
Chapter X

Consideration of the provisions of Chapter VI of the Charter

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Introductory note

This chapter deals with the practice of the

Under Articles 11 (3) and 99 of the Charter, the General Assembly and the Secretary-General may refer matters to the Security Council.¹¹ While during the period under review the General Assembly did not refer any matters to the Security Council under Article 11 (3),¹² the Secretary-General referred matters to the Security Council as provided for under Article 99 in a limited number of instances.

Referrals by States

No dispute or situation was submitted by a State other than a Member of the United Nations under Article 35 (2). In connection with the situation in Cyprus, an issue was raised, however, by the representative of Cyprus with regard to the submission, by a Member State, namely Turkey, of a communication from a non-State entity, namely the “Turkish Republic of Northern Cyprus”.¹³

consider the state of international peace and security in different regions at the level of foreign ministers and, when appropriate, in closed session, and that, where international friction appeared likely, the Council could act on its own or request the Secretary-General to exercise his good offices (ibid., *Forty-fourth Session, Supplement No. 1 (A/44/1)*, p. 5).

¹¹ In addition, Article 11 (2) provides that the General Assembly shall refer to the Security Council questions relating to the maintenance of international peace and security on which action is necessary.

¹² Numerous communications, relating to the situation in the occupied Arab territories, were, however, submitted to the Security Council by a subsidiary organ of the General Assembly — the Committee on the Exercise of the Inalienable Rights of the Palestinian People. Those communications are listed in chapter VI, part I, “Relations with the General Assembly”. In one such communication, a letter dated 9 February 1989

Tajikistan,¹⁹ the Government of Tajikistan, by a letter to the President of the Council dated 21 October 1992,²⁰ acknowledged that the efforts by the country's political leadership to settle the conflict by peaceful means had failed, and inter alia expressly requested the dispatch of a "peacemaking mission".

In addition to the above-mentioned internal conflicts, the situation following the intervention by the armed forces of the United States in Panama was also brought to the attention of the Security Council by a third party, namely Nicaragua, which, on 20 December 1989, requested an immediate meeting of the Security Council.²¹ Two communications emanating from different Panamanian authorities on the ground were received by the Secretary-General on the same day.²²

Referrals by the Secretary-General

In connection with the situation in the Middle East, the Secretary-General, by a letter to the President of the Security Council dated 15 August 1989,²³ in which he referred to the exercise of his responsibilities under the Charter, brought to the Council's attention the deterioration of the situation in Lebanon. In response to the Secretary-General's urgent appeal, the Council immediately convened its 2875th meeting to consider the item.

In connection with the situation in Angola, the Secretary-General, by a letter to the President of the Security Council dated 27 October 1992,²⁴ drew the Council's attention to the deteriorating political situation and the rising tension in that country. On the

¹⁹ The situation in Tajikistan had been brought to the Council's attention by a letter dated 19 October 1992

dispute”, or “any situation which might lead to international friction or give rise to a dispute”. During

internal affairs, Pakistan, by a letter dated 7 April 1989,³⁹ questioned the appropriateness of such meeting and contended that Article 35 had no bearing on the matter. Pakistan maintained that the situation was a purely internal one, in which the Afghan people were resisting the rule of an illegal and unrepresentative regime, and involved neither a dispute between Afghanistan and another country nor a situation that endangered the maintenance of international peace and security.

In several other instances, the referral of a matter to the Council was challenged for similar reasons, but without an express reference to Article 35 of the Charter.

the Security Council⁴⁴ or an express reference to Article 35 (1) of the Charter.⁴⁵

Communications by which new disputes or situations were referred to the Security Council during

<i>Communication</i>	<i>Article or rule invoked</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 4 January 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Bahrain to the United Nations addressed to the President of the Security Council (S/20367)		Requesting the Security Council be convened immediately to consider the question of the downing of the two Libyan reconnaissance aircraft over international waters by the United States Air Force, and to put an end to the aggression against the Socialist People's Libyan Arab Jamahiriya.	
Letter dated 3 April 1989 from the Chargé d'affaires a.i. of the Permanent Mission of Afghanistan to the United Nations addressed to the President of the Security Council (S/20561)		Requesting the Security Council to convene an emergency meeting in order to consider Pakistan's military aggression and its interference in the internal affairs of Afghanistan.	2852nd meeting 11 April 1989
Letter dated 25 April 1989 from the Permanent Representative of Panama to the United Nations addressed to the President of the Security Council (S/20606)		Requesting that a meeting of the Security Council be convened immediately to consider the grave situation faced by Panama as a result of intervention in its internal matters by the United States.	2861st meeting 28 April 1989
Letter dated 15 August 1989 from the Secretary-General addressed to the President of the Security Council (S/20789)		Requesting that the Council be convened urgently in order to contribute to a peaceful solution to the deteriorating situation in Lebanon, which posed a serious threat to international peace and security.	2875th meeting 15 August 1991
Letter dated 27 November 1989 from the Permanent Representative of El Salvador to the United Nations addressed to the President of the Security Council (S/20991)		Requesting the Security Council to convene as a matter of urgency, to consider actions by the Nicaraguan Government, which constituted breaches of regional agreements.	2896th meeting 30 November 1989
Letter dated 28 November 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council (S/20999)		Requesting that the scope of the urgent meeting requested by El Salvador be expanded to include consideration of the grave repercussions, which the serious deterioration of the situation in El Salvador was having on the peace process in Central America.	
Letter dated 20 December 1989 from the Permanent Representative of Nicaragua to the United Nations addressed to the President of the Security Council (S/21034)		Requesting the Security Council to convene an urgent meeting on 20 December 1989 to consider the situation following the invasion of the Republic of Panama by the United States.	2899th meeting 20 December 1989

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 4 April 1991 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council (S/22442)		Requesting the Security Council to convene an urgent meeting to discuss the serious situation resulting from abuses being committed against the Iraqi population.	
Letter dated 19 September 1991 from the Permanent Representative of Austria to the United Nations addressed to the President of the Security Council (S/23052)		Requesting urgent consideration of the deteriorating situation regarding Yugoslavia in informal consultations of the members of the Security Council.	3009th meeting 25 September 1991
Letter dated 19 September 1991 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council (S/23053)		Requesting the urgent convening of a meeting of the Security Council concerning the deteriorating situation regarding Yugoslavia.	
Letter dated 20 September 1991 from the Permanent Representative of Hungary to the United Nations addressed to the President of the Security Council (S/23057)		Requesting the urgent convening of a meeting of the Security Council concerning the deteriorating situation regarding Yugoslavia.	
Letter dated 24 September 1991 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council (S/23069)		Requesting a meeting of the Security Council to discuss the situation in Yugoslavia, requesting the participation of the Federal Secretary for Foreign Affairs of Yugoslavia in the meeting, and hopeful that the Council would be able to adopt a resolution at the meeting to contribute to the current peace efforts for Yugoslavia.	
Letter dated 30 September 1991 from the Permanent Representative of Haiti to the United Nations addressed to the President of the Security Council (S/23098)		Requesting the immediate convening of a meeting of the Security Council to consider the situation in Haiti and its consequences for regional stability.	3011th meeting 3 November 1991
Letter dated 24 November 1991 from the Secretary-General addressed to the President of the Security Council (S/23239)			3018th meeting 27 November 1991

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<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
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<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 23 April 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Austria to the United Nations addressed to the President of the Security Council (S/23833)		Requesting an urgent meeting of the Security Council on the deteriorating situation in Bosnia and Herzegovina, which was endangering international peace and security.	3070th meeting 24 April 1992
Letter dated 24 April 1992 from the Permanent Representative of France to the United Nations addressed to the President of the Security Council (S/23838)		Requesting an urgent meeting of the Security Council to take such action as might be conducive to the re-establishment of peace in Bosnia and Herzegovina.	
Letter dated 9 May 1992 from the Permanent Representative of Azerbaijan to the United Nations addressed to the President of the Security Council (S/23894)		Bringing to the attention of the Security Council the grave situation in Nagorny-Karabakh.	3072nd meeting 12 May 1992
Letter dated 11 May 1992 from the Permanent Representative of Armenia to the United Nations addressed to the President of the Security Council (S/23896)		Requesting an emergency meeting of the Security Council to discuss the escalation of the conflict in Nagorny-Karabakh.	
Letter dated 27 April 1992 from the Permanent Representative of Cuba to the United Nations addressed to the President of the Security Council (S/23850)		Requesting the Council to convene a meeting as soon as possible in order to consider the terrorist activities being carried out against the Republic of Cuba.	3080th meeting 21 May 1992
Report of the Secretary-General pursuant to Security Council resolution 752 (1992) (S/24000)			3082nd meeting 30 May 1992
Letter dated 26 May 1992 from the Permanent Representative of Canada to the United Nations addressed to the President of the Security Council (S/23997)		In the light of the situation in Bosnia and Herzegovina, requesting the Council to convene an urgent formal meeting with a view to imposing economic, trade and oil sanctions against the Belgrade authorities and to consider steps that would allow United Nations-escorted relief convoys to reach civilians in Bosnia and Herzegovina and to open Sarajevo Airport for humanitarian reasons.	

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<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 27 May 1992 from the Minister for Foreign Affairs of Bosnia and Herzegovina addressed to the President of the Security Council (S/24024)		Requesting urgent consultation with the members of the Security Council, with a view to the Council taking such measures as might be deemed appropriate to end the brutality in Bosnia and Herzegovina	
Letter dated 11 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council (S/24264)		Requesting the Council to call an emergency meeting and to approve an international military action with regard to the situation in Croatia and Bosnia Herzegovina.	3097th meeting 17 July 1992
Letter dated 12 July 1992 from the Minister for Foreign Affairs of Croatia addressed to the President of the Security Council (S/24265)		Suggesting the Council meet immediately and approve a military intervention with regard to the situation in Croatia and Bosnia and Herzegovina.	
Letter dated 13 July 1992 from the Permanent Representative of Bosnia roati Council (S/24265)			

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<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 4 August 1992 from the Chargé d'affaires a.i. of the United States Mission to the United Nations addressed to the President of the Security Council (S/24376)		Requesting an immediate meeting of the Security Council to discuss the reports of abuses of civilian prisoners in camps throughout the former Yugoslavia.	3103rd meeting 4 August 1992
Letter dated 4 August 1992 from the Permanent Representative of Venezuela to the United Nations addressed to the President of the Security Council (S/24377)		Requesting the Council to convene an urgent meeting to discuss reports in the international communication media about concentration camps and the torture of citizens of the Republic of Bosnia and Herzegovina by citizens of the Federal Republic of Yugoslavia.	
Letter dated 7 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/24393)		Requesting an urgent meeting of the Council to discuss the question of repression in Iraq, and to allow the Special Rapporteur on the situation of human rights in Iraq to participate in the meeting under rule 39 of the Council's provisional rules of procedure.	3105th meeting 11 August 1992
Letter dated 7 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of France to the United Nations addressed to the President of the Security Council (S/24394)		Requesting that an urgent meeting of the Council be convened to consider the situation which had arisen and which constituted a threat to the peace, and to request the President of the Security Council	

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 11 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council (S/24415)		Requesting an urgent meeting of the Council to consider the serious situation in Bosnia and Herzegovina and to find an immediate solution to restoring peace and stability.	
Letter dated 10 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Kuwait to the United Nations addressed to the President of the Security Council (S/24416)		Requesting an urgent meeting of the Council to consider the grave and deteriorating situation in Bosnia and Herzegovina threatening international peace and security, and to adopt appropriate measures as provided for under Chapter VII of the Charter.	
Letter dated 11 August 1992 from the Permanent Representative of Pakistan to the United Nations addressed to the President of the Security Council (S/24419)		Requesting an urgent meeting of the Council with a formal debate to consider the grave situation in Bosnia and Herzegovina, including the adoption of appropriate measures as provided in Chapter VII of the Charter.	
Letter dated 12 August 1992 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council (S/24423)		Requesting an urgent meeting of the Council, with formal debate, to consider the situation in Bosnia and Herzegovina and to take appropriate collective action, including measures	
the United Nations addressed to the		Requesting an urgent meeting of the Council to consider thrave and deteriorating situation in Bosnia and	

Repertoire of the Practice of the Security Council

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 13 August 1992 from the Permanent Representative of Bahrain to the United Nations addressed to the President of the Security Council (S/24433)		Requesting an urgent meeting of the Security Council to consider the grave situation in Bosnia and Herzegovina, with a view to the adoption of appropriate measures under Chapter VII of the Charter, for the purpose of putting an end to the worsening situation that presented a threat to international peace and security.	
Letter dated 13 August 1992 from the Permanent Representative of the Comoros to the United Nations addressed to the President of the Security Council (S/24439)		Requesting an urgent meeting of the Security Council, with formal debate, to consider the situation in Bosnia and Herzegovina and take appropriate collective action including measures provided under Article 42, Chapter VII of the Charter to restore peace and stability in the region.	
Letter dated 13 August 1992 from the Permanent Representative of Qatar to the United Nations addressed to the President of the Security Council (S/24440)		Requesting an urgent formal meeting of the Council to look into the deteriorating situation in Bosnia and Herzegovina and to consider taking appropriate action under the provisions of Chapter VII of the Charter.	
Letter dated 5 October 1992 from the representatives of Egypt, the Islamic Republic of Iran, Pakistan, Saudi Arabia, Senegal and Turkey to the United Nations addressed to the President of the Security Council (S/24620)		On behalf of the Contact Group of the Organization of the Islamic Conference, requesting the Council to establish safe corridors and effective measures to allow the humanitarian process to be unhindered; take appropriate measures to prevent air attacks against Bosnia and Herzegovina consequent to the agreements reached concerning the "no-fly zone" at the London Conference; to take steps to bring before an international tribunal those responsible for the practice of ethnic cleansing, mass killings, and the commission of other grave breaches of international humanitarian law and in particular the Geneva Conventions.	3119th meeting 6 October 1992

<i>Communication</i>	<i>Article or rule invoked as basis for submission</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 6 October 1992 from the First Deputy Foreign Minister of Georgia addressed to the President of the Security Council (S/24619)		Requesting an urgent meeting of the Council to consider the grave situation in Georgia and take appropriate action to restore peace and stability in the region.	3121st meeting 8 October 1992
Letter dated 27 October 1992 from the Secretary-General addressed to the President of the Security Council (not issued as a document of the Council; see S/PV.3126, p. 2)		Suggesting to the Council consideration of the deteriorating political situation and rising tension in Angola.	3126th meeting 27 October 1992
Letter dated 29 October 1992 from the Secretary-General addressed to the President of the Security Council (S/24739)			3131st meeting 30 October 1992
Letter dated 19 October 1992 from the Permanent Representative of Kyrgyzstan to the United Nations addressed to the Secretary-General (S/24692)		Suggesting that the situation in Tajikistan be examined by the Security Council under the supervision of the President of the Security Council.	
Letter dated 21 October 1992 from the Permanent Representative of Tajikistan to the United Nations addressed to the President of the Security Council (S/24699)		Requesting the Council to send a peacekeeping mission to provide humanitarian aid to Tajikistan urgently.	
Letter dated 5 March 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/23685 and Add.1)			3139th meeting 23 November 1992
Letter dated 3 August 1992 from the Chargé d'affaires a.i. of the Permanent Mission of Belgium to the United Nations addressed to the President of the Security Council (S/24386)			
Letter dated 19 November 1992 from the Permanent Representative of Belgium to the United Nations addressed to the President of the Security Council (S/24828)		Suggesting that the participation of the Special Rapporteur on the situation of human rights in Iraq would greatly benefit the Security Council	

Part II

Investigation of disputes and fact-finding

Note

Article 34 provides that the Security Council may investigate any dispute, or any situation that might lead to international friction or give rise to a dispute, in order to determine whether the continuation of the dispute or situation is likely to endanger the maintenance of international peace and security. However, Article 34 does not exclude other organs from performing investigative functions nor does it limit the Council's general competence to obtain knowledge of the relevant facts of any dispute or situation by dispatching a fact-finding mission.⁵¹

The importance of fact-finding for the prevention of conflicts was highlighted by the Security Council in a statement by its President dated 30 November 1992, in connection with the item entitled "An agenda for peace: preventive diplomacy, peacemaking and peacekeeping".⁵² By that statement, the Security Council took note of the Declaration on fact-finding adopted by the General Assembly⁵³ and welcomed the

proposals on fact-finding in the Secretary-General's report entitled "An Agenda for Peace".⁵⁴ The members of the Council expressed the view "that an increased resort to fact-finding as a tool of preventive diplomacy ... [could] result in the best possible understanding of the objective facts of a situation, which [would] enable the Secretary-General to meet his responsibilities under Article 99 of the Charter and facilitate Security Council deliberations". In the same statement, the Council members stated that they would "facilitate and encourage every appropriate use of fact-finding missions on a case-by-case basis", endorsed the Secretary-General's view "that in some cases a fact-finding mission [could] help defuse a dispute or situation" and noted with satisfaction "the recent greater use of fact-finding missions".⁵⁵

During the reporting period, the Security Council adopted two decisions containing an express request to the Secretary-General to initiate or perform fact-finding or investigative functions. By resolution 780 (1992), the Council requested the Secretary-General to establish an impartial Commission of Experts to examine and analyse evidence of grave breaches of the Geneva Conventions and other violations of international humanitarian law committed in the

⁵¹ According to the proposals on fact-finding contained in the Secretary-General's report entitled "An Agenda for Peace", "formal fact-finding can be mandated by the Security Council or by the General Assembly, either of which may elect to send a mission under its immediate authority or may invite the Secretary-General to take the necessary steps, including the designation of a special envoy" (S/24111, para. 25). According to the Declaration on Fact-finding by the United Nations in the Field of the Maintenance of International Peace and Security adopted by the General Assembly on 9 December 1991, the Security Council and the General Assembly should give preference to the Secretary-General in fact-finding (General Assembly resolution 46/59, annex, para. 15). The above-mentioned proposals on fact-finding also envisage that "in exceptional circumstances the Council may meet away from Headquarters as the Charter provides, in order not only to inform itself directly, but also to bring the authority of the Organization to bear on a given situation" (S/24111, para. 25).

⁵² S/24872.

⁵³ Resolution 46/59, annex (see footnote 51). In the year preceding the reporting period, the importance of fact-finding missions had already been emphasized in the Declaration on the Prevention and Removal of Disputes and Situations Which May Threaten International Peace and Security and on the Role of the United Nations in this Field (General Assembly resolution 43/51, annex,

para. 1 (12)).

⁵⁴ According to those proposals, an "increased resort to fact-finding is needed". It is also suggested that "a request by a State for the sending of a United Nations fact-finding mission to its territory should be considered without undue delay" (S/24111, para. 25; see also footnote 51). Calls for improved fact-finding arrangements are also contained in the annual reports of the Secretary-General on the work of the Organization (see for example, *Official Records of the General Assembly, Forty-fifth Session, Supplement No. 1 (A/45/1)*, p. 7; and *ibid.*, *Forty-fourth Session, Supplement No. 1 (A/44/1)*, p. 5).

⁵⁵ As examples of such fact-finding missions, the President of the Council cited the missions which had been sent,

territory of the former Yugoslavia, and to report to the Council on the conclusions of that Commission.⁵⁶ In connection with the civil conflict in Liberia, and after having been requested, at the 3138th meeting on 19 November 1992, by the representatives of States members of the Economic Community of West African States (ECOWAS), Liberia and several other interested States, to support ECOWAS efforts to bring peace and stability to the country, the Security Council, by resolution 788 (1992), requested the Secretary-General to dispatch a Special Representative to Liberia to evaluate the situation, and to report to the Council with any recommendations he might wish to make.

In addition to those decisions, the Security Council, in statements by its President, expressly welcomed or supported fact-finding missions dispatched by the Secretary-General to Cambodia, Moldova, Nagorny-Karabakh, Georgia, Uzbekistan and Tajikistan, among others.⁵⁷

Earlier in the reporting period, by resolution 672 (1990), the Council had welcomed the Secretary-General's decision to send a fact-finding mission to the occupied Arab territories, which decision could not be implemented because of the refusal of the occupying Power to receive that mission.⁵⁸

On a number of other occasions, Member States demanded or suggested to the Security Council that an investigation be carried out or a fact-finding mission be dispatched. Those demands and suggestions, none of

which resulted in a decision by the Security Council, related to the following:

- In connection with Afghanistan's complaint about Pakistan's aggression against it,⁵⁹ the representative of Afghanistan, at the 2852nd meeting on 11 April 1989, requested that the Security Council send a fact-finding mission, consisting of Council members, to Afghanistan and Pakistan.
- In connection with El Salvador's claim that Nicaragua had committed acts of aggression against it,⁶⁰ the representative of El Salvador, at the 2896th meeting, on 30 November 1989, suggested that the Council send a mission to corroborate the facts in situ.⁶¹
- In connection with allegations made by 59ty-

⁵⁶ For further details, see case 1 below.

⁵⁷ By a letter dated 3 August 1989 (S/20769), the President of the Council informed the Secretary-General that the members of the Council agreed to his proposal, contained in a letter dated 2 August 1989 (S/20768), to dispatch a fact-finding mission to Cambodia. By a statement of the President dated 12 May 1992 (S/23904), the Council members welcomed the dispatch by the Secretary-General of a fact-finding mission to Nagorny-Karabakh. By a note by the President dated 10 September 1992, the Council took note of the Secretary-General's intention to send a goodwill mission to Abkhazia (S/24542). By a statement of the President dated 8 October 1992 (S/24637), the Council supported the Secretary-General's decision to send a mission to Georgia. By a statement of the President dated 30 October 1992, the Council welcomed the Secretary-General's decision to send a goodwill mission to Tajikistan and Central Asia (S/24742).

⁵⁸ For further details, see case 2 below.

communications, so that its members [could] ascertain the facts and see things as they stand”.⁶⁵

- In connection with requests for the cooperation of the Libyan Arab Jamahiriya with investigations into the terrorist acts against Pan Am flight 103 on 21 December 1988 and UTA flight 772 on 19 September 1989,⁶⁶ the representative of the Libyan Arab Jamahiriya, at the 3033rd meeting on 21 January 1992, stated that “the international dimension of the alleged events might make an international investigation an appropriate means of starting to resolve the dispute” and that it “would have welcomed a neutral investigation committee”.⁶⁷

The case studies that follow set out the details of the decision-making processes involved in establishing a commission to examine breaches of international humanitarian law in the former Yugoslavia; to dispatch a fact-finding mission to the occupied Arab territories; and summarize the arguments advanced during the debate relating to the request of Afghanistan for the dispatch of a fact-finding mission to Afghanistan and Pakistan.

Case 1

The situation in the former Yugoslavia

Establishment of a Commission of Experts to investigate alleged violations of international humanitarian law in the former Yugoslavia. In connection with the situation in the former Yugoslavia,

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At the 3119th meeting, on 6 October 1992, several speakers expressed strong support for the establishment of such commission on an urgent basis. The President of the Council, speaking in his capacity as the representative of France, believed that it was indeed “very important that the Council send a clear warning to the perpetrators of those violations, who must understand that their personal responsibility is involved”, adding that the decision to establish an investigative commission would be “part of the prospective creation by the appropriate bodies of an international penal jurisdiction to rule on such acts”.⁷² In a similar vein, the representative of Belgium noted that the establishment of the commission would make “more operational the principle contained in the Geneva Conventions regarding the personal responsibility of war criminals”.⁷³ The representative of the Russian Federation, expressing the hope that such commission would, “on the basis of carefully substantiated information, give the true picture of the violations of the Geneva Conventions and other violations of international humanitarian law taking place on the territory of the former Yugoslavia”, stated that the decision to establish such commission would go beyond the settlement of the Yugoslav question insofar as it would also be a warning to all who violated the norms of international humanitarian law in other spheres of conflict.⁷⁴ The representative of Venezuela believed that “the decision to establish a commission of experts to investigate ... violations of international humanitarian law would be inspired by the commission that was set up in 1943 for similar purposes and later served as the basis for the proceedings of the Nuremberg tribunal”, which, in the words of the representative of Venezuela, “would not only serve to establish responsibility and punish the guilty, but would also ... constitute an important deterrent”.⁷⁵

At the same meeting, the Council unanimously adopted resolution 780 (1992),⁷⁶ by which it requested the Secretary-General to establish, as a matter of urgency, an impartial Commission of Experts to examine and analyse the information submitted to it

together with such further information as the Commission might obtain through its own investigations and efforts.⁷⁷

At the 3137th meeting, on 16 November 1992, the Council adopted resolution 787 (1992), by which it welcomed the establishment of the Commission of Experts and requested that Commission to pursue actively its investigations with regard to grave breaches of the Geneva Conventions of 12 August 1949 and other violations of international humanitarian law committed in the territory of the former Yugoslavia, in particular the practice of “ethnic cleansing”.

Case 2

The situation in the occupied Arab territories

Proposed investigative mission to the occupied Arab territories. At the 2926th meeting, on 31 May 1990, in connection with the situation in the occupied Arab territories, the Council considered a draft resolution envisaging the establishment of a commission consisting of three Council members, which would be dispatched to the Palestinian territory “to examine the situation relating to the policies and practices of Israel” in that territory.⁷⁸ The draft resolution, which had been proposed by several Council members, was not adopted owing to the negative vote of a permanent member.⁷⁹

On 8 October 1990, after violence had erupted in the Old City of Jerusalem and resulted in the death of more than 20 Palestinians, the Permanent Observer of Palestine, at the 2946th meeting, recalled the proposal contained in the above-mentioned draft resolution and, in the light of the above tragic events, demanded the “immediate dispatch of a commission by the Council to

⁷² S/PV.3119, p. 16.

⁷³ Ibid, p. 12.

⁷⁴ Ibid., pp. 15-16.

⁷⁵ Ibid., pp. 7-8.

⁷⁶ The relevant draft resolution had been submitted by Belgium, France, Morocco, the United Kingdom, the United States and Venezuela, joined by Hungary.

speakers supported the Palestinian call for an investigation or a fact-finding mission.⁸¹

At the 2948th meeting, on 12 October 1990, the Council, having been informed by the Secretary-General of his decision to send a mission to the region, considered a draft resolution by which it would welcome that decision.⁸² The President stated that the Secretary-General, in the informal consultations of the members of the Council leading up to the consideration of the draft resolution, had explained “that the purpose of the mission ... would be to look into the circumstances surrounding the recent tragic events in Jerusalem and other similar developments in the occupied territories, and to submit ... a report containing findings and recommendations to the Council on ways and means for ensuring the safety and protection of the Palestinian civilians under Israeli occupation.⁸³ Following the statement by the President, the draft resolution was put to the vote and adopted unanimously as resolution 672 (1990).

Having learned of Israel’s refusal to receive the proposed mission of the Secretary-General,⁸⁴ the Council convened on 24 October 1990 to continue its consideration of the situation, at its 2949th meeting. At

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United Nations and other personnel and resources, and to keep the Council regularly informed.⁹¹

Case 3

The situation relating to Afghanistan

Request for the dispatch of a fact-finding mission to Afghanistan and Pakistan. At the 2852nd to 2860th meetings, from 11 to 26 April 1989, the Council considered the situation relating to Afghanistan, having received a communication from Afghanistan alleging a military aggression by Pakistan.⁹²

The representative of Afghanistan, referring to the “dangerous implications of the aggression by Pakistan for peace and security in the region and in the world”, explained that his country was turning to the Security Council “on the basis of the obligations of the Security Council stemming from Articles 34 and 35 of the Charter” and requested that the Security Council send a fact-finding mission, consisting of Council members, to Afghanistan and Pakistan.⁹³

The representative of Pakistan stated that Articles 34 and 35 had no bearing on the current situation inside Afghanistan, as that situation in no way endangered peace and security as defined in Article 34, but rather represented the continuing “struggle of the

Afghan people to overthrow an illegal and unrepresentative regime ... imposed on them by external military intervention”.⁹⁴ Many speakers agreed that Articles 34 and 35 were not applicable⁹⁵ and expressed the view that the conflict in Afghanistan had to be seen as a legitimate struggle for self-determination.⁹⁶ Several speakers also noted that a mechanism established under the Geneva Agreements, the United Nations Good Offices Mission in Afghanistan and Pakistan, had already repeatedly been called upon to undertake investigations, and that, therefore, no further investigative mechanism or procedure was required.⁹⁷

In contrast, the representative of the Union of Soviet Socialist Republics contended that Afghanistan’s recourse to the Council was “entirely right, proper and timely”, as Afghanistan was suffering from outside interference by Pakistan.⁹⁸ This view was shared by several other speakers.⁹⁹

The Security Council concluded its consideration of the item at the 2860th meeting, on 26 April 1989, without adopting a decision.

⁹¹ In a statement adopted on 4 January 1991 (S/22046), the President of the Council expressed the support of Council members for the work of the Secretary-General in implementing resolution 681 (1990). The Secretary-General dispatched his Personal Representative to the area from 1 to 11 March 1991. The discussions held with Palestinians and Israeli officials during this period are summarized in a report to the Security Council dated 9 April 1991 (S/22472).

⁹² Letter dated 3 April 1989 (S/20561).

⁹³ S/PV.2852, pp. 6 and 25.

⁹⁴ *Ibid.*, p. 26.

⁹⁵ S/PV.2853, pp. 12-15 (Saudi Arabia); S/PV.2856, p. 28 (Comoros); and S/PV.2859, p. 16 (Somalia).

⁹⁶ S/PV.2853, p. 11 (Organization of the Islamic Conference (OIC)); p. 42 (Japan); p. 53 (United States); S/PV.2855, p. 22 (Canada); and S/PV.2859, p. 17 (Somalia).

⁹⁷ S/PV.2853, pp. 19-20 (Malaysia); S/PV.2855, p. 13 (China); S/PV.2856, pp. 29-30 (Comoros); and S/PV.2857, p. 11 (Bangladesh).

⁹⁸ S/PV.2855, pp. 32-53 (Union of Soviet Socialist Republics).

⁹⁹ S/PV.2857, pp. 6-7 (Czechoslovakia); p. 17 (Yugoslavia); pp. 21-26 (Ukrainian Soviet Socialist Republic); and S/PV.2859, p. 12 (Hungary); and pp. 32-36 (Byelorussian Soviet Socialist Republic).

Part III

Decisions of the Security Council concerning the pacific settlement of disputes

Note

Chapter VI of the Charter contains various provisions according to which the Council may make recommendations to the parties to a dispute or

situation. According to Article 33 (2) of the Charter, the Council may call on the parties to settle their dispute by such peaceful means as provided for in Article 33 (1). According to Article 36 (1) the Council may recommend appropriate methods or procedures of

adjustment. Article 37 (2) envisages that the Council may recommend such terms of settlement as it may consider appropriate, and Article 38 provides that it may make recommendations to the parties with a view to a pacific settlement of the dispute.

As part of its efforts aimed at the peaceful settlement of conflicts within the framework of Chapter VI of the Charter, the Council frequently endorsed or supported peace agreements concluded by the parties to a conflict, or recommended various methods or procedures of settlement, such as bilateral or multilateral negotiations,¹⁰⁰ mediation or conciliation efforts undertaken by the Secretary-General,¹⁰¹ or resorted to regional arrangements.¹⁰² In

¹⁰⁰ See for example, in connection with the situation between Iraq and Kuwait, resolution 660 (1990), by which the Council condemned the Iraqi invasion of Kuwait and called upon both countries “to begin immediately intensive negotiations for the resolution of their differences”. (Resolution 660 (1990) was adopted expressly under Articles 39 and 40 of the Charter. However, insofar as negotiations, for the purpose of the resolution, are deemed to be “provisional measures” within the meaning of Article 40, they cannot be distinguished from the parties’ efforts, required under Article 33 (1), to find a solution by peaceful means.) See also for example resolution 765 (1992), by which the Council urged all parties to the conflict in South Africa to cooperate in the resumption of the negotiation process. In connection with the situation in Tajikistan, see the statement of the President of the Security Council dated 30 October 1992 (S/24742), by which the members of the Council urged “the Government of Tajikistan, local authorities, party leaders and other groups concerned to enter into a political dialogue with a view to reaching an overall settlement of the conflict by peaceful means”.

¹⁰¹ See, for instance, in connection with the situation in Cyprus, resolution 649 (1990), by which the Council called on the leaders of the two communities to cooperate with the Secretary-General in completing an outline of an overall agreement.

¹⁰² See chapter XII, part VI, for further details on the manner in which the Security Council has encouraged efforts undertaken by regional arrangements in the pacific settlement of disputes. For example, in connection with the question of Western Sahara, the Council, in resolution 658 (1990), called on the two parties to cooperate fully with the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity in their efforts aimed at an early settlement. In connection with the situation in Liberia, the members of the Council, by a presidential

former Yugoslavia, these negotiations to be held in continuous and uninterrupted session.

In connection with the situation in Georgia, in a statement of the President dated 10 September 1992, the Council members welcomed the principles of settlement relating to Abkhazia contained in the Final Document of the Moscow meeting of 3 September 1992 between the Russian Federation and Georgia, which affirmed the territorial integrity of Georgia, provided for the establishment of a ceasefire and constituted the basis for an overall political settlement.¹¹⁷

With regard to Lebanon, in a statement by the President dated 22 November 1989,¹¹⁸ and in several subsequent statements,¹¹⁹ the Council members reaffirmed their support for the Taif Agreement ratified by the Lebanese Parliament on 5 November 1989 as the only basis for guaranteeing the full sovereignty, independence, territorial integrity and national unity of Lebanon.

In a statement by the President dated 7 May 1992 in connection with the situation in Liberia,¹²⁰ the members of the Council expressed the belief that the Yamoussoukro Accord of 30 October 1991 offered the best possible framework for a peaceful resolution of the Liberian conflict by creating the necessary conditions for free and fair elections in Liberia. By resolution 788 (1992), the Council reaffirmed this position and called on the parties to respect and implement the various agreements to which they had agreed within the framework of the peace process.

With regard to Mozambique, the Council welcomed, by resolution 782 (1992), the signature, on 4 October 1992 in Rome, of a General Peace Agreement¹²¹ between the Government of

Mozambique and the Resistência Nacional Moçambicana (RENAMO).¹²²

In connection with the situation in Namibia, the Council, by resolution 628 (1989), welcomed the signature of the agreement between Angola, Cuba and South Africa on the one hand, and the agreement between Angola and Cuba on the other hand, both of which had been signed on 22 December 1988, and expressed its full support for those agreements.

With regard to the situation concerning Western Sahara, the Council approved, by resolution 658 (1990), the report of the Secretary-General dated 18 June 1990,¹²³ which contains the full text of the settlement proposals accepted by the parties on 30 August 1988 as well as an outline of the plan provided by the Secretary-General to implement those proposals.

B. Decisions involving the Secretary-General in the Council's efforts at the peaceful settlement of disputes

While Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and

¹¹⁷ S/24542. See also the statement of the President of the Security Council dated 8 October 1992 (S/24637), by which the Council called on all the parties to observe the terms of that Agreement.

¹¹⁸ S/20988. The statement was adopted following the assassination of the President of Lebanon in Beirut earlier the same day.

¹¹⁹ Presidential statements of 27 December 1989, 31 July 1990, 30 January 1991, 31 July 1991, 29 January 1992 and 30 July 1992 (S/21056, S/21418, S/22176, S/22862, S/23495 and S/24362).

¹²⁰ S/23886.

¹²¹ S/24635, annex.

which the members of the Council emphasized that the Secretary-General had a crucial role to play in promoting international peace and security.¹²⁵

During the period under review, the Council frequently called on the parties to a dispute or situation to cooperate in negotiations held under the auspices of the Secretary-General, expressed support for conciliation efforts undertaken by the Secretary-General or expressly requested the Secretary-General to assume an active role in the process of achieving a political settlement.

Decisions calling on conflicting parties to cooperate with the Secretary-General's efforts have been set out above. The following overview sets out examples of decisions by which the Security Council specifically requested or welcomed the Secretary-General's endeavours in this area.

Having considered the report of the Secretary-General on the situation in Central America, dated 26 June 1989,¹²⁶ which provided details of the progress achieved by the Central American Governments and the role of the Secretary-General in the process, the Council, by resolution 637 (1989), expressed its full support to the Secretary-General to continue his mission of good offices, in consultation with the Council. The Council reconfirmed its support in subsequent resolutions.¹²⁷

Following the consideration of reports of the Secretary-General dated 21 December 1990 and 16 April 1991,¹²⁸ in which the Secretary-General had provided an account of his efforts to promote the achievement of a negotiated political situation to the conflict in El Salvador, the Council, by resolution 693 (1991), *inter alia*, commended the Secretary-General and his Personal Representative for their efforts at

good offices and expressed its full support for their continuing efforts to facilitate a peaceful settlement to the conflict in El Salvador.

By resolution 714 (1991), the Council congratulated the Secretary-General and his Personal Representative for Central America for their skilful and tireless efforts which had been vital to the peace process. By resolution 729 (1992), the Council reaffirmed its support for the Secretary-General's continuing mission of good offices with regard to the Central American peace process.

The Secretary-General continued his mission of good offices in Cyprus on the basis of Security Council authorization, renewed every six months.¹²⁹

In a statement by the President dated 9 June 1989,¹³⁰ the members of the Council welcomed and reaffirmed their support for the direct talks launched in August 1988 under the auspices of the Secretary-General in the context of his mission of good offices in Cyprus, and called on the parties to cooperate with the Special Representative of the Secretary-General to achieve a negotiated, just and lasting settlement.

After a meeting between the leaders of the two communities in Cyprus, held from 26 February to 2 March 1990, had not resulted in any progress,¹³¹ the Council, by resolution 649 (1990), called upon those leaders to cooperate, on an equal footing, with the Secretary-General in completing, in the first instance and on an urgent basis, an outline of an overall agreement, and expressed its full support for the "effort of the Secretary-General in carrying out his mission of good offices concerning Cyprus".¹³²

After a set of ideas had emerged in talks held in 1991 between the leaders of the two communities in

¹²⁵ The General Assembly, by a resolution adopted on 18 December 1992, also encouraged the Secretary-General and the Security Council "to engage at an early stage in close and continuous consultation in order to develop, on a case-by-case basis, an appropriate strategy for the peaceful settlement of specific disputes, including the participation of other organs, organizations and agencies of the United Nations system, as well as regional arrangements and organizations as appropriate" (resolution 47/120 A, section I, para. 4).

¹²⁶ S/20699.

¹²⁷ Resolutions 654 (1990), 693 (1991), 729 (1992) and 791 (1992).

¹²⁸ S/22031 and S/22494 and Corr.1.

President on 13 July 1992,¹³³ endorsed the Secretary-General's intention to invite the two leaders to a joint meeting as soon as the two sides "were in agreement range on the set of ideas".

Following the submission, on 21 August 1992, of the Secretary-General's report on the outcome of his mission of good offices in Cyprus,¹³⁴ the Council, by resolution 774 (1992), reaffirmed its position, previously expressed in resolution 716 (1991), that a high-level international meeting, convened and chaired by the Secretary-General, in which the two communities and Greece and Tu

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Part IV

Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter

Note

This part of the chapter highlights the most important arguments raised in Council deliberations with regard to the interpretation of specific provisions of the Charter concerning the Council's role in the peaceful settlement of disputes. This includes in particular discussions concerning the competence of the Council to consider a dispute or situation and its power to make appropriate recommendations within the framework of Chapter VI of the Charter.

In accordance with the relevant provisions of Chapter VI, the Council shall, when it deems necessary, make recommendations in relation to disputes or situations which are likely to endanger international peace and security. Accordingly, this part will focus on discussions concerning the existence of a dispute or situation within the meaning of Chapter VI of the Charter.

When making recommendations to the parties, the Security Council is also required, pursuant to Article 36 of the Charter, to take into consideration any procedures for the settlement of the dispute which have already been adopted between the parties, and the general rule that disputes of a legal nature should be referred to the International Court of Justice. Instances in which the requirements stipulated by Article 36 (2) and (3) became the subject of deliberations will, therefore, also be considered below.

Since the referral of a situation or dispute to the Council was challenged on the basis of distinct arguments, some situations are considered under several sub-headings.

customary international law and practice". Accordingly, the United States believed that such a matter did not merit Security Council consideration.

This view was not shared, however, by the sponsors of the draft resolution, who believed that the situation did constitute a threat to international peace and security.¹⁶¹ Other speakers, some of whom characterized international terrorism as a threat to international peace and security, also expressed clear support for the draft resolution,¹⁶² which was subsequently adopted as resolution 731 (1992).

The legal nature of disputes, in the light of Article 36 (3) of the Charter

Article 36 (3) of the Charter provides that the Security Council, in making recommendations under Article 36, should take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.¹⁶³

¹⁶¹ See in particular S/PV.3033, p. 79 (United States); p. 82 (France); and p. 103 (United Kingdom); and S/PV.3063, p. 67 (United States); pp. 68-69 (United Kingdom); and p. 73 (France).

¹⁶² See S/PV.3033, P. 47 (Canada); p. 72 (Ecuador); p. 83 (Belgium); and pp. 87-89 (Russian Federation); and S/PV.3063, p. 76 (Hungary); p. 77 (Austria); pp. 79-81 (Russian Federation); and pp. 82-83 (Venezuela).

¹⁶³ In his report entitled "An Agenda for peace", the Secretary-General stated that "greater reliance on the Court would be an important contribution to United Nations peacemaking" and called attention to the power of the Security Council under Articles 36 and 37 of the Charter to recommend to Member States the submission of a dispute to the International Court of Justice, arbitration or other dispute-settlement mechanism (S/24111, para. 38). Similar recommendations are contained in the Secretary-General's reports on the work of the Organization (see for example

conflict of jurisdiction, a dispute over the legal determination to be made in connection with a request for extradition". Accordingly, he believed that the Council ought to take into consideration that, under Article 36 (3) of the Charter, legal disputes should as a general rule be referred to the International Court of Justice in accordance with the provisions of the Statute of the Court.¹⁶⁶ More generally, the representative stated that the Council ought to recommend settlement through the divers legal channels that are available, not only within the framework of the Charter, but also under the provisions of more relevant international conventions.¹⁶⁷

Several non-members of the Council, which had been invited to participate in the debate, supported the position of the Libyan Arab Jamahiriya. The representative of the Arab League believed that the dispute should be placed before a neutral international commission of inquiry.¹⁶⁸ The Sudan and the Islamic Republic of Iran believed that the dispute should be resolved within the framework of existing international instruments, through an international inquiry or by arbitration.¹⁶⁹ The representative of Iraq noted that there was "no precedent for such judicial disputes being brought before the Security Council."¹⁷⁰ Mauritania believed that the case appeared to be "a question essentially juridical in nature".¹⁷¹ Yemen thought that the question should be "dealt with in a legal manner".¹⁷²

However, the sponsors of the draft resolution, supported by other Council members, believed that the situation constituted a threat to international peace and security, which could only be appropriately addressed by the Security Council.¹⁷³

¹⁶⁶ S/PV.3033, pp. 8-22.

¹⁶⁷ *Ibid.*, p. 22. Reference was made in particular to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal in 1971.

¹⁶⁸ S/PV.3033, p. 28.

¹⁶⁹ *Ibid.*, pp. 33-36 and 63-65.

¹⁷⁰ *Ibid.*, p. 38.

¹⁷¹ *Ibid.*, p. 52.

¹⁷² *Ibid.*, p. 56.

¹⁷³ *Ibid.*, pp. 78-79 (United States; p. 82 (France); p. 103 (United Kingdom) and p. 46 (Italy); pp. 47-48 (Canada); pp. 72-73 (Ecuador); p. 76 (Cape Verde); p. 83. (Belgium); pp. 87-89 (Russian Federation); pp. 91-92 (Hungary); pp. 92-93 (Austria); p. 97 (Japan).

was in favour of “conducting serious, thorough, fair and objective investigations of the bombing incidents”, in accordance with the Charter and the relevant principles of international law.¹⁸⁴

The representative of India, noting that the judicial proceedings before the Council had not yet run their course, believed that “a little delay on that account in the Security Council’s moving on to the next stage would have merited positive consideration”. The representative felt that “it should be feasible for these two principal organs of the United Nations to function in tandem in a manner so as to reinforce each other’s efficacy and prestige in the course of international peace and security”.¹⁸⁵

The representative of Cape Verde believed that the International Court of Justice should “have a role to play whenever a legal issue was at stake, as mentioned in paragraph 3 of Article 36 of the Charter”. He added that it would therefore be “more appropriate” for the Council to act after the International Court of Justice — which was seized of the matter — had decided what was the applicable law, if any, as to the issue of jurisdiction. The representative also explained that it would be difficult for his country to endorse measures that could run counter to its Constitution, which did not allow the extradition of its own nationals.¹⁸⁶

The representative of Zimbabwe agreed that it would have been preferable for the Council to await the outcome of the judicial proceedings. He believed that, “while there [was] no specific provision in the Charter that precluded parallel consideration of the matter by these two principal organs ... the authors of the Charter [had] intended the two bodies to complement each other’s efforts rather than proceed in a manner that could produce contradictory results”.¹⁸⁷

Similar views were held by the States non-members of the Security Council which had been invited to attend the meeting.¹⁸⁸

¹⁸⁴ S/PV.3063, pp. 59-60.

the United Nations system “to be provided with legal mechanisms capable of dealing with the type of criminal activity now before the Council”. Accordingly, he reiterated Venezuela’s request “that an international criminal court be set up to complement the International Court of Justice”.¹⁹¹

With regard to the situation between Iraq and

Secretary-General's report to the Security Council dated 3 March 1992, in which the Secretary-General had noted "a certain evolution in the position of the Libyan authorities".²¹⁰

Several other speakers reiterated their view that the parties, in accordance with Article 33, should first of all seek a solution by peaceful means.²¹¹

The sponsors of the draft resolution,²¹² echoed by several other speakers,²¹³ insisted however that the Libyan Arab Jamahiriya had not complied with resolution 731 (1992), that the Council was faced with a threat to international peace and security, and that there was no alternative, therefore, to taking enforcement measures.

At the same meeting, the Council adopted the draft resolution before it as resolution 748 (1992).²¹⁴

In connection with a letter dated 3 January 1990 from the representative of Nicaragua to the President of the Council,²¹⁵ alleging a violation of Nicaragua's diplomatic premises in Panama by the United States, the representative of the United States, at the 2905th meeting, on 17 January 1990, contended that, as the matter had already been dealt with diplomatically and as the United States had formally expressed its regret to the Government of Nicaragua, further consideration of the matter by the Security Council was unnecessary. More specifically, the representative stated that "in normal diplomatic practice, if an issue such as this cannot be resolved directly between those concerned,

then the dean of the diplomatic corps — in this case the Papal Nuncio — mediates the incident".²¹⁶

In a similar vein, the representative of the United Kingdom, while observing that it viewed with concern any breach of the inviolability of diplomatic premises, placed emphasis on the fact that the United States had "formally and at the highest level expressed its regret to the Government of Nicaragua".²¹⁷

A draft resolution submitted by several Member States, by which the Council would have expressed its concern about the incident, was voted upon but not adopted.²¹⁸

In connection with the situation between Iraq and Kuwait,²¹⁹ the Council, at its 2981st meeting, adopted resolution 687 (1991), by which it called upon the Secretary-General to make arrangements with Iraq and Kuwait to demarcate the boundary between them. Several speakers expressed doubt as to whether the Council had the authority to deal with such matter²²⁰ and expressed the view that boundary questions ought to be dealt with directly by the parties concerned, through negotiations.²²¹

In response, the representative of the United States, being one of the sponsors of the relevant draft resolution,²²² drew attention to the uniqueness of the situation, stressed that the border to be demarcated would be the international boundary previously agreed upon between both countries,²²³ and emphasized that

²¹⁰ S/23672, para. 6. The representative of India, noting that the non-aligned countries had spared no effort to bring about a peaceful negotiated settlement, also suggested that the Council consider the evolution in the position of the Libyan Arab Jamahiriya in deciding on its future course of action, as recommended by the Secretary-General in his report (S/PV.3063, p. 58).

²¹¹ See S/PV.3063, p. 27 (Jordan: express reference to Article 33); p. 52 (Zimbabwe); p. 58 (India); p. 60 (China); p. 33 (Mauritania); p. 64 (Morocco: express reference to Article 33); p. 43 (OIC); and p. 47 (Cape Verde).

²¹² *Ibid.*, p. 67 (United States); pp. 68-73 (United Kingdom); and pp. 73-74 (France).

²¹³ S/PV.3063, pp. 74-75 (Japan); p. 76 (Hungary); p. 77 (Austria); pp. 79-81 (Russian Federation); pp. 81-82 (Belgium); and pp. 82-83 (Venezuela).

²¹⁴ The resolution was adopted by 10 votes to none, with 5 abstentions.

²¹⁵ S/21066.

²¹⁶ S/PV.2905, p. 21.

²¹⁷ *Ibid.*, p. 34.

²¹⁸ S/21084, submitted by Colomb

the involvement of the Council in the demarcation of the boundary was not an attempt to use the Council to replace the existing principles pertaining to the settlement of boundaries.²²⁴ Similar observations were made by the representative of the United Kingdom, who noted that the resolution was not attempting to settle the boundary, but believed that the dispute had