall efforts of the international community to address the deteriorating political and humanitarian situation in Burundi. He had, accordingly, decided to appoint Mr. Berhanu Dinka as his Special Representative for the Great Lakes region, at the Assistant Secretary-General level.

¹⁵⁶ The *Repertory of Practice of United Nations Organs* states in its Supplement No. 8 (1989-1994), volume VI, under Article 99, that "the implicit powers of the Secretary-General in the spirit of Article 99 have been more liberally construed to include the right to initiate fact-finding missions, investigative commissions and the offer of good-offices or mediation". See also report of the Secretary-General dated 17 June 1992 entitled "An Agenda for Peace" (S/24111, paras. 23-27) and the statement by the President of the Security Council of 30 November 1992 (S/24872).

¹⁵⁷ In the preambular part of resolution 1203 (1998), the Security Council welcomed the decision of the Secretary-General to send a mission to the Federal Republic of Yugoslavia to establish a first-hand capacity to assess developments on the ground in Kosovo.

¹⁵⁸ S/1996/875.

Part VI

Relations with the Military Staff Committee

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”.¹⁵⁹

During the period under review, no reference was made to the Military Staff Committee in any of the discussions or decisions of the Council.

¹⁵⁹ Article 47 of the Charter.