

ARTICLE 2 (7)

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TEXT OF ARTICLE 2 (7)

Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

INTRODUCTORY NOTE

1. This study is organized in the same manner as the study on Article 2 (7) in the Repertory. A description of the method of selecting and treating the material will be found in the Introductory Note to that study.
2. The cases dealt with here are only those in which objections to United Nations action were raised on the grounds of Article 2 (7). Of these, the cases in which such objections led to a discussion of the domestic jurisdiction clause are treated in detail; cases in which resolutions were adopted over such objections without discussion of Article 2 (7) are listed in an annex.
3. As in the previous study, decisions, in connexion with which no objections based on Article 2 (7) were raised, are not covered. Such decisions constitute at least by implication an affirmation of the competence of the Organization and in that sense

they have a bearing on the application of Article 2 (7) even though the Article was not invoked in the debates.

4. Of the twenty-three cases dealt with in the study on Article 2 (7) in the Repertory eight were again considered by United Nations organs during the period covered by this Supplement. These eight cases are dealt with in the present study under the same reference numbers as those used in the Repertory.

5. They are as follows:

<u>Reference number and title of case</u>	<u>Organ</u>
<u>Case No. 2</u> Treatment of people of Indian origin in the Union of South Africa	General Assembly
<u>Case No. 4</u> The question of the establishment of Committees on Information transmitted under Article 73 e	<u>ibid.</u>
<u>Case No. 5</u> The question of the competence of the General Assembly to determine the territories to which Article 73 e applies	<u>ibid.</u>
<u>Case No. 9</u> The question of Morocco	<u>ibid.</u>
<u>Case No. 10</u> The Tunisian question	<u>ibid.</u>
<u>Case No. 11</u> The question of race conflict in the Union of South Africa	<u>ibid.</u>
<u>Case No. 12</u> Draft International Covenants on Human Rights	General Assembly and Economic and Social Council
<u>Case No. 13</u> Recommendations concerning international respect for the self-determination of peoples	<u>ibid.</u>

6. In addition the present study deals with six new cases which have been given the following reference numbers:

<u>Reference number and title of case</u>	<u>Organ</u>
<u>Case No. 24</u> The question of Cyprus	General Assembly
<u>Case No. 25</u> The question of West Irian	<u>ibid.</u>
<u>Case No. 26</u> Complaint of detention and imprisonment of United Nations military personnel in violation of the Korean Armistice Agreement	<u>ibid.</u>
<u>Case No. 27</u> The question of Algeria	<u>ibid.</u>
<u>Case No. 28</u> The question of Algeria	Security Council
<u>Case No. 29</u> The Nottebohm case	International Court of Justice

I. GENERAL SURVEY

A. General Assembly

Case No. 2

Treatment of people of Indian origin in the Union of South Africa

d. RESOLUTIONS 816 (IX) AND 919 (X)

7. The item entitled "Treatment of people of Indian origin in the Union of South Africa" was further considered by the General Assembly at its ninth and tenth sessions. The action taken at these sessions is studied below.

1. Action taken at the ninth session: resolution 816 (A)

8. In accordance with resolution 719 (VIII) 1/ the item, together with a report submitted by the Good Offices Commission 2/, was placed on the provisional agenda of the ninth session. The report stated that the Commission was "unable to submit any proposal likely to lead to a peaceful settlement of the problem on account of the unco-operative attitude of the Government of the Union of South Africa which had even prevented the Permanent Representative of South Africa from meeting with the Commission". 3/

9. During the discussion on the adoption of the agenda, the South African representative objected on the grounds of Article 2 (7) to the inclusion of the item in the agenda. 4/ Despite this objection, the General Assembly at its 476th plenary meeting, on 24 September 1954, 5/ included the item by 45 votes to 1, with 11 abstentions.

10. During the discussion of the item itself the South African representative contended that, under Article 2 (7), the United Nations was not competent to deal with the matter. The arguments submitted for and against that contention, which are set out in the Analytical Summary of Practice, related to the following questions:

The meaning of the expression "matters which are essentially within the domestic jurisdiction of any state" (paragraphs 133-134).

Whether a matter governed by international agreements can fall essentially within domestic jurisdiction (paragraphs 141-142).

Whether a matter governed by the Charter provisions on human rights can fall essentially within domestic jurisdiction (paragraphs 145-148).

11. Despite the Union's contention, the General Assembly, at its 497th plenary meeting on 4 November 1954, adopted 6/ resolution 816 (IX) by 45 votes to 1, with 11 abstentions. 7/ The resolution read:

"The General Assembly,

"Recalling that at several sessions it has considered the question of the treatment of people of Indian origin in the Union of South Africa and has adopted resolutions on that subject,

"Having noted the report of the United Nations Good Offices Commission,

"1. Expresses appreciation of the work and efforts of the Good Offices Commission;

"2. Suggests to the Governments of India, Pakistan and the Union of South Africa that they should seek a solution of the question by direct negotiations;

1/ See in the Repertory, under Article 2 (7), para. 75.

2/ For the terms of reference of the Commission see in the Repertory, under Article 2 (7), paras. 70 and 75.

3/ G A (IX), annexes, a.i. 22, p. 2, A/2723, para. 4.

4/ G A (IX), Plen., 476th mtg., paras. 117-120; Gen. Com., 92nd mtg., para. 15.

5/ Ibid., para. 128. The Assembly referred the item to the Ad Hoc Political Committee.

6/ The resolution was adopted on the report of the Ad Hoc Political Committee.

7/ G A (IX), Plen., 497th mtg., para. 198.

"3. Suggests, moreover, that the parties concerned should designate a Government, agency or person to facilitate contacts between them and assist them in settling the dispute;

"4. Decides that, if within the next six months following the date of the present resolution the parties have not reached agreement on the suggestions made in the foregoing paragraphs, the Secretary-General shall designate a person for the purposes specified above;

"5. Requests the Secretary-General to report to the General Assembly at its next regular session on the results obtained."

ii. Action taken at the tenth session: resolution 919 (X)

12. In accordance with resolution 816 (IX) the item, together with a report 8/ submitted by the Secretary-General, was placed on the provisional agenda of the tenth session. The report stated that, since attempts to initiate direct negotiations between the Governments concerned had failed, the Secretary-General had designated Ambassador Luiz de Faro, Jr., of Brazil "to discharge the functions called for by the General Assembly". The Governments of India and Pakistan informed the Secretary-General that they would extend full co-operation to Mr. de Faro. The Union Government, however, stated that it:

"has always maintained that the position of persons of Indian origin who have for many years been citizens of the Union of South Africa is a matter of purely domestic concern, and that the United Nations is precluded, by the provisions of Article 2, paragraph 7, of the Charter from intervening in the matter, either by way of discussion in, or by resolution of the Assembly, or by the appointment of a representative of the United Nations in terms of paragraphs 2 and 3 of General Assembly resolution 816 (IX). The Union Government has the highest regard for Sr. de Faro's capabilities and appreciates his willingness to be of assistance in the matter but, in view of what is stated above, must regretfully decline to prejudice its juridical position by collaborating with the distinguished gentleman". 9/

13. During the discussion on the adoption of the agenda, the South African representative contended that Article 2 (7) debarred the United Nations from considering the item. 10/ The arguments for and against that contention, which are set out in the Analytical Summary of Practice, related to the following questions:

The meaning of the term "to intervene" (paragraph 120).

Whether the inclusion of an item in the agenda constitutes intervention (paragraphs 121 and 122).

14. Despite the Union's objections, the General Assembly, at its 530th meeting on 30 September 1955, included 11/ the item in its agenda by 47 votes to 1, with 10 abstentions.

8/ G A (X), annexes, a.i. 20, A/3001.

9/ Ibid., para. 4.

10/ G A (X), Plen., 530th mtg., paras. 228-235; Gen. Com., 102nd mtg., para. 7.

11/ G A (X), Plen., 530th mtg., para. 259. The Assembly referred the item to the Ad Hoc Political Committee.

15. The domestic jurisdiction clause was also discussed during the consideration of the item itself. The arguments advanced, which are set out in the Analytical Summary of Practice, referred to the following questions:

Whether a recommendation constitutes intervention (paragraphs 125-127).

Whether a matter governed by the Charter provisions on human rights can fall essentially within domestic jurisdiction (paragraphs 145-148).

Whether a matter governed by the Charter provisions on the maintenance of international peace can fall essentially within domestic jurisdiction (paragraph 168).

16. At its 55⁴th plenary meeting, on 14 December 1955, the General Assembly adopted 12/ resolution 919 (X) by 46 votes to none, with 8 abstentions. The South African representative did not participate in the vote since, on 9 November 1955, the Union Government had withdrawn its delegation from the General Assembly's tenth session. That action, as will be seen later, 13/ had been taken in connexion with another case.

17. Resolution 919 (X) read:

"The General Assembly,

"Having considered the report 14/ of the Secretary-General relating to the question of the treatment of people of Indian origin in the Union of South Africa, submitted pursuant to General Assembly resolution 816 (IX) of 4 November 1954,

"1. Notes that the negotiations envisaged in resolution 816 (IX) have not been pursued;

"2. Urges the parties concerned to pursue negotiations with a view to bringing about a settlement of the question of the treatment of people of Indian origin in the Union of South Africa;

"3. Invites the parties to report as appropriate, jointly or separately, to the General Assembly at its next session."

Case No. 4

The question of the establishment of committees on information transmitted under Article 73 e

18. At its tenth session, the General Assembly decided by resolution 933 (X) 15/ "to continue the Committee on Information from Non-Self-Governing Territories on the same basis for a further three-year period". There was no discussion of Article 2 (7) during the debates which led to that decision.

19. An account of the proceedings relating to resolution 933 (X) and an analysis of its provisions may be found in the study of Article 73 in this Supplement.

12/ G A (X), Plen., 55⁴th mtg., para. 7. The resolution was adopted on the report of the Ad Hoc Political Committee.

13/ See para. 55 below.

14/ See para. 12 above.

15/ The resolution was adopted by 54 votes to 1, with 2 abstentions (G A (X), Plen., 54¹st mtg., para. 188).

Case No. 5

The question of the competence of the General Assembly to determine the Territories to which Article 73 e applies

20. Of the three items mentioned in paragraph 86 of the study of Article 2 (7) in the Repertory, the General Assembly discussed the two following items at its ninth and tenth sessions: "Information from Non-Self-Governing Territories transmitted under Article 73 e" and "Cessation of the transmission of information under Article 73 e".

21. During those discussions, the problem of domestic jurisdiction was raised. The arguments submitted are set out in the Analytical Summary of Practice. They related to the following question:

Whether a matter governed by the provisions regarding Non-Self-Governing Territories can fall essentially within domestic jurisdiction (paragraphs 152-155).

22. The relevant proceedings and decisions are described in the study of Article 73 in this Supplement.

Case No. 9

The question of Morocco

d. ACTION TAKEN AT THE NINTH SESSION: RESOLUTION 812 (IX)

23. By a letter 16/ dated 28 July 1954, the representatives of fourteen Member States requested the Assembly to include the question of Morocco in the agenda of its ninth session. The letter stated that the "situation in French Morocco constitutes a flagrant contradiction of the principles of the Charter and the Universal Declaration of Human Rights and is a constant threat to the peace". In the absence of any objection, the Assembly, at its 477th plenary meeting on 24 September 1954, included 17/ the item on the agenda and referred it to the First Committee.

24. At the Committee's 684th meeting, on 8 October 1954, the representative of France stated that his Government did not consider the Assembly competent to deal with the question of Morocco and would not take part in the debate on the item. 18/

25. At subsequent meetings of the Committee, other representatives contended that the item fell essentially within France's domestic jurisdiction and that the United Nations was not competent to deal with it. The arguments for and against that contention, which are set out in the Analytical Summary of Practice, related to the following question:

Whether a matter governed by the Charter provisions regarding Non-Self-Governing Territories can fall essentially within domestic jurisdiction (paragraphs 152-155).

26. At its 514th plenary meeting on 17 December 1954, the General Assembly, acting on the report of the First Committee, adopted 19/ resolution 812 (IX) by 55 votes to none, with 4 abstentions. The resolution read:

16/ G A (IX), annexes, a.i. 56, p. 1, A/2682.

17/ G A (IX), Plen., 477th mtg., para. 1.

18/ G A (IX), 1st Com., 684th mtg., para. 17.

19/ G A (IX), Plen., 514th mtg., para. 245.

"The General Assembly,

"Having examined the Moroccan question,

"Noting that some delegations declared that negotiations between France and Morocco would be initiated regarding this question,

"Expressing confidence that a satisfactory solution will be achieved,

"Decides to postpone for the time being further consideration of this item."

27. During the explanations of vote some representatives stated 20/ that they had abstained on the foregoing resolution because they considered that the matter fell essentially within France's domestic jurisdiction and were not convinced that the resolution was merely procedural, as had been claimed by some other representatives.

e. ACTION TAKEN AT THE TENTH SESSION: RESOLUTION 911 (X)

28. The question of Morocco was again considered by the Assembly at its tenth session. The debate, which did not give rise to a discussion of Article 2 (7), concluded with the adoption 21/ of resolution 911 (X). The resolution read as follows:

"The General Assembly,

"Having considered the question of Morocco,

"Noting that negotiations between France and Morocco will be initiated regarding this question,

"Expressing confidence that a satisfactory solution of the question of Morocco will be achieved,

"Decides to postpone further consideration of this item."

29. At the Assembly's eleventh session Morocco was admitted to membership in the United Nations. 22/

Case No. 10

The Tunisian question

c. ACTION TAKEN AT THE NINTH SESSION: RESOLUTION 813 (IX)

30. By a letter 23/ dated 28 July 1954, the representatives of fourteen Member States requested the Assembly to include the Tunisian question in the agenda of its ninth session. The letter stated that the situation in Tunisia constituted "a threat to world peace" and expressed the hope that "the Assembly [would] consider steps necessary for [the] peaceful settlement [of the question] and the speedy realization of the right to self-determination of the Tunisian people". In the absence of any objection, the

20/ G A (IX), Plen., 514th mtg., paras. 249-253 and 255.

21/ The resolution was adopted by 51 votes to none with 5 abstentions. (G A (X), Plen., 550th mtg., para. 1).

22/ G A resolution 1111 (XI).

23/ G A (IX), annexes, a.i. 57, pp. 1-3, A/2683.

Assembly, at its 477th plenary meeting on 24 September 1954, included 24/ the item in the agenda and referred it to the First Committee.

31. At the Committee's 684th meeting, on 8 October 1954, the representative of France stated that his Government did not consider the Assembly competent to deal with the Tunisian question and would not take part in the debate on the item. 25/

32. At its 514th plenary meeting on 17 December 1954, the General Assembly, acting on the report of the First Committee, adopted 26/ resolution 813 (IX) by 56 votes to none, with 3 abstentions. The resolution read:

"The General Assembly,

"Having considered the Tunisian question,

"Noting with satisfaction that the parties concerned have entered into negotiations and that these negotiations are still in progress,

"Expressing confidence that the said negotiations will bring about a satisfactory solution,

"Decides to postpone for the time being further consideration of this item."

33. During the explanations of vote some representatives stated 27/ that they had abstained on the foregoing resolution because they considered that the matter fell essentially within France's domestic jurisdiction and were not convinced that the resolution was merely procedural, as had been claimed by some other representatives.

34. At the tenth session no request for the inclusion of the Tunisian question in the agenda was submitted to the General Assembly.

35. At the eleventh session Tunisia was admitted 28/ to membership in the United Nations.

Case No. 11

The question of race conflict in the Union of South Africa

d. SECOND REPORT OF THE COMMISSION ON THE RACIAL SITUATION IN THE UNION OF SOUTH AFRICA

36. On 26 August 1954, the Commission established by resolution 616 A (VII) 29/ submitted its second report 30/ to the General Assembly.

37. As regards the Assembly's competence to deal with the racial situation in the Union of South Africa, the report merely stated that "The Commission considers it

24/ G A (IX), Plen. 477th mtg., para. 1.

25/ G A (IX), 1st Com., 684th mtg., para. 17.

26/ G A (IX), Plen., 514th mtg., para. 254.

27/ *Ibid.*, paras. 249-253 and 255.

28/ G A resolution 1112 (XI).

29/ See in the Repertory, under Article 2 (7), para. 182.

30/ G A (IX), Suppl. No. 16 (A/2719).

unnecessary to return to this subject, which was examined in detail in its first report". 31/

38. As regards substance, the report outlined the recent developments affecting the racial situation, and in accordance with paragraph 4 (b) of resolution 721 (VIII) 32/ suggested measures "to alleviate the situation and promote a peaceful settlement". These measures were described in paragraphs 370 to 384 of the report.

39. Paragraphs 370 and 371 were entitled "Suggestion I. Interracial contacts; interracial conference". They stated that:

"the Commission wishes to draw attention to the statement made in its first report that 'the United Nations might express the hope that the Government of the Union of South Africa will be able to reconsider the components of its policy towards various ethnic groups. The United Nations might suggest ways and means in which the Union might draw up a new policy: for example, a round-table conference of members of different ethnic groups of the Union, which would, in an effort towards conciliation, make proposals to the Government to facilitate the peaceful development of the racial situation in the Union of South Africa. The United Nations might offer help to that conference by sending a number of United Nations representatives, so that all parties might be sure that the Principles of the Charter would guide the debates'."

40. Suggestion II was contained in paragraphs 372 to 383, entitled "Basic ideas for a peaceful settlement". In these paragraphs the Commission listed "some of the many areas in which a re-direction of policy might make an effective contribution to the relaxation of tension". Among the areas listed were "the progressive reduction, with a view to ultimate abolition, of the system of migrant labour; ... the elimination of the colour bar and the recognition of the principle of 'equal pay for equal work', ... the progressive enactment of new legislation recognizing the right of Bantus, Coloureds and non-Europeans in general to become members of trade unions".

41. Finally, in paragraph 384, entitled "Suggestion III. Possible assistance by the United Nations" the Commission stated that:

"Should the General Assembly take the view that all or part of the programme outlined above could provide a provisional basis for possible co-operation with the Government of the Union of South Africa, the Commission would suggest that an offer might be made to that Government to set up at its request a committee of technical experts specializing in the planning of economic and social development, particularly in multi-racial societies, who might be asked to catalogue all the various forms of assistance which the United Nations and the specialized agencies can supply".

e. ACTION TAKEN AT THE NINTH SESSION: RESOLUTION 820 (IX)

42. In accordance with resolution 721 (VIII) 33/ the question of race conflict in the Union of South Africa was placed on the provisional agenda of the Assembly's ninth session.

31/ Ibid., para. 6. For the first report, see in the Repertory, under Article 2 (7), paras. 188-190.

32/ See in the Repertory, under Article 2 (7), para. 204.

33/ See in the Repertory, under Article 2 (7), para. 205.

43. During the discussion on the adoption of the agenda the South African representative objected, on the grounds of Article 2 (7), to the inclusion of the question in the agenda. ^{34/} Despite this objection, the Assembly, at its 476th plenary meeting, on 24 September 1954, included ^{35/} the question in the agenda by 50 votes to 6, with 4 abstentions.

44. During the discussion of the item itself, the South African representative stated his Government's reasons for contending that the matter fell essentially within the Union's domestic jurisdiction and that the Assembly was not competent to deal with it. The arguments submitted for and against that contention are set out in the Analytical Summary of Practice. They related to the following questions:

The meaning of the term "to intervene" (paragraph 120).

Whether a recommendation constitutes intervention (paragraphs 125-127).

The meaning of the expression "matters which are essentially within the domestic jurisdiction of any State" (paragraphs 133 and 134).

Whether a matter governed by international law can fall essentially within domestic jurisdiction (paragraphs 137-139).

Whether a matter governed by the Charter provisions on human rights can fall essentially within domestic jurisdiction (paragraphs 145-148).

Whether a matter governed by the Charter provisions on the maintenance of international peace can fall essentially within domestic jurisdiction (paragraph 168).

45. In spite of the objections raised on the grounds of Article 2 (7), the General Assembly, at its 511th plenary meeting on 14 December 1954, adopted ^{36/} resolution 820 (IX) by 40 votes to 10, with 10 abstentions. The resolution read:

"The General Assembly,

"Having considered the second report of the United Nations Commission on the Racial Situation in the Union of South Africa,

"Recalling General Assembly resolution 103 (I), which states that it is in the higher interests of humanity to put an end to racial persecution and discrimination, and resolutions 395 (V) ^{37/} and 511 (VI). ^{38/}

"Further recalling that the Commission, in its first report, had concluded that the racial policies of the Government of the Union of South Africa are contrary to the United Nations Charter and to the Universal Declaration of Human Rights,

"Noting with apprehension the adoption of new laws and regulations by the Union Government which in the Commission's view are also incompatible with the obligations of that Government under the Charter,

"Noting further the profound conviction of the Commission that the policy of apartheid constitutes a grave threat to the peaceful relations between ethnic groups in the world,

^{34/} G A (IX), Plen., 476th mtg., paras. 130-152; Gen. Com., 92nd mtg., para. 15.

^{35/} Ibid., para. 157. The question was referred to the Ad Hoc Political Committee.

^{36/} G A (IX), Plen., 511th mtg., para. 129. The resolution was adopted on the report of the Ad Hoc Political Committee.

^{37/} See in the Repertory, under Article 2 (7), paras. 60-62.

^{38/} Ibid., paras. 64-66.

- "1. Commends the United Nations Commission on the Racial Situation in the Union of South Africa for its constructive work;
- "2. Notes with regret that the Government of the Union of South Africa again refused to co-operate with the Commission; 39/
- "3. Notes the Commission's suggestions for facilitating a peaceful settlement of the problem contained in paragraphs 368 to 384 of its report;
- "4. Invites the Government of the Union of South Africa to reconsider its position in the light of the high principles expressed in the United Nations Charter, taking into account the pledge of all Member States to respect human rights and fundamental freedoms without distinction as to race; and further taking into account the valuable experience of other multiracial societies as set forth in chapter VII of the Commission's report;
- "5. Further invites the Government of the Union of South Africa to take into consideration the suggestions of the Commission for a peaceful settlement of the racial problem, namely, those detailed in paragraphs 370 to 383 40/ of its report;
- "6. Requests the Commission to keep under review the problem of race conflict in the Union of South Africa;
- "7. Requests the Commission to report to the General Assembly at its tenth session;
- "8. Decides that, should any of the members of the Commission be unable to continue their membership, the member or members concerned shall, if the General Assembly is not sitting, be replaced by a person or persons appointed by the present President of the General Assembly in consultation with the Secretary-General."

f. THIRD REPORT OF THE COMMISSION ON THE RACIAL SITUATION
IN THE UNION OF SOUTH AFRICA

46. Pursuant to resolution 820 (IX), the Commission on the Racial Situation in the Union of South Africa submitted its third report 41/ to the General Assembly on 26 August 1955.

39/ In a letter dated 21 June 1954, the representative of the Union of South Africa had informed the Chairman of the Commission that:

"The Government of the Union of South Africa have consistently regarded the United Nations as having exceeded their competence in discussing racial policies in the Union of South Africa. Furthermore, the Union Government regard the resolutions of the General Assembly relating to this question as unconstitutional, and their attitude towards the Commission on the Racial Situation in the Union of South Africa, which was itself appointed as a result of an act which was ultra vires the Charter, remains unchanged.

"It is regretted, therefore, that the Union Government are unable to participate in the work of the Commission." (G A (IX), Suppl. No. 16 (A/2719), para. 22).

40/ See paras. 39 and 40 above.

41/ G A (X), Suppl. No. 14 (A/2953).

47. On the question of competence the report stated that:

"the policy of apartheid is a seriously disturbing factor in international relations, and the least that can be said of it is that it is 'likely to impair the general welfare or friendly relations among nations'. This, then, is one of those situations which, under Article 14 of the Charter, may form the subject of recommendations by the General Assembly." 42/

48. As regards substance, the report reviewed the evolution of the racial situation in the Union and elaborated on the suggestions contained in the previous report.

g. ACTION TAKEN AT THE TENTH SESSION: RESOLUTION 917 (X)

49. The question of race conflict in the Union of South Africa was placed on the provisional agenda of the tenth session, in accordance with resolution 820 (IX).

50. During the discussion on the adoption of the agenda the South African representative, invoking Article 2 (7), opposed 43/ the inclusion of the question in the agenda. The arguments submitted for and against the South African position are set out in the Analytical Summary of Practice. They related to the following question:

Whether the inclusion of an item in the agenda constitutes intervention (paragraphs 121 and 122).

51. In spite of the objection raised on the grounds of Article 2 (7) the General Assembly, at its 530th plenary meeting on 30 September 1955, by 45 votes to 5, with 6 abstentions, placed 44/ the question on the agenda and referred it to the Ad Hoc Political Committee.

52. The Committee began the discussion of the question of race conflict at its third meeting on 24 October 1955. At that meeting the South African representative contended that by discussing the matter the General Assembly was acting contrary to the provisions of Article 2 (7). His delegation had been instructed by the Union Government not to attend the discussion and would therefore withdraw from the Committee room. He reserved his delegation's right, however, to take part in the vote on any draft resolution which might be submitted. 45/

53. At subsequent meetings of the Ad Hoc Political Committee several representatives referred to the contention advanced by the South African representative. The arguments for and against are set out in the Analytical Summary of Practice. They related to the following questions:

The meaning of the term "to intervene" (paragraph 120).

Whether a recommendation constitutes intervention (paragraphs 125-127).

Whether a matter governed by the Charter provisions on human rights can fall essentially within domestic jurisdiction (paragraphs 145-148).

Whether a matter governed by the Charter provisions on the maintenance of international peace can fall essentially within domestic jurisdiction (paragraph 168).

42/ Ibid., para. 309.

43/ G A (X), Plen., 530th mtg., paras. 261-264; Gen. Com., 102nd mtg., para. 7.

44/ G A (X), Plen., 530th mtg., para. 267.

45/ G A (X), Ad Hoc Pol. Com., 3rd mtg., paras. 3-7.

54. At its 12th meeting on 9 November 1955, the Committee adopted 46/ the following draft resolution, by 37 votes to 7, with 13 abstentions:

"The General Assembly,

"Recalling its previous resolutions on the question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa,

"Recalling section E of resolution 377 (V) in which the General Assembly has expressed its conviction that a genuine and lasting peace depends also upon the observance of all the principles and purposes established in the Charter of the United Nations, upon the implementation of the resolutions of the General Assembly and the principal organs of the United Nations intended to achieve the maintenance of international peace and security, and especially upon respect for and observance of human rights and fundamental freedoms for all,

"Reiterating its resolutions 103 (I) and 616 B (VII) 47/ in which the General Assembly has declared, among other things, that it is in the higher interest of humanity to put an immediate end to religious and so-called racial persecution and discrimination; and that governmental policies which are designed to perpetuate or increase discrimination are inconsistent with the pledges of the Members under Article 56 of the Charter,

"Noting that the United Nations Commission on the Racial Situation in the Union of South Africa has now submitted its third report,

"1. Commends the Commission for its constructive work;

"2. Notes with regret that the Government of the Union of South Africa again refused to co-operate with the Commission;

"3. Recommends to the Government of the Union of South Africa to take note of the Commission's report;

"4. Expresses its concern at the fact that the Government of the Union of South Africa continues to give effect to the policies of apartheid, notwithstanding the request made to it by the General Assembly to reconsider its position in the light of the high principles contained in the Charter and taking into account the pledge of all Member States to promote respect for human rights and fundamental freedoms without distinction as to race;

"5. Reminds the Government of the Union of South Africa of the faith it had reaffirmed, in signing the Charter, in fundamental human rights and in the dignity and worth of the human person;

"6. Calls on the Government of the Union of South Africa to observe the obligations contained in Article 56 of the Charter;

"7. Requests the Commission to continue to keep under review the racial situation in South Africa, including, as the General Assembly hopes, improvement, if any, in the situation, and to report to the General Assembly at its eleventh session;

46/ G A (X), Ad Hoc Pol. Com., 12th mtg., para. 44.

47/ See in the Repertory, under Article 2 (7), paras. 184-186.

"8. Decides that should any of the members of the Commission be unable to continue their membership, the member or members concerned shall, if the General Assembly is not sitting, be replaced by a person or persons appointed by the present President of the General Assembly in consultation with the Secretary-General;

"9. Requests the Secretary-General to provide the Commission with the necessary staff and facilities;

"10. Requests further the Union of South Africa to extend its fullest co-operation to the Commission."

55. After the adoption of the draft resolution the South African representative, who had returned to the Committee room in order to participate in the vote, stated that he had been instructed to inform the Committee that his Government regarded in a most serious light the inquiry into the legislation of the Union of South Africa which resulted from previous resolutions and from the draft resolution just adopted. His Government considered that such an inquiry constituted the most flagrant of all examples of transgression of Article 2, paragraph 7, of the Charter, which no self-respecting sovereign State could tolerate. After very serious consideration, the South African Government had accordingly decided to recall the South African delegation and also the Permanent Representative to the United Nations from the tenth session of the General Assembly. 48/

56. The draft resolution adopted by the Committee was considered by the General Assembly at its 551st plenary meeting on 6 December 1955. The Assembly also had before it an amendment submitted by Costa Rica, which read as follows:

"Add the following paragraph to the draft resolution"

"11. Decides to continue consideration of this question at its eleventh session." 49/

57. The amendment was put to the vote first. It failed to obtain the required two-thirds majority and was therefore rejected. 50/ The draft resolution was then put to the vote. The preamble and the first six paragraphs of the operative part were adopted 51/ by 41 votes to 6, with 8 abstentions, and became resolution 917 (X). Paragraphs 7 and 8 of the operative part failed to obtain the required majority and were therefore rejected. 52/ After their rejection the President stated:

"As the United Nations Commission on the Racial Situation in the Union of South Africa has been abolished, there is no need to take a vote on paragraphs 9 and 10". 53/

48/ G A (X), annexes, a.i. 23, A/3026, para. 10.

49/ G A (X), Plen., 551st mtg., A/L.205, para. 7.

50/ There were 27 votes to 15, with 15 abstentions. G A (X), Plen., 551st mtg., para. 39.

51/ G A (X), Plen., 551st mtg., para. 46.

52/ There were 33 votes to 17, with 9 abstentions on paragraph 7 and 27 votes to 15, with 8 abstentions on paragraph 8 (G A (X), Plen., 551st mtg., paras. 43 and 44).

53/ G A (X), Plen., 551st mtg., para. 45.

Case No. 24

The question of Cyprus

58. The question of Cyprus was included in the agenda and considered by the General Assembly at its ninth session. At the tenth session the Assembly rejected a request again to include the question in the agenda. The action taken at these two sessions is studied below.

a. ACTION TAKEN AT THE NINTH SESSION: RESOLUTION 814 (IX)

59. By a letter 54/ dated 16 August 1954, the Prime Minister of Greece requested the General Assembly to include in the agenda of the ninth session an item entitled "Application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the island of Cyprus". The letter stated that "the Hellenic Government bases its request ... on the relevant provisions of the Charter, and specifically on Articles 10 and 14 and on Article 1, paragraph 2. It also reserves the right to refer to Article 35, paragraph 1".

60. During the discussion on the adoption of the agenda the United Kingdom representative opposed the request for inclusion in the agenda on the ground that since Cyprus was a British possession the matter fell essentially within the domestic jurisdiction of the United Kingdom. 55/ The arguments advanced for and against that position are set out in the Analytical Summary of Practice. They related to the following questions:

The meaning of the term "to intervene" (paragraph 120).
Whether the inclusion of an item in the agenda constitutes intervention (paragraphs 121 and 122).

61. Despite the objections raised on the grounds of Article 2 (7), the General Assembly, at its 477th plenary meeting on 24 September 1954, included 56/ the item in its agenda by 30 votes to 19, with 11 abstentions. 57/

62. During the discussion of the item itself, several representatives contended that the matter fell essentially within the domestic jurisdiction of the United Kingdom and that the United Nations was not competent to deal with it. The arguments for and against that contention, which are set out in the Analytical Summary of Practice, related to the following questions:

Whether a recommendation constitutes intervention (paragraphs 125-127).
Whether a matter governed by the Charter provisions regarding Non-Self-Governing Territories can fall essentially within domestic jurisdiction (paragraphs 152-155).
Whether a matter governed by the Charter provisions on the self-determination of peoples can fall essentially within domestic jurisdiction (paragraphs 158-163).
Whether a matter governed by the Charter provisions on the maintenance of international peace can fall essentially within domestic jurisdiction (paragraph 168).

54/ G A (IX), annex, a.i. 62, p. 1, A/2703.

55/ G A (IX), Plen., 477th mtg., para. 119; Gen. Com., 93rd mtg., paras. 15-27.

56/ G A (IX), Plen., 477th mtg., para. 209.

57/ The question was referred to the First Committee.

63. At its 514th plenary meeting, on 17 December 1954, the General Assembly adopted resolution 814 (IX) by 50 votes to none, with 8 abstentions. 58/ The resolution read:

"The General Assembly,

"Considering that, for the time being, it does not appear appropriate to adopt a resolution on the question of Cyprus,

"Decides not to consider further the item entitled 'Application, under the auspices of the United Nations, of the principle of equal rights and self-determination of peoples in the case of the population of the island of Cyprus'."

64. Of the representatives who supported the foregoing resolution, some stated that their support did not constitute a recognition of the Assembly's competence to deal with the question of Cyprus; 59/ others held on the contrary that the resolution implied an affirmative finding on the question of competence; 60/ the remaining representatives who explained their votes did not refer to Article 2 (7).

b. ACTION TAKEN AT THE TENTH SESSION

65. By a letter 61/ dated 23 July 1955 the representative of Greece requested the Assembly to include the question of Cyprus in the agenda of the tenth session. The letter stated that the "item having been inscribed in the agenda of the ninth session of the General Assembly remains pending in the United Nations as a result of resolution 814 (IX)".

66. During the discussion on the adoption of the agenda several representatives 62/ contended 63/ that the item fell essentially within the domestic jurisdiction of the United Kingdom and that Article 2 (7) debarred the Assembly from including the item in its agenda. The arguments submitted for and against that contention, which are summarized in the Analytical Summary of Practice, related to the following questions:

Whether the inclusion of an item in the agenda constitutes intervention (paragraphs 121 and 122).

Whether a matter governed by the Charter provisions regarding Non-Self-Governing Territories can fall essentially within domestic jurisdiction (paragraphs 152-155).

Whether a matter governed by the Charter provisions on the self-determination of peoples can fall essentially within domestic jurisdiction (paragraphs 158-163).

67. There were also representatives who opposed the inclusion of the item in the agenda on grounds not based on Article 2 (7). 64/

58/ G A (IX), Plen., 514th mtg., para. 268. The resolution was adopted on the report of the First Committee.

59/ Ibid., paras. 258 and 272.

60/ Ibid., paras. 266 and 286.

61/ G A (X), annexes, a.i. 8, p. 3, A/2920.

62/ The representative of the United Kingdom opposed the inclusion of the question in the agenda for reasons not based on Article 2 (7) (G A (X), Plen., 521st mtg., para. 48).

63/ G A (X), Gen. Com., 102nd mtg., paras. 28, 33 and 35.

64/ G A (X), Plen., 521st mtg., paras. 116-123 and 184-188; Gen. Com., 102nd mtg., paras. 31, 37 and 38.

68. At its 521st plenary meeting on 23 September 1955, the Assembly, by 28 votes to 22, with 10 abstentions, decided not to include the item in the agenda. 65/

Case No. 25

The question of West Irian

69. The question of West Irian was discussed by the General Assembly at its ninth and tenth sessions. The action taken at these sessions is studied below.

a. ACTION TAKEN AT THE NINTH SESSION

70. By a letter 66/ dated 17 August 1954 the representative of Indonesia, invoking Articles 10, 14 and 35 of the Charter, requested the General Assembly to include in the agenda of its ninth session "the question of West Irian (West New Guinea)." He recalled 67/ that in 1949 the Netherlands and Indonesia had signed a Charter of Transfer of Sovereignty, providing that "The Kingdom of the Netherlands unconditionally and irrevocably transfers complete sovereignty over Indonesia to the Republic of the United States of Indonesia".

71. As regards the Dutch possessions in West New Guinea, which were known under the name of "the residency of New Guinea" or "West Irian", article 2 of the Charter of Transfer of Sovereignty stated that:

"the status quo of the residency of New Guinea shall be maintained with the stipulation that within a year from the date of transfer of sovereignty to the Republic of the United States of Indonesia the question of the political status of New Guinea be determined through negotiations between the Republic of the United States of Indonesia and the Kingdom of the Netherlands".

72. The representative of Indonesia claimed that the negotiations which had been held since 1950 in pursuance of article 2 had led to no result. He also contended that "West Irian is and always has been...an integral part of the territory of Indonesia" and that "as long as this problem - representing the remnant of Netherlands colonial rule in Indonesia - remains unsolved, it will continue to be a latent threat to the peace and security of that part of the world".

73. During the discussion on the adoption of the agenda some representatives held that, since the Netherlands had sovereignty over West Irian the item proposed by Indonesia fell essentially within the domestic jurisdiction of the Netherlands. They therefore opposed the inclusion of the item in the agenda on the grounds of Article 2 (7). 68/ Despite these objections, the General Assembly, at its 477th plenary meeting on 24 September 1954, included the item 69/ in its agenda by 39 votes to 11, with 10 abstentions, and referred it to the First Committee.

74. During the discussion in the Committee, several representatives contended that the matter fell essentially within the domestic jurisdiction of the Netherlands and that the United Nations was not competent to deal with it. The arguments for and against

65/ Ibid., para. 167.

66/ G A (IX), annexes, a.i. 61, p. 1, A/2694.

67/ See in the Repertory, under Article 2 (7), para. 307.

68/ G A (IX), Plen., 477th mtg., para. 53; Gen. Com., 92nd mtg., paras. 30 and 36.

69/ Ibid., para. 92.

that contention, which are set out in the Analytical Summary of Practice, related to the following questions:

Whether a recommendation constitutes intervention (paragraphs 125-127).

Whether a matter governed by international agreements can fall essentially within domestic jurisdiction (paragraphs 141 and 142).

Whether a matter governed by the Charter provisions on the maintenance of international peace can fall essentially within domestic jurisdiction (paragraph 168).

75. Despite the objections raised on the grounds of Article 2 (7) the First Committee, at its 735th meeting on 30 November 1954, approved 70/ the following draft resolution 71/ by 34 votes to 14, with 10 abstentions:

"The General Assembly,

"Having considered agenda item 61, 'The question of West Irian (West New Guinea)',

"Recalling that by the agreements reached at The Hague in 1949 between Indonesia and the Netherlands a new relationship as between the two countries, as sovereign independent States, was established but that it was not then possible to reconcile the views of the parties on West Irian (West New Guinea), which therefore remained in dispute,

"Recalling the dedication of the parties to the principle of resolving by peaceful and reasonable means any differences that exist or arise between them,

"Realizing that co-operation and friendship between them is the common desire of both parties,

"1. Expresses the hope that the Governments of Indonesia and the Netherlands will pursue their endeavours in respect of the dispute that now exists between them to find a solution in conformity with the principles of the Charter of the United Nations;

"2. Requests the parties to report progress to the tenth session of the General Assembly."

76. In the Assembly, the foregoing draft resolution failed to obtain the required two-thirds majority 72/ and was therefore rejected.

b. ACTION TAKEN AT THE TENTH SESSION: RESOLUTION 915 (X)

77. By a letter 73/ dated 10 August 1955, the representatives of fifteen Member States requested the General Assembly to include the question of West Irian in the agenda of its tenth session.

70/ G A (IX), 1st Com., 735th mtg., para. 102.

71/ G A (IX), annexes, a.i. 61, p. 4, A/C.1/L.110, and p. 5, A/2831, para. 9.

72/ The draft resolution was put to the vote in parts. The results of the vote were as follows: on the preamble, 34 to 21, with 5 abstentions; on the first operative paragraph, 34 to 23, with 3 abstentions; on the second operative paragraph, 33 to 23, with 4 abstentions (G A (IX), Plen., 509th mtg., paras. 294-298).

73/ G A (X), annexes, a.i. 65, p. 1, A/2932.

78. During the discussion on the adoption of the agenda the request of the fifteen Member States was opposed by some representatives on the ground that the matter fell essentially within the domestic jurisdiction of the Netherlands. 74/ Despite this opposition the Assembly, at its 532nd plenary meeting on 3 October 1955, included 75/ the question in the agenda by 31 votes to 18, with 10 abstentions, and referred it to the First Committee.

79. On 7 December 1955, the Governments of Indonesia and the Netherlands announced in a joint statement that they had decided to hold a conference to discuss "certain problems concerning New Guinea, it being understood that with respect to its sovereignty each party maintained its own position". 76/

80. On 12 December 1955, at its 811th meeting, the First Committee took up the question of West Irian and approved 77/ without objection the following draft resolution:

"The General Assembly,

"Having considered the item on the agenda of its tenth session entitled 'The question of West Irian (West New Guinea)',

"Hoping that the problem will be peacefully resolved,

"Noting the joint statement issued by the Governments of Indonesia and the Netherlands on 7 December 1955,

"Expresses the hope that the negotiations referred to in the said joint statement will be fruitful."

81. At its 559th plenary meeting, on 16 December 1955, the General Assembly adopted 78/ without objection, the foregoing text, which became resolution 915 (X).

Case No. 26

Complaint of detention and imprisonment of United Nations military personnel in violation of the Korean Armistice Agreement

82. By a letter 79/ dated 4 December 1954, the representative of the United States requested the General Assembly to include in the agenda of its ninth session an additional item entitled "Complaint of detention and imprisonment of United Nations military personnel in violation of the Korean Armistice Agreement". 80/ The letter stated that

"A United States Air Force B-29 type aircraft, on a mission of the United Nations Command in Korea, was attacked fifteen miles south of the Yalu River near the North Korean town of Sonchon and shot down on 12 January 1953. The officers and

74/ G A (X), Gen. Com., 104th mtg., paras. 15 and 43.

75/ G A (X), Plen., 532nd mtg., para. 162.

76/ G A (XI), Suppl. No. 1 (A/2911), p. 30.

77/ G A (X), 1st Com., 811th mtg., para. 66.

78/ G A (X), Plen., 559th mtg., para. 117.

79/ G A (IX), annexes, a.i. 72, p. 1, A/2830.

80/ See "Agreement between the Commander in Chief, United Nations Command, on the one hand, and the Supreme Commander of the Korean People's Army and the Commander of the Chinese People's Volunteers, on the other hand, concerning a Military Armistice in Korea", signed at Panmunjom on 27 July 1953 (S C, 8th yr., Suppl. for July, August and Sept. 1953, S/3079, appendix A, pp. 22-39).

men of the United States Air Force on the plane were captured. More than a year and a half later, and long after the conclusion of the Korean Armistice Agreement providing for the release of all captured personnel desiring repatriation, eleven officers and men from the above-mentioned aircraft were brought before a Chinese Communist military tribunal and sentenced to long terms of imprisonment.

"This is a clear-cut violation of the Armistice Agreement".

83. During the consideration of the United States request several representatives invoked Article 2 (7) in opposing the inclusion of the item in the agenda. They contended that the military personnel in question had been found guilty of criminal offences by a Tribunal of the Chinese People's Republic and sentenced to imprisonment. The matter therefore fell essentially within the Republic's domestic jurisdiction and could not be considered by the United Nations. 81/

84. Other representatives held, on the contrary, that the matter was governed by an international agreement - the Korean Armistice Agreement - to which the authorities detaining the military personnel in question were a party. It could not, therefore, fall essentially within the domestic jurisdiction of those authorities. 82/

85. The arguments submitted for and against these contentions, which are set out in the Analytical Summary of Practice, related to the following question:

Whether a matter governed by international agreements can fall essentially within domestic jurisdiction (paragraphs 141 and 142).

86. At its 505th plenary meeting on 8 December 1954, the General Assembly included the item in its agenda by 48 votes to 5, with 4 abstentions, and decided to consider it directly in plenary meeting. 83/

87. During the discussion of the item itself, the representatives who had opposed its inclusion in the agenda on the ground of Article 2 (7) restated the reasons why they held that the United Nations was not competent to deal with the matter. 84/

88. Despite their objections, the General Assembly, at its 509th plenary meeting on 10 December 1954, adopted resolution 906 (IX) by 47 votes to 5, with 6 abstentions. 85/
The resolution read:

"The General Assembly,

"Having considered the item proposed by the United States of America as the Unified Command regarding eleven members of the United States armed forces under the United Nations Command captured by Chinese forces when undertaking a mission on 12 January 1953, at the direction of the United Nations Command.

"Recalling the provisions of article III of the Korean Armistice Agreement regarding the repatriation of prisoners of war.

81/ G A (IX), Plen., 505th mtg., paras. 43, 44, 132 and 158; Gen. Com., 99th mtg., paras. 12 and 22.

82/ Ibid., paras. 13, 14, 104 and 105.

83/ G A (IX), Plen., 505th mtg., paras. 183 and 186.

84/ Ibid., 506th mtg., para. 165; 507th mtg., paras. 11 and 103; 508th mtg., paras. 15 and 16.

85/ Ibid., 509th mtg., para. 73 and footnote 1.

"1. Declares that the detention and imprisonment of the eleven American airmen, members of the United Nations Command, referred to in document A/2830 86/ and the detention of all other captured personnel of the United Nations Command desiring repatriation is a violation of the Korean Armistice Agreement;

"2. Condemns, as contrary to the Korean Armistice Agreement, the trial and conviction of prisoners of war illegally detained after 25 September 1953;

"3. Requests the Secretary-General, in the name of the United Nations, to seek the release, in accordance with the Korean Armistice Agreement, of these eleven United Nations Command personnel, and all other captured personnel of the United Nations Command still detained;

"4. Requests the Secretary-General to make, by the means most appropriate in his judgement, continuing and unremitting efforts to this end and to report progress to all Members on or before 31 December 1954."

89. On 30 December 1954, the Secretary-General submitted an interim report 87/ informing the General Assembly that, in fulfilment of resolution 906 (IX), he was visiting Peking to discuss the matter with the Prime Minister and Minister for Foreign Affairs of the People's Republic of China.

90. On 9 September 1955, the Secretary-General submitted a final report 88/ to the General Assembly. The report stated:

"By a letter to me, given to the Swedish Ambassador in Peking in the early afternoon of 29 May 1955 (New York time), Mr. Chou En-lai announced that an investigation of the cases of four detained fliers 89/ had been completed and that it had been decided that they should be deported immediately from the territory of the People's Republic of China. The four men arrived in Hong Kong on 31 May 1955.

"By an oral message to me, given to the Swedish Ambassador in Peking at 1 o'clock in the morning, 1 August 1955 (New York time), and transmitted by him, Mr. Chou En-lai announced that the Central People's Government of the People's Republic of China had decided to release as soon as feasible the eleven American fliers who had been detained and imprisoned, and that an announcement to that effect would be made in Peking at 10 a.m. on 1 August 1955 (New York time). The eleven men arrived in Hong Kong on 4 August 1955".

Case No. 27

The question of Algeria

91. By letter 90/ dated 26 July 1955 the representatives of fourteen Member States requested the General Assembly to include "The question of Algeria" in the agenda of the tenth session. After referring to the Charter provisions on self-determination

86/ See footnote 79 above.

87/ G A (IX), annexes, a.i. 72, p. 3, A/2891.

88/ A/2954.

89/ By letter dated 7 December 1954 the United States representative had drawn the Secretary-General's attention to the case of four fliers who had been captured while serving under the United Nations Command (G A (IX), annexes, a.i. 72, p. 2, A/2843).

90/ G A (X), annexes, a.i. 64, p. 1, A/2924 and Add.1.

and to Article 14, the letter stated that "the continuance of the situation in Algeria is creating a serious threat to the peace in the Mediterranean area". The letter concluded by expressing the hope that "full consideration of the Algerian question by the General Assembly ... will facilitate a solution which would realize the national aspirations of the Algerian people in accordance with the United Nations Charter".

92. During the discussion on the adoption of the agenda, the representative of France contended that Algeria had been an integral part of France since 1834 and that Article 2 (7) therefore debarred the General Assembly from including the item in its agenda. 91/ The arguments submitted for and against that contention are set out in the Analytical Summary of Practice. They related to the following questions:

The meaning of the term "to intervene" (paragraph 120).

Whether the inclusion of an item in the agenda constitutes intervention (paragraphs 121 and 122).

The meaning of the expression "matters which are essentially within the domestic jurisdiction of any state" (paragraphs 133 and 134).

Whether a matter governed by international law can fall essentially within domestic jurisdiction (paragraphs 137-139).

Whether a matter governed by the Charter provisions on human rights can fall essentially within domestic jurisdiction (paragraphs 145-148).

Whether a matter governed by the Charter provisions on the self-determination of peoples can fall essentially within domestic jurisdiction (paragraphs 158-163).

Whether a matter governed by the Charter provisions on the maintenance of international peace can fall essentially within domestic jurisdiction (paragraph 168).

93. At its 103rd meeting on 22 September 1955 the General Committee, by 8 votes to 5, with 2 abstentions, recommended 92/ that the Assembly should not include the question in its agenda.

94. At its 530th plenary meeting on 30 September 1955, the Assembly, rejecting 93/ the General Committee's recommendation by 28 votes to 27, with 5 abstentions, placed the question of Algeria on the agenda and referred it to the First Committee. Immediately after the Assembly's vote, the representative of France stated 94/ that his Government refused to accept any United Nations intervention in a matter essentially within its domestic jurisdiction and withdrew from the Assembly Hall. The French delegation then ceased to attend meetings of the Assembly and of its Main Committees. 95/

95. Without discussing the question of Algeria, the First Committee approved 96/ at its 795th meeting on 25 November 1955 the following draft resolution submitted by the representative of India:

91/ G A (X), Gen. Com., 103rd mtg., para. 2.

92/ G A (X), Gen. Com., 103rd mtg., para. 68.

93/ G A (X), Plen., 530th mtg., paras. 219 and 223.

94/ *Ibid.*, para. 222.

95/ See G A (XI), Suppl. No. 1, p. 25 (A/3137), p. 25. The French delegation continued to attend meetings of the Disarmament Commission, a subsidiary organ of the Security Council. The Security Council itself held no meetings during that period.

96/ G A (X), 1st Com., 795th mtg., paras. 3 and 6. The draft resolution was approved without objection.

"The General Assembly,

"Decides not to consider further the item entitled 'The question of Algeria' and is therefore no longer seized of this item on the agenda of its tenth session."

96. On the same day, the General Assembly, at its 548th plenary meeting adopted 97/ without objection the foregoing text as resolution 909 (X). Commenting on the resolution, several representatives stated that in their view it did not imply any decision on the question of competence. 98/

97. Upon the adoption of resolution 909 (X), the French delegation resumed its attendance at the meetings of the General Assembly and the Main Committees. 99/

B. General Assembly and Economic and Social Council

Case No. 12

Draft International Covenants on Human Rights

98. At the beginning of its ninth session the General Assembly referred 100/ to the Third Committee the two draft Covenants on Human Rights. 101/

99. The Third Committee held a general discussion of the two draft Covenants. During that discussion some representatives criticized 102/ the provisions on measures of implementation 103/ on the grounds that those provisions could lead to intervention in the domestic jurisdiction of the parties to the Covenants.

100. At the conclusion of the general discussion the Committee adopted 104/ by 42 votes to 5, with 4 abstentions a draft resolution 105/ recommending that "during the tenth session ... the Third Committee give priority and devote itself mainly to the discussion, article by article, in an agreed order of the draft international covenants on human rights with a view to their adoption at the earliest possible date". Furthermore, paragraph 1 (c) of the draft resolution invited

"The non-governmental organizations concerned with the promotion of human rights, including those in the Non-Self-Governing and Trust Territories, to stimulate public interest in the draft international covenants on human rights by all possible means in their respective countries;".

101. The draft resolution was considered by the General Assembly at its 504th plenary meeting on 4 December 1954. Some representatives objected to paragraph 1 (c) on the grounds that it might lead to intervention in the domestic jurisdiction of Member States. 106/ The representative of Australia submitted an amendment to delete the

97/ G A (X), Plen., 548th mtg., para. 2.

98/ Ibid., paras. 8, 16, 69, 70, 86, 108, 142 and 143.

99/ G A (XI), Suppl. No. 1 (A/3137), p. 23.

100/ G A (IX), Plen., 478th mtg., para. 88.

101/ See in the Repertory, under Article 2 (7), para. 220.

102/ G A (IX), 3rd Com., 565th mtg., paras. 29 and 30; 569th mtg., para. 19; 571st mtg., para. 22; 575th mtg., para. 7.

103/ See in the Repertory, under Article 2 (7), para. 209 et seqq.

104/ G A (IX), 3rd Com., 585th mtg., para. 82.

105/ G A (IX), annexes, a.i. 58, p. 7, A/2808 and Corr.1, para. 76.

106/ G A (IX), Plen., 504th mtg., paras. 19 and 43; 3rd Com., 586th mtg., para. 15.

paragraph. 107/ The Assembly rejected 108/ the Australian amendment by 38 votes to 16, with 5 abstentions and, by 49 votes to 2, with 7 abstentions, adopted 109/ the text submitted by the Third Committee, which became resolution 833 (IX).

102. At the Assembly's tenth session the Third Committee began the discussion of the two draft Covenants, article by article. The discussion of article 1 led to an exchange of views on the domestic jurisdiction clause.

103. The texts of article 1 in the two draft Covenants were identical. They dealt with the right of peoples to self-determination and had been drafted in accordance with resolution 545 (VI) in which the General Assembly had decided:

"to include in the International Covenant or Covenants on Human Rights an article on the right of all peoples and nations to self-determination in reaffirmation of the principle enunciated in the Charter of the United Nations. This article shall be drafted in the following terms: 'All peoples shall have the right of self-determination', and shall stipulate that all States, including those having responsibility for the administration of Non-Self-Governing Territories, should promote the realization of that right, in conformity with the Purposes and Principles of the United Nations, and that States having responsibility for the administration of Non-Self-Governing Territories should promote the realization of that right in relation to the peoples of such Territories".

104. During the Third Committee's discussion of article 1 some representatives contended that the inclusion in the Covenants of a provision on the right of self-determination would be incompatible with Article 2 (7) of the Charter. 110/ The arguments submitted for and against that contention are set out in the Analytical Summary of Practice. They related to the following question: ●

Whether a matter governed by the Charter provisions on self-determination can fall essentially within domestic jurisdiction (paragraphs 158-163).

105. In spite of these objections the Third Committee, at its 676th meeting on 29 November 1955, adopted 111/ by 33 votes to 12, with 13 abstentions the following text 112/ of article 1 for both draft Covenants:

"1. All peoples have the right of self-determination. By virtue of the right they freely determine their political status and freely pursue their economic, social and cultural development.

"2. The peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

"3. All the States Parties to the Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote

107/ G A (IX), Plen., 504th mtg., paras. 5 and 33.

108/ Ibid., para. 33.

109/ Ibid., para. 38.

110/ See footnote 173.

111/ G A (X), 3rd Com., 676th mtg., para. 27.

112/ G A (X), annexes, a.i. 28 (Part I), p. 30, A/3077, para. 77.

the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the United Nations Charter."

106. Since the Committee had not yet completed the discussion of all the articles of the draft Covenants at the end of the tenth session, it did not submit the text of article 1 to the Assembly, but recommended 113/ that the discussion be continued at the eleventh session. At its 554th meeting on 14 December 1955, the Assembly adopted 114/ the Committee's recommendation.

Case No. 13

Recommendations concerning international respect for the self-determination of peoples

107. Pursuant to the decision taken by the Economic and Social Council at its 820th meeting, 115/ the Commission on Human Rights reconsidered at its eleventh session (April 1955) resolutions I and II which it had adopted at its tenth session. 116/ During that reconsideration, objections to resolution II were raised 117/ on the ground of Article 2 (7). The arguments for and against these objections, which are set out in the Analytical Summary of Practice, related to the following question:

Whether a matter governed by the Charter provisions on self-determination can fall essentially within domestic jurisdiction (paragraphs 158-163).

108. In spite of the objection raised on the grounds of Article 2 (7), the Commission, at its 505th meeting on 25 April 1955, adopted 118/ by 11 votes to 6, with 1 abstention, resolution C which "reaffirmed the recommendations contained in resolutions I and II adopted by the Commission at its tenth session". 119/

109. By resolution 586 D (XX), adopted 120/ at its 889th meeting on 29 July 1955, the Economic and Social Council took note of resolution C and transmitted to the General Assembly for consideration the texts of resolutions I and II.

110. Resolution 586 D (XX) also transmitted to the General Assembly for consideration the text of a draft resolution 121/ which the United States representative had submitted to the Social Committee on 20 July 1955 and which the Social Committee had referred 122/ to the Council.

111. The preamble of the draft resolution noted that: "there is a wide difference of views regarding the meaning and applicability of the principles of equal rights and of self-determination of peoples as mentioned in Article 1 of the Charter". The operative part proposed that the General Assembly should:

113/ G A (X), 3rd Com., 679th mtg., para. 1.

114/ The recommendation was adopted without a vote (G A (X), Plen., 554th mtg., para. 34).

115/ See in the Repertory, under Article 2 (7), para. 229.

116/ Ibid., paras. 226 and 227.

117/ E/CN.4/SR.503, p. 8; E/CN.4/SR.505, p. 5.

118/ E/CN.4/SR.505, p. 19.

119/ E S C (XX), Suppl. No. 6 (E/2731 and Corr.1), pp. 30 and 31.

120/ The resolution was adopted by 13 votes to none, with 5 abstentions (E S C (XX), 889th mtg., para. 54).

121/ E/AC.7/L.260.

122/ E S C (XX), annexes, a.i. 8, pp. 4 and 5, E/2781.

"establish an Ad Hoc Commission on Self-Determination, consisting of five persons to be appointed by the Secretary-General, to conduct a thorough study of the concept of self-determination."

112. The General Assembly did not consider resolution 586 D (XX) at its tenth session since it decided 123/ to postpone to the eleventh session discussion of the question of recommendations concerning international respect for the self-determination of peoples.

C. Security Council

Case No. 28

The question of Algeria 124/

113. By letter 125/ dated 13 June 1956, the representatives of thirteen Member States requested the Security Council to include in its agenda the question of Algeria. The letter referred to Article 35 (1) of the Charter and stated that:

"In the explanatory memorandum 126/ submitted [on 12 April 1956] to the President of the Security Council by the representatives of sixteen Member States it was stated that the situation [in Algeria] had deteriorated to the extent that the United Nations could not remain indifferent to the threat to peace and security and the infringement of the basic right of self-determination, and to the flagrant violation of the other fundamental human rights. Since this memorandum was submitted, the situation in Algeria has further worsened, due to the nature and scope of the French military actions".

114. During the discussion on the adoption of the agenda, several representatives, including the representative of France, contended that Algeria was part of metropolitan France and that Article 2 (7) therefore debarred the Security Council from considering the item. 127/ The arguments advanced for and against that contention are set out in the Analytical Summary of Practice. They related to the following questions:

The meaning of the term "to intervene" (paragraph 120).

Whether the inclusion of an item in the agenda constitutes intervention (paragraphs 121 and 122).

Whether a matter governed by the Charter provisions on human rights can fall essentially within domestic jurisdiction (paragraphs 145-148).

Whether a matter governed by the Charter provisions on the self-determination of peoples can fall essentially within domestic jurisdiction (paragraphs 158-163).

123/ G A (X), Plen., 554th mtg., para. 35.

124/ For the action taken by the General Assembly in respect of the question of Algeria see paras. 91-97 above.

125/ S/3609.

126/ The explanatory memorandum was attached to a letter, dated 12 April 1956, addressed to the President of the Security Council and signed by the representatives of sixteen Member States. The letter brought "to the attention of the Security Council, under Article 35 (1) of the United Nations Charter, the grave situation in Algeria". Since the letter did not request the Council to consider the question, no action was taken by the Council (S/3589).

127/ S C, 11th yr., 729th mtg., paras. 29 and 97-99; 730th mtg., paras. 36-38, 52 and 61.

115. There were also representatives who did not support 128/ or actually opposed 129/ the inclusion of the question in the agenda for reasons not based on Article 2 (7).

116. At its 730th meeting, on 26 June 1956, the Security Council decided 130/ by 7 votes to 2, with 2 abstentions, not to include the question in its agenda.

D. International Court of Justice

Case No. 29

The Nottebohm Case

117. By an application filed on 17 December 1951, Liechtenstein instituted proceedings against Guatemala before the International Court of Justice. Liechtenstein claimed restitution and compensation on the ground that Guatemala had acted in a manner contrary to international law towards the person and property of Mr. Friedrich Nottebohm, a naturalized citizen of Liechtenstein.

118. On 6 April 1955 the Court delivered a Judgement 131/ which, after reviewing the circumstances surrounding Mr. Nottebohm's naturalization, concluded that "Guatemala is under no obligation to recognize a nationality granted in such circumstances. Liechtenstein consequently is not entitled to extend its protection to Nottebohm vis-à-vis Guatemala and its claim must, for this reason, be held to be inadmissible."

119. The judgement did not refer to Article 2 (7) or to the expression "matters essentially within the domestic jurisdiction". It may, nevertheless, be relevant to a study on Article 2 (7) since it referred in the following terms to the expressions "within domestic jurisdiction" and "exclusively within domestic jurisdiction":

"It is for Liechtenstein, as it is for every sovereign State, to settle by its own legislation the rules relating to the acquisition of its nationality, and to confer that nationality by naturalization granted by its own organs in accordance with that legislation. It is not necessary to determine whether international law imposes any limitations on its freedom of decision in this domain. Furthermore, nationality has its most immediate, its most far-reaching and, for most people, its only effects within the legal system of the State conferring it. Nationality serves above all to determine that the person upon whom it is conferred enjoys the rights and is bound by the obligations which the law of the State in question grants to or imposes on its nationals. This is implied in the wider concept that nationality is within the domestic jurisdiction of the State.

"But the issue which the Court must decide is not one which pertains to the legal system of Liechtenstein. It does not depend on the law or on the decision of Liechtenstein whether that State is entitled to exercise its protection, in the case under consideration. To exercise protection, to apply to the Court, is to place oneself on the plane of international law. It is international law which determines whether a State is entitled to exercise protection and to seize the Court.

128/ S C, 11th yr., 730th mtg., paras. 32-34 and 69-72.

129/ Ibid., paras. 43-49 and 81-84.

130/ Ibid., para. 85.

131/ Nottebohm Case (second phase), I C J Reports 1955, p. 4.

"The naturalization of Nottebohm was an act performed by Liechtenstein in the exercise of its domestic jurisdiction. The question to be decided is whether that act has the international effect here under consideration.

"International practice provides many examples of acts performed by States in the exercise of their domestic jurisdiction which do not necessarily or automatically have international effect, which are not necessarily and automatically binding on other States or which are binding on them only subject to certain conditions: this is the case, for instance, of a judgment given by the competent court of a State which it is sought to invoke in another State.

"In the present case it is necessary to determine whether the naturalization conferred on Nottebohm can be successfully invoked against Guatemala, whether, as has already been stated, it can be relied upon as against that State, so that Liechtenstein is thereby entitled to exercise its protection in favour of Nottebohm against Guatemala.

"When one State has conferred its nationality upon an individual and another State has conferred its own nationality on the same person, it may occur that each of these States, considering itself to have acted in the exercise of its domestic jurisdiction, adheres to its own view and bases itself thereon in so far as its own actions are concerned. In so doing, each State remains within the limits of its domestic jurisdiction.

"This situation may arise on the international plane and fall to be considered by international arbitrators or by the courts of a third State. If the arbitrators or the courts of such a State should confine themselves to the view that nationality is exclusively within the domestic jurisdiction of the State, it would be necessary for them to find that they were confronted by two contradictory assertions made by two sovereign States, assertions which they would consequently have to regard as of equal weight, which would oblige them to allow the contradiction to subsist and thus fail to resolve the conflict submitted to them.

"In most cases arbitrators have not strictly speaking had to decide a conflict of nationality as between States, but rather to determine whether the nationality invoked by the applicant State was one which could be relied upon as against the respondent State, that is to say, whether it entitled the applicant State to exercise protection. International arbitrators, having before them allegations of nationality by the applicant State which were contested by the respondent State, have sought to ascertain whether nationality had been conferred by the applicant State in circumstances such as to give rise to an obligation on the part of the respondent State to recognize the effect of that nationality. In order to decide this question arbitrators have evolved certain principles for determining whether full international effect was to be attributed to the nationality invoked. The same issue is now before the Court: it must be resolved by applying the same principles". 132/

132/ Ibid., pp. 20-22.

II. ANALYTICAL SUMMARY OF PRACTICE

A. The term "to intervene" appearing in Article 2 (7)

120. During the period covered by the present Supplement the views summarized in paragraphs 342 and 343 of the Repertory were again advanced in connexion with the problem of a general definition of the term "to intervene". 133/ No decision appears to have been taken containing a general definition of the term.

1. *Whether inclusion of an item in the agenda constitutes intervention*

121. The question whether the inclusion of an item in the agenda of a United Nations organ constituted intervention arose in the debates on the adoption of the agenda in cases Nos. 2, 11, 24, 27 and 28. The views summarized in paragraphs 347 to 353 of the

133/ For the view that "intervention" is a technical term traditionally defined in international law as dictatorial interference and that that definition is applicable to Article 2 (7), see:

Case No. 2: G A (X), Plen., 530th mtg., para. 251.

Case No. 11: G A (X), Ad Hoc Pol. Com., 7th mtg., para. 25; 8th mtg., para. 2.

Case No. 24: G A (IX), Gen. Com., 93rd mtg., para. 39.

Case No. 27: G A (X), Gen. Com., 103rd mtg., para. 16.

Case No. 28: S C, 11th yr., 729th mtg., para. 89.

In support of that view some representatives cited Oppenheim; International Law, 8th edition by Lauterpacht, London, Longmans Green and Co., Ltd., 1955, vol. I, pp. 320, 415 and 416, and Rousseau, Droit International Public, Paris, Sirey, 1953, p. 321. See:

Case No. 2: G A (X), Plen., 530th mtg., para. 251;

Case No. 27: G A (X), Gen. Com., 103rd mtg., para. 16.

For the view that the drafters of the Charter used the word "intervene" in its ordinary dictionary meaning of "interfere" and that, therefore, recommendations or other non-coercive action by the Organization constitute intervention in the meaning of Article 2 (7), see:

Case No. 11: G A (IX); Ad Hoc Pol. Com., 42nd mtg., para. 21; GA (X), Ad Hoc Pol. Com., 5th mtg., para. 2.

Repertory were again put forward during those debates. 134/ In addition the following observations were made in respect of the view set forth in paragraph 352.

122. Some representatives invoked the rules of procedure of the General Assembly in support of the contention that the inclusion of an item in the agenda did not prejudice the question of competence. They held that under rule 81 122/ 135/ a decision on the question of the Assembly's competence in respect of an item could be taken only in relation to proposals dealing with the item; that is, proposals submitted during the substantive discussion, after the adoption of the agenda. They therefore concluded 136/ that it was necessary to include an item in the agenda before a decision could be taken on whether the item fell essentially within domestic jurisdiction. Other representatives, while agreeing with the contention that the inclusion of an item in the agenda did not prejudice the question of competence, nevertheless considered that a United Nations organ should not include an item in the agenda if, at the time of the adoption of the agenda, it was clear beyond any doubt that the item fell essentially within domestic jurisdiction and, consequently, that the organ concerned was not competent to deal with it. 137/

134/ For the view that Article 2 (7) debars the United Nations from including in the agenda matters essentially within the domestic jurisdiction of any State, see:

Case No. 2: G A (X), Gen. Com., 102nd mtg., para. 7.

Case No. 11: G A (X), Gen. Com., 102nd mtg., para. 7.

Case No. 24: G A (IX), Gen. Com., 93rd mtg., paras. 21, 22 and 30; G A (X), Gen. Com., 102nd mtg., paras. 28, 33 and 35.

Case No. 27: G A (X), Gen. Com., 103rd mtg., paras. 2-4 and 56.

Case No. 28: S C, 11th yr., 729th mtg., para. 29; 730th mtg., paras. 36-42 and 52.

For the view, in particular, that discussion constitutes intervention, see:

Case No. 24: G A (IX), Plen., 477th mtg., para. 186; Gen. Com., 93rd mtg., paras. 21 and 22; G A (X), Gen. Com., 102nd mtg., para. 28.

Case No. 28: S C, 11th yr., 730th mtg., para. 52.

For the view that discussion does not constitute intervention and that, therefore, Article 2 (7) cannot debar the United Nations from including an item in the agenda, see:

Case No. 2: G A (X), Plen., 530th mtg., para. 251.

Case No. 11: G A (X), Plen., 530th mtg., para. 265.

Case No. 24: G A (X), Plen., 521st mtg., para. 128.

Case No. 27: G A (X), Plen., 529th mtg., para. 134; 530th mtg., para. 139.

For the view that the inclusion of an item in the agenda does not prejudice the question whether the United Nations is competent to deal with it, see:

Case No. 24: G A (IX), Plen., 477th mtg., paras. 226-228.

Case No. 27: G A (X), Plen., 525th mtg., para. 7; Gen. Com., 103rd mtg., para. 17.

Case No. 28: S C, 11th yr., 730th mtg., para. 26.

In support of that view one representative cited Kelsen, The Law of the United Nations, London, Stevens and Sons, Ltd., 1950, p. 772. See:

Case No. 27: G A (X), Plen., 525th mtg., para. 4.

For the view that the Security Council is obliged to include in its agenda any item brought to its attention by a Member State, see:

Case No. 28: S C, 11th yr., 730th mtg., para. 26.

135/ Rule 81 122/ reads:

"Subject to rule 79, any motion calling for a decision on the competence of the General Assembly to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question."

136/ Case No. 24: G A (IX), Plen., 477th mtg., paras. 224-228; 1st Com., 751st mtg., para. 32.

137/ Case No. 27: G A (X), Plen., 530th mtg., paras. 108-113; Gen. Com., 103rd mtg., paras. 55 and 56.

Decisions

123. Decisions to include items in the agenda after objections had been raised on the grounds of Article 2 (7) are dealt with in the following paragraphs of the present study: 9, 14, 43, 51, 61, 73, 78, 86 and 94.

124. Decisions not to include items in the agenda after objections had been raised on the grounds of Article 2 (7) are dealt with in paragraphs 68 and 116.

2. *Whether a recommendation - in general or to a particular State - constitutes intervention*

125. The question whether recommendations addressed to all Member States constituted intervention was not raised during the period covered by the present Supplement.

126. The question whether recommendations addressed to particular Member States constituted intervention was discussed during the consideration of cases Nos. 2, 11, 24 and 25. The views summarized in paragraph 359 of the Repertory were again expressed. 138/ In addition the following points were made.

127. Some representatives held that Article 2 (7) did not debar the General Assembly from recommending to a Member State that it reconsider its racial policy in the light of the Principles of the Charter. The Assembly, however, could not recommend the adoption of specific legislative or administrative measures. Such a recommendation would amount to a directive and would therefore constitute intervention in the meaning of Article 2 (7). 139/

Decisions

128. In connexion with case No. 2 the General Assembly adopted two resolutions. Both suggested to the three Member States concerned that they undertake direct negotiations (paragraphs 11 and 17).

129. The Assembly also adopted two resolutions in connexion with case No. 11. The first, numbered 820 (IX), invited a Member State to reconsider its racial policy in the light of the Principles of the Charter. It also invited that State to take into consideration the suggestions contained in a report submitted by a Commission appointed

138/ For the view that a recommendation does not constitute intervention, see:

Case No. 2: G A (X), Plen., 530th mtg., para. 251.

Case No. 11: G A (X), Ad Hoc Pol. Com., 7th mtg., para. 25.

The definition of the term "intervention" as "dictatorial interference" was invoked in support of that view. See:

Case No. 2: G A (X), Plen., 530th mtg., para. 251.

Case No. 11: G A (X), Ad Hoc Pol. Com., 7th mtg., para. 25.

For the view that a recommendation constitutes intervention, see:

Case No. 11: G A (IX), Ad Hoc Pol. Com., 42nd mtg., para. 21. G A (X), Ad Hoc Pol. Com., 3rd mtg., para. 3.

Case No. 24: G A (IX), Plen., 477th mtg., para. 186. Gen. Com., 102nd mtg., para. 28.

Case No. 25: G A (IX), 1st Com., 731st mtg., para. 40.

It was argued in support of that view that the definition of intervention as "dictatorial interference" was not applicable to Article 2 (7). See:

Case No. 11: G A (IX), Ad Hoc Pol. Com., 42nd mtg., para. 21.

139/ Case No. 11: G A (X), Ad Hoc Pol. Com., 5th mtg., para. 2; 12th mtg., para. 4.

by the General Assembly (paragraph 45). The report suggested that the Member State should adopt certain specific administrative and legislative measures (paragraph 40). The second resolution, numbered 917 (X), recommended to the Member State to take note of the Commission's report and called upon it to observe the obligations contained in Article 56 of the Charter (paragraphs 54-57).

130. The resolution adopted by the General Assembly in case No. 25 expressed the hope that negotiations undertaken by two Member States would be fruitful (paragraphs 80 and 81).

131. The resolution adopted in case No. 24 contained no recommendations (paragraph 63).

132. It should be noted that several representatives who voted for the resolutions adopted in cases Nos. 2, 11 and 25 expressed no opinion on whether a recommendation constituted intervention but based their position on the contention that the matters dealt with in the resolutions did not fall essentially within domestic jurisdiction. 140/

*** 3. Whether a request for a stay of execution constitutes intervention*

*** 4. Whether the establishment by the General Assembly of a commission to study the racial situation prevailing in a Member State constitutes intervention*

*** 5. Whether the examination of the domestic policy of a Member State by a commission of investigation established under Article 34 constitutes intervention*

*** 6. Whether a resolution by which the Security Council tenders its good offices to the parties to a dispute or calls upon them to cease hostilities and to settle the dispute by peaceful means constitutes intervention*

B. The expression in Article 2 (7): "matters which are essentially within the domestic jurisdiction of any state"

133. During the debates covered by the present study some representatives advanced 141/ a general definition of the expression "essentially within domestic jurisdiction". They held that a matter was essentially within the domestic jurisdiction of a State only if it was not regulated by international law or if it was not capable of regulation by international law.

134. Other representatives noted, 142/ however, that the expression "essentially within domestic jurisdiction" was not defined in the Charter. They held that the drafters of the Charter had deliberately refrained from giving a juridical acceptation

140/ See footnotes 146, 150, 158 and 178.

141/ Case No. 2: G A (IX), Ad Hoc Pol. Com., 13th mtg., para. 39.

Case No. 11: G A (IX), Ad Hoc Pol. Com., 42nd mtg., para. 42.

One representative cited H. Lauterpacht: International Law and Human Rights, London, Stevens and Sons, Ltd., 1950, page 175.

142/ Case No. 27: G A (X), Plen., 525th mtg., paras. 62 and 63; Gen. Com., 103rd mtg., para. 33.

to the expression. 143/ It was a principle of jurisprudence that in the absence of a clearly defined rule practice became law; hence the importance of United Nations decisions involving the application of Article 2 (7), which constituted the case law in the matter.

Decisions

135. No decision containing a general definition of the expression "essentially within domestic jurisdiction" appears to have been taken in the period reviewed in the present Supplement.

136. Comments on the meaning of the expressions "within domestic jurisdiction" and "exclusively within domestic jurisdiction" may be found in the judgement delivered on 6 April 1955 by the International Court of Justice in the *Nottebohm Case* (paragraph 119).

1. Whether a matter governed by international law can fall essentially within domestic jurisdiction

137. References to international law were made in cases Nos. 11 and 27.

138. In case No. 11 it was argued 144/ that matters governed by the general principles of law recognized by civilized nations did not fall essentially within domestic jurisdiction.

139. In case No. 27 it was contended 145/ that the duties of a State under customary international law did not fall essentially within its domestic jurisdiction (paragraph 146 and footnote 152).

Decisions

140. The resolutions adopted in connexion with cases Nos. 11 and 27 made no reference to international law (paragraphs 45, 54-57, 95 and 96).

143/ Reference was made in this respect to the following extract of the summary record of the 17th meeting of Committee I/1 of the San Francisco Conference:

"In his exposition ... Mr. Dulles [United States] emphasized that the four-power amendment [submitted by China, USSR, United Kingdom and United States] dealt with domestic jurisdiction as a basic principle, and not, as had been the case in the original Dumbarton Oaks Proposals and in Article 15 of the Covenant of the League of Nations, as a technical and legalistic formula". (Documents of the United Nations Conference on International Organization, vol. 6, p. 507, doc. 1019, I/1/42).

The four-power amendment mentioned by Mr. Dulles substituted the expression "matters which are essentially within ... domestic jurisdiction" for the expression "matters which by international law are solely within ... domestic jurisdiction", appearing in the Dumbarton Oaks Proposals, Chapter VIII, Section A, paragraph 7. (*Ibid.*, vol. 3, p. 623, doc. 2, G/29; *ibid.*, p. 14, doc. 1, G/1.) The four-power amendment was adopted by Committee I/1 (*ibid.*, vol. 6, pp. 512 and 513, doc. 1019, I/1/42) and formed the basis of the final text of Article 2 (7).

144/ Case No. 11: G A (IX), Ad Hoc Pol. Com., 42nd mtg., para. 10.

145/ Case No. 27: G A (X), Plen., 525th mtg., paras. 64 and 65.

*2. Whether a matter governed by international agreements
can fall essentially within domestic jurisdiction*

141. The question whether a matter governed by an international agreement could fall essentially within domestic jurisdiction arose in the debates in cases Nos. 2, 25 and 26.

142. During those debates, some representatives contended 146/ that a matter governed by an international agreement could not fall essentially within the domestic jurisdiction of a party to the agreement. One representative observed 147/ that a matter which was essentially within a State's domestic jurisdiction retained that character even when it had been mentioned in an international agreement to which that State was a party.

Decisions

143. The resolution adopted in connexion with case No. 26 referred to the international agreement invoked during the debates (paragraph 88).

144. The resolutions adopted in connexion with cases Nos. 2 148/ and 25 149/ contained no reference to the international agreements invoked during the debates (paragraphs 11, 17, 80 and 81).

*3. Whether a matter dealt with by the Charter can fall
essentially within domestic jurisdiction*

a. ARTICLE 2 (7) AND THE CHARTER PROVISIONS ON HUMAN RIGHTS

145. Arguments referring specifically to the Charter provisions on human rights were submitted during the debates on cases Nos. 2, 11, 27 and 28. They followed the main lines of the arguments set forth in paragraphs 413 to 415 of the Repertory. Since, however, they were presented in a somewhat different form and contained new elements, they are summarized below.

146. Some representatives contended that human rights and fundamental freedoms did not fall essentially within the domestic jurisdiction of Member States. The following

146/ Case No. 2: G A (IX), Ad Hoc Pol. Com., 10th mtg., para. 24; 13th mtg., paras. 39 and 42.

Case No. 25: G A (IX), 1st Com., 733rd mtg., para. 11.

Case No. 26: G A (IX), Plen., 505th mtg., para. 14.

147/ Case No. 25: G A (IX), 1st Com.; 727th mtg., para. 38.

148/ It should be noted, however, that one of the resolutions adopted in connexion with case No. 2 recalled that: "at several sessions [the General Assembly] had adopted resolutions on that [case]" (see paragraph 11). The latter resolutions contained references to the international agreements invoked during the debates, and to Charter provisions on human rights and on the maintenance of international peace (see in the Repertory, under Article 2 (7), paras. 53-75).

149/ In case No. 25 the First Committee adopted a draft resolution referring to the international agreements invoked during the debates. The draft resolution, however, failed to obtain the necessary majority in the General Assembly (see paragraphs 75 and 76).

points were made in support of that contention. First, it was held 150/ that Articles 1 (3), 55 c and 56 of the Charter removed human rights and fundamental freedoms from the domestic jurisdiction of Member States. Some of the representatives taking that position argued that the Articles cited imposed obligations on Member States and held that the question whether a Member State had fulfilled its obligations under the Charter was not a matter of domestic jurisdiction. The others expressed no opinion on the question whether the Articles had a binding character. Secondly, it was held 151/ that under customary international law 152/ every State had the duty to treat all persons with respect for human rights and fundamental freedoms and that international duties of States were beyond the scope of domestic jurisdiction. Lastly, it was maintained 153/ that by adopting the Universal Declaration of Human Rights 154/ in 1948 the General Assembly had removed human rights and fundamental freedoms from the domestic jurisdiction of Member States.

147. Other representatives contended, on the contrary, that human rights and fundamental freedoms fell essentially within domestic jurisdiction for the following reasons. The Declaration of Human Rights was merely a recommendation by the General Assembly and had no binding character. Articles 1 (3), 55 c and 56 of the Charter were not statements of legal obligations but declarations of purposes and principles. 155/ As the records of the San Francisco Conference showed, those Articles were not intended to authorize the United Nations to intervene in the domestic jurisdiction of Member States. 156/ Moreover, Article 2 (7) had an overriding effect and applied to all the provisions of the Charter, including those on human rights, with the sole exception of the enforcement measures provided for in Chapter VII. 157/

148. Finally, there were representatives who, while agreeing that violations of human rights and fundamental freedoms fell in principle within domestic jurisdiction, considered 158/ that these violations became matters of international concern when they assumed proportions capable of affecting relations between States.

150/ Case No. 2: G A (IX), Ad Hoc Pol. Com., 13th mtg., para. 51; 14th mtg., para. 44; G A (X), Plen., 530th mtg., paras. 249 and 250; Ad Hoc Pol. Com., 34th mtg., paras. 19 and 20.

Case No. 11: G A (IX), Ad Hoc Pol. Com., 42nd mtg., paras. 38-41; 45th mtg., para. 3; G A (X), Ad Hoc Pol. Com., 9th mtg., para. 2; 10th mtg., para. 9, 12th mtg., para. 35.

Case No. 27: G A (X), Plen., 525th mtg., paras. 64 and 65.

151/ Case No. 27: G A (X), Plen., 525th mtg., paras. 64 and 65.

152/ Specific reference was made to the Charter and Judgement of the International Military Tribunal at Nürnberg and to the Draft Declaration on Rights and Duties of States adopted in 1949 by the International Law Commission (see G A (IV), Suppl. No. 10 (A/925), p. 8).

153/ Case No. 27: G A (X), Plen., 529th mtg., paras. 135 and 179; Gen. Com., 103rd mtg., para. 44.

154/ G A resolution 217 (III).

155/ Case No. 11: G A (IX), Ad Hoc Pol. Com., 42nd mtg., para. 23; 44th mtg., para. 3; 47th mtg., para. 52; G A (X), Ad Hoc Pol. Com., 11th mtg., para. 47.

156/ Case No. 11: G A (IX), Ad Hoc Pol. Com., 42nd mtg., para. 24; 44th mtg., para. 4.

In referring to the records of the San Francisco Conference, representatives again cited paragraph 10 of the report of Committee II/3 (see in the Repertory, under Article 2 (7), footnote 373).

157/ Case No. 2: G A (IX), Ad Hoc Pol. Com., 10th mtg., para. 1.

Case No. 11: G A (IX), Ad Hoc Pol. Com., 43rd mtg., para. 2; G A (X), Ad Hoc Pol. Com., 11th mtg., paras. 14 and 49.

Case No. 28: S C, 11th yr., 730th mtg., para. 61.

158/ Case No. 11: G A (X), Ad Hoc Pol. Com., 5th mtg., para. 8.

Decisions

149. The General Assembly adopted two resolutions in connexion with Case No. 11. Both referred to the Charter provisions on human rights (paragraphs 45 and 54-57). The second, in particular, called upon a Member State "to observe the obligations contained in Article 56 of the Charter" (paragraphs 54-57). Both resolutions also referred to the maintenance of peace (paragraph 169).

150. The resolutions adopted in connexion with cases Nos. 2 159/ and 27 made no reference to the Charter provisions on human rights (paragraphs 11, 17, 95 and 96).

151. No resolution was adopted in connexion with case No. 28 (paragraph 116).

b. ARTICLE 2 (7) AND THE CHARTER PROVISIONS REGARDING
NON-SELF-GOVERNING TERRITORIES

152. Arguments referring specifically to the Charter provisions regarding Non-Self-Governing Territories were submitted during the debates on cases Nos. 5, 9 and 24. These arguments may be summarized as follows:

153. Some representatives laid down 160/ the premise that matters governed by Article 73 of the Charter did not fall essentially within the domestic jurisdiction of Member States. Several of those representatives argued that Article 73 imposed obligations on Member States and held that the question whether a Member State had fulfilled its obligations under the Charter was not a matter of domestic jurisdiction.

154. The following conclusions were drawn from the foregoing premise. Some representatives held 161/ that the General Assembly was competent to discuss not only the technical information referred to in Article 73 e but also the political situation prevailing in Non-Self-Governing Territories. Others, while agreeing with that position, maintained 162/ that in discussing the conditions existing in Non-Self-Governing Territories the Assembly should refrain from drawing comparisons with conditions in independent States since the latter did not come under Chapter XI and could fall essentially within domestic jurisdiction. Still others argued 163/ that the General Assembly - and not the Administering State concerned - was competent to decide that a Non-Self-Governing Territory had attained a full measure of self-government and therefore no longer came within the scope of Article 73. As long as such a decision had not been taken, Administering States could not cease transmitting the information required by Article 73 e.

159/ See footnote 148.

160/ Case No. 5: G A (IX), 4th Com., 412th mtg., para. 42; 417th mtg., para. 52; 418th mtg., para. 12; 420th mtg., paras. 3, 4, 12 and 55; 423rd mtg., para. 45.

Case No. 9: G A (IX), 1st Com., 747th mtg., para. 45.

Case No. 24: G A (IX), 1st Com., 750th mtg., para. 31; 751st mtg., paras. 34 and 37; 752nd mtg., para. 19; G A (X), Plen., 521st mtg., paras. 109-111.

161/ Case No. 5: G A (IX), 4th Com., 418th mtg., para. 12; 423rd mtg., para. 45.

162/ Case No. 5: G A (IX), 4th Com., 420th mtg., paras. 3 and 4.

163/ Case No. 5: G A (IX), 4th Com., 429th mtg., para. 10; 430th mtg., paras. 31 and 58; 431st mtg., para. 5. See also the proposal submitted by Uruguay (G A (IX), annexes, a.i. 32, A/2795, para. 6) which was adopted by the Fourth Committee at its 431st meeting and became the last paragraph of the preamble to General Assembly resolution 849 (IX).

155. There were representatives who rejected 164/ the premise that matters governed by Article 73 did not fall essentially within domestic jurisdiction. They held, 165/ on the contrary, that Administering States exercised full sovereignty in their Non-Self-Governing Territories. They maintained that an Administering State could, if it so chose, limit the information transmitted under Article 73 e to the matters listed in that provision. Moreover, since none of those matters was of a political nature, the United Nations was not entitled to discuss the political situation prevailing in Non-Self-Governing Territories. 166/ Finally, they argued 167/ that each Administering State had the exclusive competence to decide that a Territory for which it was responsible no longer came within the scope of Chapter XI and, consequently, that the transmission of information referred to in Article 73 e should be discontinued.

Decisions

156. The resolutions adopted in cases Nos. 9 and 24 did not refer to the Charter provisions regarding Non-Self-Governing Territories (paragraphs 26, 28 and 63).

157. The resolutions adopted in case No. 5 referred to Article 73 of the Charter. They are dealt with in the study on that Article.

c. ARTICLE 2 (7) AND THE CHARTER PROVISIONS ON THE SELF-DETERMINATION OF PEOPLES

158. Arguments referring specifically to the Charter provisions on the self-determination of peoples were advanced during the debates on cases Nos. 12, 13, 24, 27 and 28. These arguments may be summarized as follows.

159. Several representatives contended 168/ that the realization of the self-determination of peoples fell essentially within the domestic jurisdiction of States.

160. In support of that contention it was argued 169/ that the realization of self-determination involved the division of existing political entities and the creation of new ones. It therefore affected the composition and political structure of States. Nothing could be more clearly within the domestic jurisdiction of a State than its own composition and political structure. It was also argued 170/ that, both in Article 1 (2) and in Article 55, the English text of the Charter referred not to a right to self-determination but to the principle of self-determination, and that

164/ Case No. 5: G A (IX), 4th Com., 415th mtg., para. 33; 419th mtg., para. 16.

165/ Case No. 5: G A (IX), 4th Com., 419th mtg., para. 16; 430th mtg., para. 12.

166/ Case No. 5: G A (IX), 4th Com., 415th mtg., para. 33; 424th mtg., paras. 9 and 22; 430th mtg., para. 25.

167/ Case No. 5: G A (IX), 4th Com., 427th mtg., para. 50; 430th mtg., paras. 12, 17, 22, 25 and 28.

168/ Case No. 12: G A (X), 3rd Com., 645th mtg., para. 5.

Case No. 13: E/AC.7/SR.326, p. 11; E/CN.4/SR.503, p. 8.

169/ Case No. 13: E/CN.4/SR.503, p. 8.

Case No. 27: G A (X), Plen., 530th mtg., paras. 111 and 112.

170/ Case No. 12: G A (X), annexes, a.i. 28 (Part I), p. 11, A/2910/Add.2; Note verbale dated 20 July 1955 from the Government of Australia to the Secretary-General. G A (X), 3rd Com., 641st mtg., paras. 15 and 16; 642nd mtg., paras. 11-13.

Case No. 13: E/CN.4/SR.505, p. 5.

Case No. 24: G A (IX), 1st Com., 750th mtg., para. 59.

Case No. 27: G A (X), Plen., 529th mtg., para. 157.

principle could not be implemented through United Nations action. It was held, 171/ in particular, that no specific provision of the Charter granted the General Assembly competence in respect of the principle of self-determination. Article 11 gave the Assembly the power to make recommendations regarding the Purposes included in Article 1 (1), while Article 13 contained a similar provision regarding the Purposes enunciated in Article 1 (3). However, the principle of self-determination which was mentioned in Article 1 (2) was not referred to in either Article 1 (1) or Article 1 (3). That omission, which was undoubtedly intentional was significant in itself. Lastly, it was argued 172/ that Article 2 (7) had an overriding effect and applied to all the provisions of the Charter, including those on the self-determination of peoples, with the sole exception of the enforcement measures provided for in Chapter VII.

161. Some of the representatives who contended that the implementation of the Charter principle of self-determination fell essentially within domestic jurisdiction also maintained 173/ that the transformation of the principle into a justiciable right would violate Article 2 (7). They held, in particular, that no provision proclaiming the existence of a right to self-determination could be inserted in a covenant on human rights concluded under the auspices of the United Nations.

162. There were representatives who rejected 174/ the contention that the realization of self-determination fell essentially within domestic jurisdiction. They held that since the principle of self-determination was enunciated in the Charter, the implementation of that principle could not fall essentially within the domestic jurisdiction of Member States. It was argued 175/ in support of that position that the distinction drawn by some representatives between the right and the principle of self-determination was artificial and had no juridical effects. Furthermore, if an overriding effect were conferred upon Article 2 (7), many provisions of the Charter, including those on self-determination, would become meaningless. 176/

163. Finally, some representatives drew 177/ a distinction between minorities living within the metropolitan boundaries of States and the peoples of Non-Self-Governing Territories. They held that the realization of self-determination by the former fell essentially within the domestic jurisdiction of the State concerned. The realization of self-determination by the latter was, on the contrary, a question of international concern governed by the provisions of Chapter XI of the Charter and beyond the scope of domestic jurisdiction.

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- 171/ Case No. 27: G A (X), Gen. Com., 103rd mtg., para. 4.
172/ Case No. 27: G A (X), Plen., 529th mtg., paras. 154-157.
 Case No. 28: S C, 11th yr., 730th mtg., para. 61.
173/ Case No. 12: G A (X), annexes, a.i. 28 (Part I), p. 11, A/2910/Add.2; Note verbale dated 20 July 1955 from the Government of Australia to the Secretary-General; G A (X), 3rd Com., 645th mtg., para. 5.
174/ Case No. 13: E/CN.4/SR.500, p. 15.
 Case No. 24: G A (IX), 1st Com., 751st mtg., para. 32; 752nd mtg., para. 7; G A (X), Plen., 521st mtg., paras. 112 and 113.
 Case No. 27: G A (X), Plen., 529th mtg., paras. 175-177.
175/ Case No. 12: G A (X), 3rd Com., 641st mtg., para. 27; 643rd mtg., para. 5; 644th mtg., para. 19.
176/ Case No. 24: G A (IX), 1st Com., 752nd mtg., para. 7.
 Case No. 27: G A (X), Plen., 529th mtg., para. 175.
177/ Case No. 12: G A (X), 3rd Com., 672nd mtg., para. 25; 675th mtg., para. 48.
 Case No. 24: G A (IX), 1st Com., 750th mtg., para. 31.

Decisions

164. In case No. 12 the Third Committee adopted a draft article on the self-determination of peoples for inclusion in the two Covenants on Human Rights. The draft article had not yet been submitted to the General Assembly at the end of the tenth session (paragraphs 105 and 106).
165. In case No. 13 the Economic and Social Council transmitted to the General Assembly several texts dealing with the self-determination of peoples. At the end of the tenth session the Assembly had not yet considered these texts (paragraphs 109-112).
166. The resolutions adopted in connexion with cases Nos. 24 and 27 made no reference to the Charter provisions on the self-determination of peoples (paragraphs 63, 95 and 96).
167. No resolution was adopted in case No. 28 (paragraph 116).

d. ARTICLE 2 (7) AND THE CHARTER PROVISIONS ON
THE MAINTENANCE OF INTERNATIONAL PEACE

168. Specific references to the Charter provisions on the maintenance of international peace were made during the debates on cases Nos. 2, 11, 24, 25 and 27. During those debates the views summarized in paragraph 434 of the Repertory were again put forward. 178/ No additional arguments relating to the Charter provisions on the maintenance of international peace appear to have been submitted.

Decisions

169. The General Assembly adopted two resolutions in connexion with case No. 11. Both referred indirectly to Charter provisions on the maintenance of international peace. The first - numbered 820 (IX) - noted that a commission established by the Assembly to study the situation dealt with in case No. 11 had determined the existence

178/ For the view that Article 2 (7) cannot debar the General Assembly from dealing with a situation that threatens the peace, see:

Case No. 11: G A (IX), Ad Hoc Pol. Com., 46th mtg., para. 8.

For the view that Article 2 (7) cannot debar the General Assembly from dealing with a situation which has international repercussions or can lead to international friction, see:

Case No. 11: G A (IX), Ad Hoc Pol. Com., 42nd mtg., para. 42.

Case No. 27: G A (X), Plen., 525th mtg., para. 34.

Some representatives invoked Article 14 of the Charter in support of that view. See:

Case No. 2: G A (X), Plen., 530th mtg., para. 248.

Case No. 11: G A (X), Ad Hoc Pol. Com., 5th mtg., paras. 21 and 29; 9th mtg., para. 2; Suppl. No. 14, (A/2953), para. 309.

Case No. 25: G A (IX), 1st Com., 730th mtg., para. 39; G A (X), Plen., 532nd mtg., para. 146.

For the view that Article 2 (7) applies to all the provisions of the Charter with the sole exception of enforcement measures under Chapter VII, and that, therefore, the provisions on maintenance of peace do not authorize the General Assembly to intervene in matters essentially within domestic jurisdiction, see:

Case No. 11: G A (X), Ad Hoc Pol. Com., 11th mtg., para. 49.

Case No. 24: G A (IX), Plen., 477th mtg., para. 188.

Case No. 25: G A (IX), 1st Com., 727th mtg., para. 39.

of "a grave threat to the peaceful relations between ethnic groups in the world" (paragraph 45). The second - numbered 917 (X) - cited resolution 377 (V) which was based on Charter provisions on the maintenance of international peace (paragraphs 54-57). It should be noted that resolutions 820 (IX) and 917 (X) also referred to Charter provisions on human rights (paragraph 149).

170. The resolution adopted in connexion with case No. 25 stated that the General Assembly hoped "that the problem dealt with in case No. 25 will be peacefully resolved" (paragraphs 80 and 81). This appears to be a reference to the settlement of situations by peaceful means - one of the purposes enunciated in Article 1 (1) of the Charter.

171. The resolutions adopted in cases Nos. 2, 179/ 24 and 27 made no reference to the Charter provisions on the maintenance of international peace (paragraphs 11, 17, 63, 95 and 96).

****C. The last phrase of Article 2 (7): "but this principle shall not prejudice the application of enforcement measures under Chapter VII"**

D. Procedures by which Article 2 (7) was invoked

172. The States which invoked Article 2 (7) in the cases studied in the present Supplement submitted no proposals on competence. Their representatives voiced their objections on the grounds of Article 2 (7) either before or after the adoption of the agenda and, with the following exceptions, participated in the debates.

173. At the General Assembly's ninth session, a Member State informed the First Committee that it did not consider the Assembly competent to deal with cases Nos. 9 and 10 and would not participate in the debates thereon (paragraphs 24 and 31).

174. At the tenth session, the same Member State opposed the inclusion of case No. 27 in the Assembly's agenda on the grounds that the matters dealt with therein fell essentially within its domestic jurisdiction. When, in spite of that objection, the Assembly included the case in its agenda, that State's representatives ceased to attend all meetings of the Assembly and of its Main Committees (paragraph 94 and footnote 95). They resumed attendance after the Assembly, later in the session, decided to delete the case from its agenda (paragraphs 95-97).

175. Again at the tenth session, the representative of another Member State informed the Ad Hoc Political Committee that he would not participate in the debates on case No. 11 because the item dealt with therein fell essentially within that State's domestic jurisdiction (paragraph 52). He did, however, resume participation in the Committee's proceedings in order to cast his vote against the adoption of a draft resolution on the item. When the Committee nevertheless adopted the draft resolution, he declared that his Government was recalling its delegation and its Permanent Representative to the United Nations from the tenth session of the General Assembly (paragraph 55).

179/ See footnote 148 above.

**Table of Cases studied in the General Survey and in the
Analytical Summary of Practice**

Organ a/ Reference number of case	Title of case	Relevant paragraphs of the General Survey	Relevant paragraphs of the Analytical Summary of Practice
G A (IX & X) 2	Treatment of people of Indian origin in the Union of South Africa	7 to 17	120, 121, 123, 126, 128, 132, 133, 141, 142, 144, 145, 146, 147, 15C, 168 and 171.
G A (X) 4	The question of the establishment of committees on information transmitted under Article 73 e	18 to 19	
G A (IX & X) 5	The question of the competence of the General Assembly to determine the Territories to which Article 73 e applies	20 to 22	152, 153, 154, 155 and 157.
G A (IX & X) 9	The question of Morocco	23 to 29	152, 153, 156 and 173.
G A (IX) 10	The Tunisian question	30 to 35	173.
G A (IX & X) 11	The question of race conflict in the Union of South Africa	36 to 57	120, 121, 123, 126, 127, 129, 132, 133, 137, 138, 140, 145, 146, 147, 148, 149, 168, 169 and 175.
G A (IX & X) 12	Draft International Covenants on Human Rights	98 to 106	158, 159, 160, 161, 162, 163 and 164.
G A (X) and E S C (XX) 13	Recommendations concerning international respect for the self-determination of peoples	107 to 112	158, 159, 160, 162 and 165.
G A (IX & X) 24	The question of Cyprus	58 to 68	120, 121, 122, 123, 124, 126, 131, 152, 153, 156, 158, 160, 162, 163, 166, 168 and 171.

Article 2 (7)

a/ The session or year during which the case was discussed is indicated between brackets.

**Table of Cases studied in the General Survey and in the
Analytical Summary of Practice (continued)**

Organ	Reference number of case	Title of case	Relevant paragraphs of the General Survey	Relevant paragraphs of the Analytical Summary of Practice
G A (IX & X)	25	The question of West Irian	69 to 81	123, 126, 130, 132, 141, 142, 144, 168 and 170.
G A (IX)	26	Complaint of detention and imprisonment of United Nations military personnel in violation of the Korean Armistice Agreement	82 to 90	123, 141, 142 and 143.
G A (X)	27	The question of Algeria	91 to 97	120, 121, 122, 123, 134, 137, 139, 140, 145, 146, 150, 158, 160, 162, 166, 168, 171 and 174.
S C (1956)	28	The question of Algeria	113 to 116	120, 121, 124, 145, 147, 151, 158, 160 and 167.
I C J (1955)	29	The Nottebohm case	117 to 119	136.

ANNEX

Resolutions adopted over objections raised on the grounds of Article 2 (7)
in cases not dealt with in the present study

The following table lists resolutions adopted over objections raised on the grounds of Article 2 (7) in cases which are not dealt with in the General Survey and in the Analytical Summary of Practice since the objections did not lead to an exchange of views on the domestic jurisdiction clause (see Introductory Note, paragraph 2). The table indicates the numbers and the titles of the resolutions and the organs which adopted them. For each resolution a footnote refers to the Official Records in which the objections raised on the grounds of Article 2 (7) may be found.

Organ	Resolution number <u>a/</u>	Title of resolution
G A	824 (IX) <u>b/</u>	International flow of private capital for the economic development of under-developed countries
G A	896 (IX) <u>c/</u>	Elimination or reduction of future statelessness
G A	898 (IX) <u>d/</u>	International criminal jurisdiction
Fourth Committee of the General Assembly	No number <u>e/</u> (adopted <u>f/</u> at the 509th meeting on 14 November 1955)	Resolution instructing the Secretariat to circulate a letter <u>g/</u> addressed to the Chairman of the Fourth Committee by a group of Ethiopian refugees residing in Somaliland

- a/ The roman figure between brackets indicates the session at which the resolution was adopted.
- b/ For the objections raised on the grounds of Article 2 (7), (see G A (IX), 2nd Com., 299th mtg., para. 3. These objections were directed at the first phrase of paragraph 1 (a) of resolution 824 (IX).
- c/ For the objections raised on the grounds of Article 2 (7), (see G A (IX), 6th Com., 399th mtg., para. 10; 400th mtg., para. 32; 401st mtg., para. 51. These objections were directed at the two draft Conventions on Statelessness referred to in resolution 896 (IX).
- d/ For the objections raised on the grounds of Article 2 (7), (see G A (IX), 6th Com., 427th mtg., para. 18; 429th mtg., paras. 6 and 30-35. These objections were directed at the revised draft statute for an international criminal court referred to in resolution 898 (IX).
- e/ For the objections raised on the grounds of Article 2 (7), (see G A (X), 4th Com., 499th mtg., para. 6; 509th mtg., paras. 5-9).
- f/ G A (X), 4th Com., 509th mtg., para. 19.
- g/ A/C.4/315.

Organ	Resolution number	Title of resolution
Economic and Social Council	563 (XIX) <u>h/</u>	Development of international travel, its present increasing volume and future prospects

h/ For the objections raised on the grounds of Article 2 (7), (see E S C (XIX), 838th mtg., paras. 35 and 36. These objections were directed at recommendation 7 contained in paragraph 13 of a memorandum submitted to the Council by the United States (E S C (XIX), annexes, a.i. 6, E/2688). Recommendation 7 formed the basis of paragraph 3 of resolution 563 (XIX).

Chapter II

MEMBERSHIP

