

consultations, the Security Council included the item “Promoting peace and security: humanitarian assistance to refugees in Africa” in its agenda. The President (Malaysia), with the consent of the Council, then extended an invitation to the United Nations High Commissioner for Refugees, under rule 39 of the Council’s provisional rules of procedure.

The United Nations High Commissioner for Refugees gave a briefing on humanitarian assistance in Africa and touched on situations relating to refugees in Angola, Burundi, the Central African Republic, Côte d’Ivoire, the Democratic Republic of the Congo, Guinea, Liberia, the Republic of the Congo, Rwanda, Sierra Leone, the United Republic of Tanzania and others. She also touched on the humanitarian situation in Kosovo,<sup>9</sup> and on the perception of disparity in the assistance given to displaced persons from, for example, Kosovo, as opposed to that given to African refugees.<sup>10</sup>

<sup>9</sup> For purposes of this Supplement, the term “Kosovo” is used as the abbreviation for “Kosovo, Federal Republic of Yugoslavia”, without prejudice to issues of status. In other instances, the terminology originally used in official documents has been preserved to the extent possible.

<sup>10</sup> S/PV.4025, pp. 2-7.

All members of the Council made statements, which, inter alia, expressed concern over the situation of refugees in Africa; welcomed the signing of peace agreements in Sierra Leone and the Democratic Republic of the Congo; stressed the need for the international community to support relief efforts; and stressed the role of the Council in helping African States prevent and contain humanitarian disasters in Africa. Several representatives also noted the disparity in levels of aid received in different areas and appealed to the international community to abide by the principles of humanitarianism, neutrality and fairness in providing assistance. Several representatives also asked questions about specific situations in different areas of Africa, including Sierra Leone, the Democratic Republic of the Congo and the United Republic of Tanzania.<sup>11</sup>

The United Nations High Commissioner for Refugees then responded to questions from members of the Council.<sup>12</sup>

<sup>11</sup> *Ibid.*, pp. 7-8 (Namibia); pp. 8-9 (Gabon); pp. 9-10 (China); pp. 10-12 (France); pp. 12-13 (Bahrain); pp. 13-14 (Brazil); pp. 14-15 (Slovenia); pp. 15-16 (Gambia); pp. 16-18 (Canada); pp. 18-20 (United States); pp. 20-21 (Russian Federation); pp. 21-22 (the Netherlands); p. 22 (United Kingdom); pp. 22-23 (Argentina); and pp. 23-24 (Malaysia).

<sup>12</sup> *Ibid.*, pp. 24-27.

## 43. Protection of civilians in armed conflict

### Initial proceedings

#### **Decision of 12 February 1999 (3978th meeting): statement by the President**

At its 3977th meeting, held on 12 February 1999 in accordance with the understanding reached in its prior consultations, the Security Council included in its agenda the item “Protection of civilians in armed conflict”. The President (Canada) then extended an invitation to the President of the International Committee of the Red Cross (ICRC), the Executive Director of the United Nations Children’s Fund (UNICEF) and the Special Representative of the Secretary-General for Children and Armed Conflict, under rule 39 of the Council’s provisional rules of procedure.

The International Committee of the Red Cross, the Executive Director of UNICEF and the Special Representative of the Secretary-General for Children and Armed Conflict made statements stressing the importance of protecting civilians, particularly children, in armed conflict.<sup>1</sup>

All members of the Council made statements which noted, inter alia, the increasing problem of the deliberate targeting of civilian populations; the

<sup>1</sup> S/PV.3977, pp. 2-5 (President of ICRC); pp. 5-8 (Executive Director of UNICEF); and pp. 8-11 (Special Representative of the Secretary-General for Children and Armed Conflict).

importance of the prevention of conflict and ensuring respect for international law; the need to ensure effective and unconditional protection of children in armed conflict and an end to attacks against humanitarian workers and unimpeded access to the population in need; the danger posed by the manufacturing and marketing of weapons, particularly small arms; the danger of landmines to civilians; and the need for clear mandates incorporating protection of civilians for United Nations peacekeeping missions. Several speakers also called for the Secretary-General to report on the issue. Several speakers emphasized the importance of bringing to justice the perpetrators of crimes against civilians and other violations against humanitarian and human rights law. In that regard, a number of speakers also mentioned the importance of the International Tribunals for Rwanda and the former Yugoslavia.<sup>2</sup> Several speakers also mentioned the need to ensure that sanctions were targeted so they did not negatively affect the civilian population.<sup>3</sup>

The representative of the Russian Federation stated that, while it was clear that the Council was obliged to take measures to support the activities of international humanitarian organizations, his delegation was convinced that such support needed to be implemented in strict compliance with the Charter and needed first to take the form of political support. Only when all political and diplomatic methods had been exhausted could consideration be given to the question of using force to protect the civilian population and the personnel of the humanitarian organizations, and then only on the basis of the Charter. He noted that attempts to use humanitarian concerns to justify the unilateral use of force ran counter to the Charter.<sup>4</sup>

The representative of Brazil also noted that all peaceful and diplomatic efforts needed to be exhausted before the military option was contemplated.<sup>5</sup>

The representative of the Netherlands noted that the problem became more intractable when the

recognized sovereign State was itself the terrorizing party. The Netherlands disagreed with those who believed that even then Article 2 (7), of the Charter of the United Nations provided the ultimate answer. He maintained that Article 2 (7) could never be read in isolation. He noted that the opening words of the Charter did not refer to sovereign States but to the peoples of the United Nations and that nothing contained in the Charter authorized a State to terrorize its own citizens.<sup>6</sup>

The representative of China expressed concern at the tendency in international relations to politicize humanitarian issues and interfere in a country's internal affairs under the guise of humanitarianism. In a humanitarian crisis, the willful invocation of Chapter VII of the Charter to use force, or even the unilateral use or threat of use of force, against a sovereign State without the authorization of the Council, with no consideration given to the specific causes of the crisis, would only complicate matters and further intensify the conflict. He also stated that in the light of the nature and scope of the matter, it was appropriate that the question of the protection of civilians in armed conflict be placed on the agenda of the General Assembly and the Economic and Social Council for more thorough and comprehensive discussions.<sup>7</sup>

The Director of the International Committee of the Red Cross, the Executive Director of UNICEF and the Special Representative of the Secretary-General for Children and Armed Conflict intervened a second time to respond to comments by members of the Council.<sup>8</sup>

At its 3978th meeting, held on 12 February 1999 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the item.

At the same meeting, the President (Canada) made the following statement on behalf of the Council:<sup>9</sup>

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<sup>2</sup> Ibid., pp. 13-14 (United Kingdom); pp. 21-22 (Argentina); pp. 22-23 (Namibia); pp. 26-27 (Bahrain); p. 27 (Gabon); and pp. 27-28 (United States).

<sup>3</sup> Ibid., pp. 11-13 (Slovenia); pp. 17-20 (France); pp. 23-26 (Malaysia); pp. 28-29 (Gambia); and pp. 29-33 (Canada).

<sup>4</sup> Ibid., pp. 14-15.

<sup>5</sup> Ibid., pp. 15-17.

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<sup>6</sup> Ibid., pp. 20-21.

<sup>7</sup> Ibid., pp. 29-30.

<sup>8</sup> Ibid., pp. 33-34 (President of ICRC); p. 34 (Executive Director of UNICEF); pp. 34-35 (Special Representative of the Secretary-General for Children and Armed Conflict).

<sup>9</sup> S/PRST/1999/6.

The Security Council has considered the matter of protection of civilians in armed conflict.

The Council expresses its grave concern at the growing civilian toll of armed conflict and notes with distress that civilians now account for the vast majority of casualties in armed conflict and are increasingly directly targeted by combatants and armed elements. The Council condemns attacks or acts of violence in situations of armed conflict directed against civilians, especially women, children and other vulnerable groups, including also refugees and internally displaced persons, in violation of the relevant rules of international law, including those of international humanitarian and human rights law.

The Council is especially concerned about attacks on humanitarian workers, in violation of the rules of international law.

The Council notes that large-scale human suffering is a consequence of and sometimes a contributing factor to instability and further conflict, whether due to displacement, violent assault or other atrocities. Bearing in mind its primary responsibility for the maintenance of international peace and security, the Council affirms the need for the international community to assist and protect civilian populations affected by armed conflict. The Council calls upon all parties concerned to ensure the safety of civilians and guarantee the unimpeded and safe access of United Nations and other humanitarian personnel to those in need. In this regard, the Council recalls the statement by its President of 19 June 1997 and also recalls its resolution 1208 (1998) of 19 November 1998 on the status and treatment of refugees.

The Council expresses particular concern at the harmful impact of armed conflict on children and, in this regard, recalls the statement by its President of 29 June 1998.

The Council calls upon all parties concerned to comply strictly with their obligations under international law, in particular their relevant obligations under the Hague Conventions, the Geneva Conventions of 1949 and the Additional Protocols thereto, of 1977, and the United Nations Convention on the Rights of the Child of 1989, as well as with all decisions of the Council.

The Council strongly condemns the deliberate targeting by combatants of civilians in armed conflict and demands that all concerned put an end to such violations of international humanitarian and human rights law. The Council expresses its willingness to respond, in accordance with the Charter of the United Nations, to situations in which civilians, as such, have been targeted or humanitarian assistance to civilians has been deliberately obstructed.

The Council also condemns all attempts to incite violence against civilians in situations of armed conflict and calls upon States to fulfil their obligations to take action at the national level. The Council affirms the need to bring to justice, in an appropriate manner, individuals who incite or cause violence against civilians in situations of armed conflict or who otherwise

violate international humanitarian and human rights law. In this regard, the Council reaffirms the importance of the work being done by the ad hoc Tribunals for the former Yugoslavia and Rwanda and calls upon all States to cooperate with the Tribunals, in accordance with the relevant Council resolutions. The Council acknowledges the historic significance of the adoption of the Rome Statute of the International Criminal Court.

The Council notes the deleterious impact of the proliferation of arms, in particular small arms, on the security of civilians, including refugees and other vulnerable populations. In this regard, it recalls its resolution 1209 (1998) of 19 November 1998 which, inter alia, stressed the importance of all Member States, and in particular States involved in manufacturing and marketing of weapons, restricting arms transfers which could provoke or prolong armed conflicts or aggravate existing tensions or armed conflicts in Africa, and which urged international collaboration in combating illegal arms flows in Africa.

The Council expresses concern over the widening gap between the rules of international humanitarian law and their application. The Council welcomes the commemorative events planned to mark the fiftieth anniversary of the Geneva Conventions and the centenary of the first International Peace Conference, held at The Hague in 1899. These occasions provide an opportunity for a further exploration of ways and means by which the international community may enhance the compliance of parties to an armed conflict with the relevant rules of international law, including those of international humanitarian law.

The Council welcomes the continuing contribution to the implementation of international humanitarian law of the International Committee of the Red Cross.

The Council considers that a comprehensive and coordinated approach by Member States and international organizations and agencies is required in order to address the problem of the protection of civilians in situations of armed conflicts. To this end, the Council requests the Secretary-General to submit a report containing concrete recommendations to the Council by September 1999 on ways the Council, acting within its sphere of responsibility, could improve the physical and legal protection of civilians in situations of armed conflict. The report should also identify contributions the Council could make towards effective implementation of existing humanitarian law. The report should examine whether there are any significant gaps in existing legal norms, through the review of recent reports in this regard. The Council encourages the Secretary-General to consult the Inter-Agency Standing Committee in formulating his recommendations.

The Council affirms its intention to review the recommendations of the Secretary-General in accordance with its responsibilities under the Charter.

**Deliberations of 22 February 1999  
(3980th meeting)**

At its 3980th meeting, held on 22 February 1999 in accordance with the understanding reached in its prior consultations, the Council resumed its consideration of the item. Following the adoption of the agenda, the President (Canada), with the consent of the Council, invited the representatives of Australia, Azerbaijan, Bangladesh, Burkina Faso, Costa Rica, the Dominican Republic, Egypt, El Salvador, Germany, Guatemala, Haiti, India, Indonesia, Jamaica, Japan, New Zealand, Norway, Pakistan, the Republic of Korea, Togo, Ukraine, Uruguay and Zambia, at their request, to participate in the discussion without the right to vote. The Council also invited the Permanent Observers of Switzerland and Palestine in accordance with the rules of procedure and the previous practice in that regard.

A number of speakers made statements, which stressed the importance, inter alia, of: (1) bridging the gap between existing international norms and their full respect and compliance (the importance of dissemination of knowledge of human rights and international humanitarian law among security forces and other participants in armed conflicts was highlighted); (2) ensuring unimpeded access of humanitarian workers to those in need; (3) enhancing the safety of humanitarian personnel; (4) the consideration of more effective measures to protect children in armed conflict, including raising the age limit for military recruitment to 18 years, and ensuring that children were always identified as a priority in all efforts to build peace and resolve conflicts; (5) dealing with the problem of anti-personnel land mines and small arms proliferation; (6) careful targeting of sanctions, so as to minimize their negative humanitarian impact and strict implementation of arms embargoes; (7) ending impunity from war crimes and crimes against humanity; (8) preventing the use of the news media, to the extent possible, as a tool of conflict; (9) seeking conflict prevention through the Council as a matter of priority; and (10) complementing coherent diplomatic, political and military measures with measures related to economic, humanitarian and development aspects of conflict management.<sup>10</sup>

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<sup>10</sup> S/PV.3980, pp. 3-4 (Germany on behalf of the European

The representative of New Zealand welcomed what he believed was the growing acceptance of the notion that the protection of individuals transcended the domestic affairs of States, and that national sovereignty was not an absolute in that context.<sup>11</sup>

The representative of India maintained that there was no automatic right of access for humanitarian agencies, and that to press for it would violate both international humanitarian law and the sovereignty of States. He noted that weakening State authority, particularly that of Governments already under violent internal stress, through claims of a right of intervention not only violated international law, but also worked against the objective of ensuring that civilians under threat were protected as much as possible. Noting the recommendations that targeted sanctions be used both to ensure the protection of civilians and to punish those who violated their rights, he stressed that targeted sanction had two ends: to streamline the process for countries and agencies that imposed sanctions, and to try to limit, not human suffering, but the effects on the economic interests of those imposing sanctions.<sup>12</sup>

The representative of the Republic of Korea stated that the primary responsibility of the Council for the maintenance of international peace and security should not be limited to its involvement in the issues related to the traditional concept of States' security. Therefore, the Council should be encouraged to take a proactive approach to enhance its active engagement in the issue of human security by providing assistance and protection to civilians in armed conflict.<sup>13</sup>

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Union and associated and aligned countries: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia; and Cyprus, Iceland and Liechtenstein); pp. 5-6 (Burkina Faso); pp. 6-7 (Australia); pp. 7-8 (Norway); pp. 8-9 (Pakistan); pp. 10-11 (Japan); pp. 11-12 (Bangladesh); pp. 12-14 (Costa Rica); pp. 19-20 (Ukraine); pp. 22-23 (Indonesia); pp. 23-24 (Togo); pp. 24-26 (Dominican Republic); pp. 26-27 (Guatemala); pp. 27-29 (El Salvador); and pp. 29-30 (Haiti); and S/PV.3980 (Resumption 1): pp. 2-3 (Azerbaijan); pp. 3-6 (Egypt); pp. 6-7 (Uruguay); pp. 8-9 (Zambia); pp. 9-11 (Iraq); pp. 11-12 (Israel); pp. 12-14 (Palestine); and pp. 14-16 (Switzerland).

<sup>11</sup> S/PV.3980, pp. 14-16.

<sup>12</sup> *Ibid.*, pp. 16-19.

<sup>13</sup> *Ibid.*, pp. 20-22.

The representative of Indonesia noted that, in this context, international law did not take precedence over national law so a balance needed to be sought so as not to violate national sovereignty or the purposes and principles of the Charter.<sup>14</sup>

The representative of Iraq expressed the view that any action to protect civilians should strictly observe Article 2 (7) of the Charter. He expressed the belief that bridging that Article would “throw the door wide open” to intervention into the internal affairs of States, especially at times of “rampant selectivity and double standards” in the Council.<sup>15</sup>

The representative of Israel stated that, to ensure respect for the Fourth Geneva Convention, it was necessary to advance education on humanitarian law, to utilize the legal process and to ensure the principle of freedom of access. On the freedom of access, he noted that States should risk unfair criticism rather than compromise it, as visible protection was the only protection for many civilians in times of war.<sup>16</sup>

The Permanent Observer of Palestine noted that on 4 December 1975, at the 1859th meeting of the Security Council, the Council had considered a request for participation of the Palestine Liberation Organization (PLO), which had not been made under rule 37 and 39. The Council had decided on that date, by a vote, that an invitation would confer upon it the same rights of participation as were conferred upon a Member State when it was invited under rule 37. However, at the current meeting that practice had not been adhered to. He asked the Council to take another look into that procedural issue and he trusted that the aberration would be without prejudice to the established practice of the Council with regard to the future participation of Palestine.<sup>17</sup>

The President indicated that he would formally ask the Secretariat to look into the precedents cited by the Permanent Observer of Palestine.<sup>18</sup>

The representative of the United States, United Kingdom, the Russian Federation and Iraq took second

interventions to respond to comments regarding the sanctions and no-fly zones in Iraq.<sup>19</sup>

**Decision of 17 September 1999 (4046th meeting): resolution 1265 (1999)**

On 8 September 1999, pursuant to the request in the statement by the President of the Council of 12 February 1999, the Secretary-General submitted to the Council a report on how the Council could act to improve both the physical and legal protection of civilians in situations of armed conflict.<sup>20</sup> In his report the Secretary-General provided concrete recommendations to the Council covering a wide range of initiatives. He drew particular attention to nine proposals of particular importance. He began with two recommendations intended to strengthen permanently the capacity of the Council and the Organization to protect civilians in armed conflict: to take steps to strengthen the Organization’s capacity to plan and deploy rapidly; and to establish a permanent technical review mechanism of United Nations and regional sanctions which could ascertain the probable impact of sanctions on civilians. Next, there were four recommendations which could be employed by the Council upon receipt of information indicating that the outbreak of violence aimed at civilians might be imminent. The Secretary-General recommended that the Council impose arms embargoes in situations where civilians and protected persons were targeted by the parties to the conflict, or where the parties were known to commit systematic and widespread violations of international humanitarian and human rights law, including the recruitment of child soldiers. He also recommended that the Council make greater use of targeted sanctions to deter and contain those who commit egregious violations of international humanitarian and human rights law. Additionally, the Council should deploy international military observers to monitor the situation in camps for internally displaced persons and refugees when the presence of arms, combatants and armed elements was suspected; and deploy regional or international military forces prepared to take effective measures to compel disarmament of the combatants or armed elements.

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<sup>14</sup> Ibid., pp. 22-23.

<sup>15</sup> S/PV.3980 (Resumption 1), pp. 9-11.

<sup>16</sup> Ibid., pp. 11-12.

<sup>17</sup> Ibid., pp. 12-14.

<sup>18</sup> Ibid., p. 14.

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<sup>19</sup> Ibid., pp. 16-17 (United States); p. 17 (United Kingdom); p. 17 (Russian Federation); and pp. 17-18 (Iraq).

<sup>20</sup> S/1999/957.

Finally, he put forward three recommendations intended to alleviate the suffering of civilians where conflict had already broken out and where civilians were being targeted. He recommended that the Council, at the onset of a conflict, underscore in its resolutions the imperative for civilian populations to have unimpeded access to humanitarian assistance and for concerned parties, including non-State actors, to guarantee the security of humanitarian organizations, in accordance with the principles of humanity, neutrality and impartiality. The Council also needed to insist that failure to comply would result in the imposition of targeted sanctions. He also recommended that the Council ensure that, wherever required, peacekeeping and peace enforcement operations were authorized and equipped to control or close down hate media assets; and, in the face of massive and ongoing abuses, to consider the imposition of appropriate enforcement action with attention to repercussions upon civilian populations and the environment. When considering the imposition of enforcement actions, the Secretary-General stressed the importance of keeping in mind the following variables: the scope of the breaches of human rights and international humanitarian law, the inability of local authorities to uphold legal order or a pattern of complicity by local authorities, the exhaustion of peaceful or consent-based efforts to address the situation, the ability of the Council to monitor actions undertaken, and the applicability of limited and proportionate use of force.

At its 4046th meeting, held on 16 September 1999 in accordance with the understanding reached in its prior consultations, the Security Council included the report of the Secretary-General in its agenda. Following the adoption of the agenda, the President (Netherlands), with the consent of the Council, invited the representatives of Botswana, Egypt, Finland, India, Iraq, Japan, Mongolia, Norway, Pakistan, the Republic of Korea, Rwanda, Slovakia, South Africa, the former Yugoslav Republic of Macedonia, Tunisia, and Ukraine, at their request, to participate in the discussion without the right to vote. The Council also invited the Permanent Observers of Palestine and Switzerland in accordance with the rules of procedure and the previous practice in that regard. The Council further invited the head of the delegation of the International Committee of the Red Cross, under rule 39 of its provisional rules of procedure.

At the same meeting, the Secretary-General made a brief statement presenting his report.<sup>21</sup>

Speakers highlighted a variety of issues, including the culture of impunity and accountability for breaches of international humanitarian and human rights law. Speakers' statements addressed, *inter alia*, compliance of non-State actors with international law; the need to develop targeted sanctions; raising the legal age for military recruitment; and humanitarian access. A number of speakers called for States to ratify the additional protocols of the Geneva Conventions. All speakers expressed their concern over the seriousness of the issue of civilians in armed conflict and welcomed the action-oriented recommendations contained in the report of the Secretary-General.<sup>22</sup>

The representative of Malaysia stated that the imposition of Article 41 of the Charter and the use of coercive action under Chapter VII needed to be adopted only as a mechanism of last resort.<sup>23</sup>

The representative of Norway noted that the Council had consistently reaffirmed its primary responsibility for the maintenance of international peace and security, and on several occasions had recognized that massive and systematic breaches of

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<sup>21</sup> S/PV.4046, pp. 3-4.

<sup>22</sup> *Ibid.*, pp. 4-6 (United Nations High Commissioner for Human Rights); pp. 6-9 (Canada); pp. 9-11 (Slovenia); pp. 11-12 (Brazil); pp. 12-14 (United States); pp. 14-15 (Namibia); pp. 15-16 (Argentina); pp. 16-17 (United Kingdom); pp. 17-18 (France); pp. 18-20 (Malaysia); pp. 20-21 (Gambia); pp. 21-22 (China); pp. 22-23 (Russian Federation); and pp. 23-25 (Bahrain); S/PV.4046 (Resumption 1) and Corr.2, pp. 2-4 (South Africa); pp. 4-5 (Japan); pp. 5-7 (Switzerland); pp. 7-9 (Finland on behalf of the European Union and associated and aligned countries: Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania and Slovakia; Cyprus, Malta, Iceland and Liechtenstein); pp. 9-11 (Mongolia); pp. 11-12 (Palestine); pp. 12-13 (Norway); pp. 15-17 (Republic of Korea); pp. 17-19 (Ukraine); pp. 19-21 (Egypt); pp. 21-22 (Slovakia); pp. 23-24 (Rwanda); pp. 2-3 (Botswana); pp. 3-4 (Israel); pp. 5-6 (Head of the delegation of ICRC); pp. 8-9 (Netherlands); and pp. 9-10 (Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator).

<sup>23</sup> S/PV.4046, pp. 18-20.

international humanitarian and human rights law represent a threat to international peace and security.<sup>24</sup>

The representative of the former Yugoslav Republic of Macedonia stated that the best things for the Council to do to prevent the spread of the non-observance of international humanitarian law would be for the Council to take immediate action to freeze or to stop a conflict and to undertake measures aimed at finding solutions. The Council needed to be resolute, inventive and innovative and act under Article 24 (2), of the Charter. He also stressed that permanent members needed to avoid acting under Article 27 (3), as under Article 24 (1), the Council was requested to act on behalf of Member States.<sup>25</sup>

The representative of Egypt stated that Article 24 of the Charter defined the role of the Council, which was its responsibility for the maintenance of international peace and security. In carrying out that task, it was duty-bound to respect the purposes and principles of the Charter. The mandate of the Council was to decide whether the continuation of a conflict might threaten international peace and security and to submit a report in that connection containing recommendations on ways to resolve the conflict pursuant to Chapter VI. The Council might also act within the framework of Chapter VII if it felt that peace was threatened or violated or if it believed that incidents constituted aggression pursuant to Article 39 of the Charter. He stressed that the legal framework for Council action was defined by respect for the purposes and principles of the Charter: the non-use of force except in the implementation of Council resolutions adopted pursuant to Chapter VII. That meant that a conflict must threaten or violate international peace or be deemed aggressive. The Council should not intervene in the internal affairs of States pursuant to Article 2 (7) of the Charter. The representative noted that a great deal of the report of the Secretary-General was devoted to humanitarian action and his country found that preponderance reflected neither in law nor in the common endeavours of States embodied in the agreements and resolutions of international organizations. He stated that Egypt questioned the

logic of the report, which was to give the Council a role beyond that mandated by the Charter.<sup>26</sup>

The representative of India stated that the recommendations in the report of the Secretary-General were far-reaching but required much deeper consideration. He recalled that Article 24 of the Charter set out the functions and powers of the Council, and Article 24 (2), noted that the specific powers granted to it were laid down in Chapters VI to VIII and Chapter XII. In each Chapter, the powers of the Council were narrowly defined by the Charter. Where it was given a role in an area not within its specified competence, as in Chapter XII, the Charter specified the limits of the authority of the Council. The representative maintained that the Council had no direct role in any of the other areas listed in Article 83 (3) and that was a principle that applied generally to the place of the Council in the United Nations system. That being the case, India found it odd that the bulk of the recommendations in the report invited the Council to take actions in areas not within its competence. The representative then provided an individual critique for each of the forty recommendations in the report of the Secretary-General.<sup>27</sup>

The representative of Pakistan noted that at times one needed to “stretch one’s imagination considerably” to find the tenuous linkage between some of the recommendations and the mandate of the Council. He suggested that the Council might consider requesting the General Assembly to undertake the task of inviting the view of Member States on the report itself and its recommendations. Pending that, he suggested that the Council might call for the scrupulous application of the considerable body of existing international law to protect civilians in armed conflict.<sup>28</sup>

The representative of Iraq stated that his country expected the Council to take into account the views put forward by States that were not members of the Council in the open debate held previously that year on the question of the protection of children and civilians in armed conflict. Those views needed to be integrated into the programme of work of the Council, in accordance with the functions of the Council, as contained in Article 24 of the Charter, under which it

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<sup>24</sup> S/PV.4046 (Resumption 1) and Corr.2, pp. 12-13.

<sup>25</sup> Ibid., pp. 13-15.

<sup>26</sup> Ibid., 19-21.

<sup>27</sup> Ibid., pp. 24-28.

<sup>28</sup> S/PV.4046 (Resumption 2), pp. 4-5.

was to act as a representative of the States Members of the United Nations in the fulfillment of its duties, thereby complementing the work of the General Assembly, the Economic and Social Council, United Nations agencies and the international community in general.<sup>29</sup>

At the same meeting, the President drew the attention of the Council to a draft resolution prepared in the course of the Council's prior consultations.<sup>30</sup> The draft resolution was put to the vote and adopted unanimously as resolution 1265 (1999), which reads:

*The Security Council,*

*Recalling* the statement by its President of 12 February 1999,

*Having considered* the report of the Secretary-General of 8 September 1999, submitted to the Security Council in accordance with the above-mentioned statement,

*Taking note* of the reports of the Secretary-General on the causes of conflict and the promotion of durable peace and sustainable development in Africa and on the protection for humanitarian assistance to refugees and others in conflict situations, of 13 April and 22 September 1998, respectively, in particular their analysis related to the protection of civilians,

*Noting* that civilians account for the vast majority of casualties in armed conflicts and are increasingly targeted by combatants and armed elements, gravely concerned by the hardships borne by civilians during armed conflict, in particular as a result of acts of violence directed against them, especially women, children and other vulnerable groups, including refugees and internally displaced persons, and recognizing the consequent impact this will have on durable peace, reconciliation and development,

*Bearing in mind* its primary responsibility under the Charter of the United Nations for the maintenance of international peace and security, and underlining the importance of taking measures aimed at conflict prevention and resolution,

*Stressing* the need to address the causes of armed conflict in a comprehensive manner in order to enhance the protection of civilians on a long-term basis, including by promoting economic growth, poverty eradication, sustainable development, national reconciliation, good governance, democracy, the rule of law and respect for and protection of human rights,

*Expressing its deep concern* at the erosion in respect for international humanitarian, human rights and refugee law and principles during armed conflict, in particular by deliberate acts of violence against all those protected under such law, and

expressing its concern also at the denial of safe and unimpeded access to people in need,

*Underlining* the importance of the widest possible dissemination of international humanitarian, human rights and refugee law and of relevant training for, inter alia, civilian police, armed forces, members of the judicial and legal professions, civil society and personnel of international and regional organizations,

*Recalling* the statement by its President of 8 July 1999, and emphasizing its call for the inclusion, as appropriate, within specific peace agreements and, on a case-by-case basis, within United Nations peacekeeping mandates, of clear terms for the disarmament, demobilization and reintegration of ex-combatants, including the safe and timely disposal of arms and ammunition,

*Mindful* of the particular vulnerability of refugees and internally displaced persons, and reaffirming the primary responsibility of States to ensure their protection, in particular by maintaining the security and civilian character of camps for refugees and internally displaced persons,

*Underlining* the special rights and needs of children in situations of armed conflict, including those of the girl child,

*Recognizing* the direct and particular impact of armed conflict on women as referred to in paragraph 18 of the report of the Secretary-General, and in this regard welcoming the ongoing work within the United Nations system on the implementation of a gender perspective in humanitarian assistance and on violence against women,

1. *Welcomes* the report of the Secretary-General of 8 September 1999, and takes note of the comprehensive recommendations contained therein;

2. *Strongly condemns* the deliberate targeting of civilians in situations of armed conflict as well as attacks on objects protected under international law, and calls upon all parties to put an end to such practices;

3. *Emphasizes* the importance of preventing conflicts which could endanger international peace and security, and, in this context, highlights the importance of implementing appropriate preventive measures to resolve conflicts, including the use of United Nations and other dispute-settlement mechanisms and of preventive military and civilian deployments, in accordance with the relevant provisions of the Charter of the United Nations, resolutions of the Security Council and relevant international instruments;

4. *Urges* all parties concerned to comply strictly with their obligations under international humanitarian, human rights and refugee law, in particular those contained in the Hague Conventions of 1899 and 1907 and in the Geneva Conventions of 1949 and the Additional Protocols thereto, of 1977, as well as with the decisions of the Security Council;

5. *Calls upon* States which have not already done so to consider ratifying the major instruments of international

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<sup>29</sup> Ibid., pp. 7-8.

<sup>30</sup> S/1991/981.



humanitarian, human rights and refugee law, and to take appropriate legislative, judicial and administrative measures to implement those instruments domestically, drawing on technical assistance, as appropriate, from relevant international organizations, including the International Committee of the Red Cross and United Nations bodies;

6. *Emphasizes* the responsibility of States to end impunity and to prosecute those responsible for genocide, crimes against humanity and serious violations of international humanitarian law, affirms the possibility, to this end, of using the International Fact-Finding Commission established by article 90 of Additional Protocol I to the Geneva Conventions, reaffirms the importance of the work being done by the ad hoc Tribunals for the former Yugoslavia and Rwanda, stresses the obligation of all States to cooperate fully with the Tribunals, and acknowledges the historic significance of the adoption of the Rome Statute of the International Criminal Court which is open for signature and ratification by States;

7. *Underlines* the importance of safe and unhindered access of humanitarian personnel to civilians in armed conflict, including refugees and internally displaced persons, and the protection of humanitarian assistance to them, and recalls in this regard the statements by its President of 19 June 1997 and 29 September 1998;

8. *Emphasizes* the need for combatants to ensure the safety, security and freedom of movement of United Nations and associated personnel, as well as personnel of international humanitarian organizations, and recalls in this regard the statements by its President of 12 March 1997 and 29 September 1998;

9. *Takes note* of the entry into force of the Convention on the Safety of United Nations and Associated Personnel of 1994, recalls the relevant principles contained therein, urges all parties to armed conflicts to respect fully the status of United Nations and associated personnel, and in this regard condemns attacks and the use of force against United Nations and associated personnel, as well as personnel of international humanitarian organizations, and affirms the need to hold accountable those who commit such acts;

10. *Expresses its willingness* to respond to situations of armed conflict where civilians are being targeted or humanitarian assistance to civilians is being deliberately obstructed, including through the consideration of appropriate measures at the disposal of the Council in accordance with the Charter, and notes, in that regard, the relevant recommendations contained in the report of the Secretary-General;

11. *Also expresses its willingness* to consider how peacekeeping mandates might better address the negative impact of armed conflict on civilians;

12. *Expresses its support* for the inclusion, where appropriate, in peace agreements and mandates of United Nations peacekeeping missions, of specific and adequate measures for the disarmament, demobilization and reintegration of ex-combatants, with special attention given to the

demobilization and reintegration of child soldiers, as well as clear and detailed arrangements for the destruction of surplus arms and ammunition, and in this regard recalls the statement by its President of 8 July 1999;

13. *Notes* the importance of including in the mandates of peacemaking, peacekeeping and peacebuilding operations special protection and assistance provisions for groups requiring particular attention, including women and children;

14. *Requests* the Secretary-General to ensure that United Nations personnel involved in peacemaking, peacekeeping and peace-building activities have appropriate training in international humanitarian, human rights and refugee law, including child and gender-related provisions, negotiation and communication skills, cultural awareness and civilian-military coordination, and urges States and relevant international and regional organizations to ensure that appropriate training is included in their programmes for personnel involved in similar activities;

15. *Underlines* the importance of civilian police as a component of peacekeeping operations, recognizes the role of police in assuring the safety and well-being of civilians, and in this regard acknowledges the need to enhance the capacity of the United Nations for the rapid deployment of qualified and well-trained civilian police;

16. *Reaffirms its readiness*, whenever measures are adopted under Article 41 of the Charter, to give consideration to their impact on the civilian population, bearing in mind the needs of children, in order to consider appropriate humanitarian exemptions;

17. *Notes* that the excessive accumulation and destabilizing effect of small arms and light weapons pose a considerable impediment to the provision of humanitarian assistance and have a potential to exacerbate and prolong conflicts, endanger the lives of civilians and undermine security and the confidence required for a return to peace and stability;

18. *Takes note* of the entry into force of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on their Destruction, of 1997 and the amended Protocol on Prohibitions or Restrictions on the Use of Mines, Booby Traps and Other Devices (Protocol II) annexed to the Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, of 1980, recalls the relevant provisions contained therein, and notes the beneficial effect that their implementation will have on the safety of civilians;

19. *Reiterates its grave concern* at the harmful and widespread impact of armed conflict on children, recalls its resolution 1261 (1999) of 25 August 1999, and reaffirms the recommendations contained therein;

20. *Stresses* the importance of consultation and cooperation between the United Nations, the International Committee of the Red Cross and other relevant organizations,

including regional organizations, on follow-up to the report of the Secretary-General, and encourages the Secretary-General to continue consultations on this subject and to take concrete actions aimed at enhancing the capacity of the United Nations to improve the protection of civilians in armed conflict;

21. *Expresses its willingness* to work in cooperation with regional organizations to examine how these bodies might better enhance the protection of civilians in armed conflict;

22. *Decides* to establish immediately an appropriate mechanism to review further the recommendations contained in the report of the Secretary-General and to consider appropriate steps by April 2000 in accordance with its responsibilities under the Charter;

23. *Decides* to remain actively seized of the matter.

## 44. Small arms

### Initial proceedings

#### **Decision of 24 September 1999 (4048th meeting): statement by the President**

At its 4048th meeting, held on 24 September 1999 in accordance with the understanding reached in its prior consultations, the Council included the item entitled “Small arms” in its agenda. Following the adoption of the agenda, the President (the Netherlands) noted that the Council was holding a ministerial meeting on the question of small arms in the context of the challenges facing the international community in this regard.<sup>1</sup>

At the outset, the Secretary-General acknowledged the importance of addressing the problem of small arms and light weapons, which posed one of the key challenges in preventing conflict in the next century. He stated that small arms were not only primary tools of violence in many conflicts, but also aggravated the violence associated with terrorism and organized crime. In his view, there was probably no single tool of conflict so widespread, so easily available and so difficult to restrict as small arms. Citing the General Assembly’s decision to convene a conference on all aspects of illicit arms trafficking no later than 2001, the Secretary-General urged the international community to seize the opportunity provided by that conference to demonstrate its political will and its commitment to reversing the global proliferation of small arms. The larger efforts to promote peace and security, he stressed, depended to a greater extent on how the smaller, more specific

challenges of limiting the tools of war and violence were tackled.<sup>2</sup>

The representative of France pointed to the “proliferation of internal conflicts” in which the distinction between combatants and civilians was blurred, and noted that this type of conflict lent itself best to small arms and light weapons. He called for a multifaceted, integrated approach to address the problem.<sup>3</sup>

The representative of the United Kingdom noted that most of the conflicts had taken place in the developing world, but most of the firearms were made in the industrialized world.<sup>4</sup>

The representative of Malaysia maintained that the United Nations, particularly the Council, could and should play a critical role in checking the proliferation of small arms. The challenge before the Council was to define the problem, which had many complexities — political, legal, technical, economic and social — and formulate appropriate and effective approaches to deal with it.<sup>5</sup>

The representative of Canada highlighted the devastating impact of small arms by pointing out that civilians constituted over 80 per cent of casualties in armed conflict and more than a million people died each year as a result of those conflicts, with 90 per cent of those deaths caused by small arms.<sup>6</sup>

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<sup>1</sup> S/PV.4048, p. 2.

<sup>2</sup> *Ibid.*, pp. 2-3.

<sup>3</sup> *Ibid.*, pp. 3-4.

<sup>4</sup> *Ibid.*, pp. 4-5.

<sup>5</sup> *Ibid.*, pp. 7-8.

<sup>6</sup> *Ibid.*, pp. 8-10.