

# ARTICLE 25

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## TEXT OF ARTICLE 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

### INTRODUCTORY NOTE

1. The Security Council has on no occasion found it necessary to define the scope of the obligation incurred by Members of the United Nations under Article 25, nor has it expressly indicated on any occasion that a particular decision should or should not be considered as falling within the provision of that Article. Accordingly, the case histories which it has been deemed appropriate to present in the Analytical Summary of Practice in this study are confined to those in which decisions have been preceded by discussion relating to Article 25. The General Survey and the Analytical Summary set forth eight such cases, two of which deal with the applicability of Article 25 to States not Members of the United Nations, while six are concerned with the scope of the obligation of Members to carry out the decisions of the Security Council. The decisions in question have been selected for presentation in the Analytical Summary exclusively by virtue of the connected discussion, and not because these decisions as such have greater bearing on Article 25 than other decisions of the Council which would merit special examination. Inasmuch as the text of the Article contains no precise delimitation of the range of decisions to which it relates, Article 25 would warrant examination in relation to all decisions of the Council; however, in the absence of evidence derived from the Official Records, such analysis would assume a theoretical character rather than constitute a summary statement of practice of the Council. The studies on Articles 39 and 40 should be consulted for a treatment of decisions by the Council of a mandatory character bearing on those Articles and for relevant discussions regarding their application.

### I. GENERAL SURVEY

2. The application of Article 25 and, more particularly, the binding nature of decisions, within the meaning of Article 25, which were in contemplation or had been taken by the Security Council, has been considered by the Council in connexion with eight cases. In all but one of these cases, <sup>1/</sup> the Council has adopted resolutions or taken decisions bearing only indirectly on the terms of the Article and the obligation to comply with them stipulated therein.

3. On two occasions the Council has adopted resolutions bearing on the applicability of Article 25 to States not Members of the United Nations. These are described in paragraphs 4 and 5 below.

4. In connexion with the application from Switzerland to become a party to the Statute of the International Court of Justice, the Council in accordance with Article 93 (2) recommended to the General Assembly that Switzerland should, among

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<sup>1/</sup> See para. 4 below.

other conditions, accept all the obligations of a Member of the United Nations under Article 94. By its decision of 15 November 1946, the Council also adopted a report of its Committee of Experts which interpreted the obligations of Members under Article 94 to include the complementary obligations under Articles 25 and 103. 2/

5. In connexion with the Greek frontier incidents question, the Council, by its decision of 16 December 1946, laid down as a condition for participation, in accordance with the spirit of Article 32, that Albania and Bulgaria should accept in advance, for the purposes of the case, the obligations of pacific settlement provided in the Charter. The Council declined to specify whether these obligations also comprised the obligation contained in Article 25. 3/

6. In connexion with the question of the Statute of the Free Territory of Trieste, the Council, on 10 January 1947, adopted a resolution bearing on the application of Article 25 to decisions taken under its general powers referred to in Article 24 (1) as distinct from its specific powers enumerated in Article 24 (2). 4/

7. On three occasions, listed in paragraphs 8-10 below, the Council took decisions bearing on the application of Article 25 to the provisions of Chapter VI of the Charter.

8. In connexion with the Corfu Channel question, the Council, on 9 April 1947, adopted a resolution recommending reference of the dispute to the International Court of Justice. Although interpretations were offered in the proceedings of the Council and before the Court that, since Albania had accepted the obligations of a Member for the purposes of the case, it was, therefore, obliged under Article 25 to comply with a recommendation taken under Article 36 (3), both the Council and the Court refrained from expressing an opinion on this question. 5/

9. In connexion with the Greek frontier incidents question, the Council, on 22 May 1947, rejected a draft resolution which was based on the contention that parties to a dispute were not under an obligation to comply with a decision of a subsidiary organ established by the Council under Article 34, or with a decision of the Council delegating its powers to that subsidiary organ. 6/

10. Also in connexion with the Greek frontier incidents question, the Council, on 29 July 1947, failed to adopt a draft resolution which would have established a commission of investigation and good offices. The sponsors of this draft resolution had, in the main, argued that decisions of the Council in the exercise of its powers of investigation under Article 34, as distinct from its powers of conciliation, were of a binding character within the meaning of Article 25. This compulsory nature of decisions to investigate was denied by other members of the Council. 7/

11. In the consideration of two other questions, noted in paragraphs 12 and 13 below, the discussion turned either on the relation between Article 25 and the provisions of Chapter VII or on the general nature and scope of the obligation to carry out decisions of the Security Council.

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2/ See paras. 49-52 below.

3/ See paras. 53-56 below. See also paras. 21-24.

4/ See paras. 15-20 below.

5/ See paras. 21-24 below.

6/ See paras. 25-28 below.

7/ See paras. 29-32 below.

12. In connexion with the Indonesian question, the Council adopted resolutions on 28 January and 23 March 1949, wherein provision was made for the parties to avail themselves of the assistance of a commission in the implementation of the decisions of the Council. <sup>8/</sup>

13. In connexion with the Palestine question, the Council, on 29 March 1954, failed to adopt a draft resolution which made reference to the obligations under the Charter to comply with a previous resolution. <sup>9/</sup>

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. The question of the scope of the obligation under Article 25

14. In the consideration of the following questions, it was contended that the measures envisaged or adopted by the Council lacked the binding nature of decisions referred to in Article 25: the question of the Statute of the Free Territory of Trieste, the Greek frontier incidents question, the Corfu Channel question, the Indonesian question and the Palestine question. In the course of the respective discussions, interpretations were offered which ranged from the view that, under the provision of Article 25, the Council might take various decisions of a binding nature, whether in the exercise of its general or specific functions and powers, to the view that Article 25 governed only those decisions under Chapter VII which did not deal with the substance of a dispute.

#### *1. Decision of 10 January 1947 in connexion with the question of the Statute of the Free Territory of Trieste*

15. At its 89th and 91st meetings on 7 and 10 January 1947 respectively, the Security Council considered a request <sup>10/</sup> submitted by the Council of Foreign Ministers of the United States, France, the United Kingdom and the USSR to record its approval of three instruments relating to the establishment of a Free Territory of Trieste under the terms of the proposed Peace Treaty with Italy. The Permanent Statute for the Free Territory of Trieste, which was among the instruments to be approved, provided that the integrity and independence of the Free Territory should be assured by the Security Council.

16. Consideration of the question gave rise to a discussion as to the authority of the Council to assume the responsibilities relating to the Free Territory <sup>11/</sup> and as to the obligations of Members of the United Nations in consequence of a decision by the Council to assume those responsibilities.

17. In questioning the powers of the Council to undertake the functions contained in the relevant annexes to the Peace Treaty, one representative argued that a decision of the Council to guarantee the territorial integrity and political independence of the Free Territory could not impose an obligation on Members of the United Nations. Such an obligation would be inconsistent with the Purposes and Principles of the Charter, which did not contain any provision to ensure the integrity or independence of a territory and which laid down, instead, an obligation merely to refrain from the threat or use of force against the integrity or independence of any State. Since the Security Council

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<sup>8/</sup> See paras. 33-40 below.

<sup>9/</sup> See paras. 41-47 below.

<sup>10/</sup> S C, 2nd yr., Suppl. No. 1, annex 2, pp. 1-28a, S/224/Rev.1.

<sup>11/</sup> See also in this Repertory under Article 24.

was specifically required by Article 24 to act in accordance with the Purposes and Principles of the United Nations, it was doubtful whether it could, under its general competence, take a decision implying an obligation not only on the part of the Council but also on the part of the Members of the United Nations.

18. Another representative suggested that, by adopting the proposed resolution, the Security Council would assume and discharge its specific responsibilities as an organ acting on behalf of the Members of the United Nations. The non-permanent members of the Council would share in those responsibilities during their term of office, but would divest themselves of them after they had ceased to be members. At the end of their term of office, they would revert to their former status of Members of the United Nations on behalf of whom the Council acted.

19. It was pointed out in reply that the above interpretation meant that the present non-permanent members of the Council would assume obligations which they themselves might not have to bear in the future, and which some other Members of the United Nations which did not participate in that decision would be required to bear.

20. The Secretary-General submitted a statement based on the records of the San Francisco Conference, which expressed the view that "the obligation of the Members to carry out the decisions of the Security Council applies equally to decisions made under Article 24 and to the decisions made under the grant of specific powers". 12/

#### Decision

At the 91st meeting on 10 January 1947, the Security Council adopted by 10 votes to none and 1 abstention, a resolution 13/ recording its approval of the relevant documents concerning the Free Territory of Trieste and its acceptance of the responsibilities devolving upon it under those documents.

#### *2. Decision of 9 April 1947 in connexion with the Corfu Channel question*

21. At the 125th and 127th meetings on 3 and 9 April 1947 respectively, in the course of the consideration of the question relating to the Corfu Channel incidents, the Security Council discussed a draft resolution submitted by the United Kingdom 14/ recommending that the two Governments refer the dispute to the International Court of Justice.

22. Both before and after the adoption of this draft resolution, the question arose whether Article 25 also applied to a recommendation under Article 36.

23. In the proceedings of the Council the view was expressed that, in consequence of the adoption of the draft resolution recommending reference of the dispute to the Court, both parties would be obliged to carry out its provisions and thus to recognize the compulsory jurisdiction of the Court. It was contended that, since Albania had accepted the obligations of Members of the United Nations in pursuance of an invitation by the Council to participate in the discussion of the case, 15/ the decision of the Council was binding on Albania in the same way as on the United Kingdom.

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12/ For texts of relevant statements, see S C, 2nd yr.,

No. 1, 89th mtg.: Australia, pp. 7 and 8; United Kingdom, p. 10;

No. 3, 91st mtg.: Australia, pp. 57 and 58; Secretary-General, p. 45.

13/ S C, 2nd yr., No. 3, 91st mtg., p. 60.

14/ S C, 2nd yr., No. 32, 125th mtg., pp. 685 and 686.

15/ See also in this Repertory under Article 32.

24. The United Kingdom draft resolution was questioned by one representative on the ground that there was no justification for referring the case to the Court. <sup>16/</sup>

#### Decision

At the 127th meeting on 9 April 1947, the United Kingdom draft resolution was adopted <sup>17/</sup> by 8 votes to none, with 2 abstentions and 1 member not participating in the vote.

### *3. Decision of 22 May 1947 in connexion with the Greek frontier incidents question*

25. At its 133rd meeting on 12 May 1947, the Security Council had before it a draft resolution <sup>18/</sup> submitted by the USSR, which would modify the terms of reference of the subsidiary group of the Commission of Investigation which had been defined by the

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<sup>16/</sup> For texts of relevant statements, see S C, 2nd yr.,

No. 32, 125th mtg.: United Kingdom, p. 685;

No. 34, 127th mtg.: President (China), p. 726; Australia, pp. 722 and 723; USSR, p. 725.

<sup>17/</sup> S C, 2nd yr., No. 34, 127th mtg., pp. 726 and 727.

In its application to the International Court of Justice, the Government of the United Kingdom stated that the Court had jurisdiction in the case under Article 36 (1) of its Statute which referred to "all matters ... provided for in the Charter". It contended that its dispute with Albania was such a matter since the decision of the Security Council of 9 April 1947 in pursuance of Article 36 of the Charter was binding upon the parties by virtue of Albania's acceptance of all the obligations of a Member of the United Nations and in conformity with Article 25.

The Government of Albania maintained that the Government of the United Kingdom was not entitled to bring the case before the Court by unilateral application without first concluding a special agreement with the Albanian Government in accordance with the provisions of the Statute of the Court. It disputed the interpretation which the United Kingdom Government had placed on Article 25 with reference to the binding character of the recommendations of the Security Council and argued that Article 25 related solely to decisions of the Council taken under Chapter VII of the Charter. Consequently, the Government of Albania maintained that the resolution of the Council of 9 April 1947 could not afford an indirect basis for the compulsory jurisdiction of the Court, since that resolution was of the nature of a recommendation relating to the pacific settlement of disputes. Notwithstanding this reservation, the Government of Albania stated that it accepted "the jurisdiction of the Court for this case". Subsequently it submitted a preliminary objection to the admissibility of the application of the United Kingdom.

In its judgement of 25 March 1948, the Court rejected the Albanian preliminary objection and established its jurisdiction on the basis of Albania's voluntary acceptance. Accordingly, it considered that there was no need to express an opinion on the provisions of the Charter to establish the existence of a case of compulsory jurisdiction. In a separate opinion, seven judges referred to the meaning of the term "recommendation" and stated that they could not accept an interpretation according to which a recommendation under Article 36 (3) of the Charter might involve a case of compulsory jurisdiction of the Court. See Corfu Channel Case, Judgment on Preliminary Objection, I C J Reports 1948, pp. 15-32.

<sup>18/</sup> S C, 2nd yr., No. 39, 133rd mtg., p. 832.

Commission in pursuance of the resolution 19/ of the Council of 18 April 1947. The representative of the USSR contended that the functions and powers assigned to the subsidiary group by the Commission, in its resolution of 29 April 1947, were not consistent with the previous decisions of the Security Council, and that the procedure adopted by the Commission, in reaching its decision, was incorrect since the States directly concerned had not been afforded the opportunity to participate in the discussion.

26. During the debate, the question was raised whether the States parties to the dispute, both those which were Members of the United Nations and the others which had assumed the obligations of Members for the purposes of the case, were bound not only by the decisions of the Security Council but also by decisions of its subsidiary organ, the Commission of Investigation.

27. Some representatives expressed the opinion that, since Albania, Bulgaria, Greece and Yugoslavia were obligated under Article 25 to comply with the resolution of the Security Council of 18 April 1947, they were also in principle bound by the decision of 29 April 1947, taken by the Commission of Investigation in pursuance of instructions contained in that resolution of the Council. Such a decision in no way required the agreement of the parties concerned. In this connexion it was emphasized that a resolution of the Council to conduct an investigation was of the nature of a decision involving an obligation. This interpretation was confirmed by the Statement of the four sponsoring Powers at San Francisco, wherein it was said that the Council "shall order" an investigation.

28. In support of the draft resolution submitted by the USSR it was argued that, while decisions of the Security Council might be of a binding nature, decisions of any other organ could not possess the same authority. The validity of the resolution of 18 April 1947, whereby the Council delegated its powers to a subsidiary organ, was therefore questionable and the Commission's resolution of 29 April 1947 thus could not be binding upon the parties unless its terms were modified. 20/

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19/ The resolution of 18 April 1947 had authorized the Commission of Investigation to maintain in the area concerned a subsidiary group to continue to fulfil such functions as the Commission might prescribe, in accordance with its terms of reference. The resolution had been adopted by 9 votes to none, with 2 abstentions.

20/ For texts of relevant statements, see S C, 2nd yr.,

No. 39, 133rd mtg.: USSR, pp. 830 and 831;

No. 40, 134th mtg.: Belgium, pp. 842-844; Yugoslavia, pp. 847, 848 and 849;

No. 41, 135th mtg.: Australia, pp. 877 and 879; Brazil, pp. 880 and 881;

China, pp. 882 and 883; United States, pp. 873-875;

No. 42, 136th mtg.: France, pp. 905 and 906; Poland, pp. 907 and 908; United Kingdom, p. 899;

No. 42, 137th mtg.: Australia, pp. 919 and 920; Syria, pp. 911 and 912; USSR, pp. 913 and 914.



Decision

At the 137th meeting on 22 May 1947, the draft resolution submitted by the USSR was rejected. 21/ There were 2 votes in favour, 6 against and 3 abstentions.

*4. Decision of 29 July 1947 in connexion with  
the Greek frontier incidents question*

29. At its 147th meeting on 27 June 1947, the Security Council had before it a draft resolution submitted by the United States 22/ which would establish a commission of investigation and good offices. Creation of the proposed commission was objected to by the representatives of Albania, Bulgaria and Yugoslavia who, as parties involved in the dispute, had been invited by the Security Council to participate in the discussion.

30. In the course of the debate, the question was raised whether Article 25 applied to decisions of the Council to conduct an investigation under Article 34. 23/

31. According to one opinion, which opposed the setting up of the commission, a decision of the Council to undertake an investigation was of the nature of a recommendation lacking any binding quality. Unlike measures taken under Chapter VII for the prevention or suppression of breaches of the peace, all procedures relating to the pacific settlement of disputes envisaged in Chapter VI, including that of investigation under Article 34, were merely recommendations which required the consent of the parties in order to be effected. Article 25 was, therefore, not applicable to decisions under Article 34 and the institution of an investigation could not be regarded as being compulsory for the States concerned.

32. Several members of the Council, who favoured the establishment of a commission, argued, however, that Article 25 did not apply only to decisions under Chapter VII. The Charter contained no indication that the Council could not take decisions under Chapter VI. On the other hand, Article 27 specifically referred to "decisions under Chapter VI". Furthermore, Article 25 did not differentiate as to decisions under Chapter VI or Chapter VII. This would indicate that the Council was empowered to take various decisions under Chapter VI. One of these decisions concerned investigation. Article 34 conferred the power of investigation upon the Council. If it was given the power of investigation, it also had the authority to exercise that power. A decision to investigate was thus a decision within the meaning of Article 25, and imposed upon the States concerned an obligation to accept the investigation. In this respect, the Council's function of investigation differed from its function of conciliation. While conciliation implied voluntary agreement on the part of the opposing parties to conciliate their views, investigation for the purpose of keeping the Council informed at all times could not be made dependent upon the consent of the parties concerned. 24/

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21/ S C, 2nd yr., No. 42, 137th mtg., pp. 924 and 925.

22/ S C, 2nd yr., No. 51, 147th mtg., pp. 1124-1126.

23/ See also in this Repertory under Article 34.

24/ For texts of relevant statements, see S C, 2nd yr.,

No. 51, 147th mtg.: Greece, p. 1127; United States, p. 1124;

No. 57, 156th mtg.: Bulgaria, pp. 1280 and 1281; United States, p. 1290;

No. 59, 160th mtg.: USSR, p. 1383;

No. 61, 162nd mtg.: Brazil, p. 1422; United States, pp. 1418-1420;

No. 63, 166th mtg.: United States, p. 1523;

No. 64, 167th mtg.: President (Poland), p. 1547; Australia, pp. 1544 and 1545; USSR, p. 1542; United States, p. 1541; Yugoslavia, p. 1546;

No. 66, 169th mtg.: Albania, p. 1599.

Decision

At the 170th meeting on 29 July 1947, the draft resolution submitted by the United States, as amended in the course of the debate, was not adopted. <sup>25/</sup> There were 9 votes in favour and 2 against (1 vote against being that of a permanent member).

*5. Decisions of 28 January and 23 March 1949 in connexion  
with the Indonesian question*

33. At its 397th meeting on 7 January 1949, the Security Council had before it a report <sup>26/</sup> of the Committee of Good Offices on the Indonesian Question, stating that the resolution of the Council of 24 December 1948, by which it had called upon the parties to cease hostilities forthwith and to release the political prisoners immediately, had not been complied with.

34. In the course of the discussion of this and related reports, observations were made as to the nature of the decision of the Council and the circumstances under which the parties were obligated by Article 25 to comply with that decision.

35. One representative stated that the failure of the Netherlands to carry out the terms of the resolution of 24 December 1948 constituted a violation of the pledge given by that country, as a Member of the United Nations, under Article 25. He emphasized the responsibility of the Council to prevent the use of force in the settlement of disputes, and suggested that further measures should be taken to assure compliance with its decisions and thus to create the conditions necessary for negotiations.

36. One member of the Council related the application of Article 25 to decisions taken under Chapter VII. In his view the military action of the Netherlands was in conflict with the original resolutions of the Council <sup>27/</sup> which had called for a cessation of hostilities in Indonesia; he reiterated the view of his Government that those two resolutions had been adopted under the provisions of Article 40, and stated that "therefore, in accordance with Article 25 of the Charter, the Netherlands Government was and is under obligation to comply with their provisions". The continuance of military action by the Netherlands authorities after the adoption of the resolution of the Council of 24 December 1948 was thus a violation of the Charter.

37. This interpretation of the nature of the resolutions of the Security Council of 1 August and 1 November 1947 was contested by another representative, who stated that the Council had intentionally omitted any reference to Article 40 in those resolutions, which could not therefore be considered as decisions taken in application of Chapter VII of the Charter. <sup>28/</sup>

Decision

At its 406th meeting on 28 January 1949, the Security Council adopted, by a vote in parts, a resolution <sup>29/</sup> which again called for the immediate discontinuance of all military operations and for the immediate and unconditional release of the political prisoners. It also empowered the United Nations Commission for Indonesia, formerly the Committee of Good Offices on the Indonesian Question, to assist the parties in the implementation of the resolution.

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<sup>25/</sup> S C, 2nd yr., No. 66, 170th mtg., p. 1612.

<sup>26/</sup> S C, 4th yr., Suppl. for Jan., p. 6, S/1189.

<sup>27/</sup> S C, 2nd yr., No. 72, 178th mtg., p. 1839, Footnote No. 1 (S/459).  
No. 103, 219th mtg., pp. 2723 and 2724, S/594.

<sup>28/</sup> See also in this Repertory under Article 39.

<sup>29/</sup> S C, 4th yr., Suppl. for Feb., pp. 1-4, S/1234.

38. At its 416th meeting on 10 March 1949, the Council had before it a report 30/ of the Commission concerning the non-compliance of the Netherlands Government with the resolution of 28 January 1949. Consideration of this report occasioned further observations on the application of Article 25.

39. One representative opposed the view that the resolution of 28 January 1949 was of the nature of an injunction. He drew a distinction between resolutions having the character of a recommendation and decisions taken by virtue of Chapter VII. He argued that even when the Council acted in application of Chapter VII, its power to take a decision, or to enjoin, was, under Article 39, limited to the measures specified in Articles 41 and 42. Articles 41 and 42 referred not to the substance of the dispute, but to the means of coercion for maintaining or restoring international peace and security. With regard to the substance of a question, the Council could only make recommendations. Nowhere in the Charter could any provision be found from which it could be concluded that the Members of the United Nations, of which only five were protected by the use of the veto, had consented to place their destiny, and even their very existence, in the hands of the Council. Accordingly he urged the Council to direct the United Nations Commission for Indonesia to devote its efforts to the task of conciliation.

40. In the discussion that ensued, two members of the Council expressed their approval of these views, while others felt that the Council should demand implementation of its resolution. 31/

#### Decision

At its 421st meeting on 23 March 1949, the Council adopted by 8 votes to none, with 3 abstentions, a directive 32/ to the United Nations Commission for Indonesia to assist the parties in reaching agreement as to the implementation of the resolution of 28 January 1949.

#### *6. Decision of 29 March 1954 in connexion with the Palestine question*

41. At its 658th to 664th meetings inclusive, held between 5 February and 29 March 1954, the Security Council considered a complaint by Israel 33/ concerning enforcement by Egypt of restrictions on the passage of ships trading with Israel through the Suez Canal. Israel contended that Egypt's continued practice of interfering with shipping passing to and from Israel through the Suez Canal constituted

30/ S C, 4th yr., Suppl. for March, p. 8, S/1270 and Corr.1.

31/ For texts of relevant statements, see S C, 4th yr.,

No. 1, 397th mtg.: Australia, pp. 27 and 28;

No. 2, 398th mtg.: Belgium, p. 11; United States, pp. 3 and 5;

No. 20, 417th mtg.: Australia, p. 15; Belgium, p. 9;

No. 21, 418th mtg.: Egypt, p. 14; USSR, pp. 18 and 20;

No. 22, 419th mtg.: France, p. 6; Philippines, p. 13;

No. 23, 420th mtg.: Belgium, p. 19.

32/ S C, 4th yr., No. 24, 421st mtg., p. 5.

33/ S C, 9th yr., Suppl. for Jan.-Mar., pp. 1-5, S/3168 and S/3168/Add.1.

a violation of the resolution of the Council of 1 September 1951 <sup>34/</sup> which had called upon Egypt to terminate the restrictions on the passage of international commercial shipping and goods. <sup>35/</sup>

42. Consideration of the complaint gave rise to a discussion as to the nature of the decision of 1 September 1951 and the application of Article 25.

43. The representative of Israel referred to the particular moral and legal force attaching to decisions of the Council affecting international peace and security, such as the resolution of 1 September 1951. He suggested that the defiance of that resolution clearly created the kind of a situation to which the enforcement measures laid down in Chapter VII should properly apply.

44. The representative of Egypt questioned the juridical validity of the resolution of 1 September 1951 and, consequently, the applicability of Article 25 to the case. He cited the inherent right of individual and collective self-defence under Article 51 and argued that this right had been disregarded. <sup>36/</sup> The Charter was based on the principle of respect for the sovereignty of Member States and could not restrict their inherent rights. The right of self-defence, therefore, might not be overridden in favour of the Security Council except in so far as the States concerned were so well protected by the resources available to the Security Council that the abandonment of their right of self-defence would not harm them. Since Egypt was not satisfied that the resolution of 1 September 1951 was in accordance with the spirit of the Charter, it could not respect that decision. In this connexion he stressed the words at the end of Article 25: "in accordance with the present Charter".

45. At the 663rd meeting on 23 March 1954, the representative of New Zealand submitted a draft resolution <sup>37/</sup> the relevant paragraphs of which provided that:

"The Security Council,

".....

"3. Recalling its resolution of 1 September 1951 ...,

"4. Notes with grave concern that Egypt has not complied with that resolution;

"5. Calls upon Egypt in accordance with its obligations under the Charter to comply therewith;".

46. In support of the draft resolution the following arguments were advanced:

(a) The resolution of 1 September 1951 had been legally and properly adopted. Its validity could not be denied by reason of certain reservations entered by one party at the time of its adoption. Moreover, that resolution had specifically referred to those reservations and had stated that "neither party can reasonably assert that it is

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<sup>34/</sup> S C, 6th yr., 558th mtg., para. 5, S/2322.

<sup>35/</sup> An affirmation that the detention by Egyptian authorities of a Greek merchant vessel carrying Israel cargo was an act of non-compliance with the Security Council resolution in contravention of Article 25 was first made in a communication by Israel dated 9 September 1953 (S C, 8th yr., Suppl. for July-Sept., p. 73, S/3093, paras. 3, 9 and 10).

<sup>36/</sup> See also in this Repertory under Article 51.

<sup>37/</sup> S C, 9th yr., Suppl. for Jan.-Mar., p. 44, S/3188 and Corr.1.

actively a belligerent or requires to exercise the right of visit, search and seizure for any legitimate purpose of self-defence";

(b) The resolution of 1 September 1951 had been adopted in connexion with the application of the General Armistice Agreement between Egypt and Israel. Violation of the armistice agreement involved a danger to peace which was the legitimate concern of the Security Council; and

(c) Under Article 25, Member States were obligated to respect and implement decisions of the Security Council since it was assigned the function of maintaining international peace and security.

47. One member of the Council raised objection to the draft resolution submitted by New Zealand on the ground that it sought to impose upon one of the parties a decision in disregard of its wishes and interests, whereas the procedures of Chapter VI of the Charter relating to the pacific settlement of disputes would more properly apply to the case under consideration. 38/

#### Decision

At the 664th meeting on 29 March 1954, the draft resolution submitted by New Zealand was not adopted. 39/ There were 8 votes in favour, 2 against (1 vote against being that of a permanent member) and 1 abstention.

#### B. The question of the applicability of Article 25 to States not Members of the United Nations

48. This question was raised in connexion with the consideration of the conditions under which Switzerland could become a party to the Statute of the International Court of Justice and the conditions to be laid down for the participation of Albania and Bulgaria in the discussion of the Greek question. While in the former case the Council, without discussion, adopted a report expressly citing Article 25, in the latter case certain observations were made by members of the Council which resulted in a decision omitting reference to Article 25.

#### *1. Decision of 15 November 1946 in connexion with the application of Switzerland to become a party to the Statute of the International Court of Justice*

49. At its 78th meeting on 30 October 1946, the Security Council had before it an application 40/ of Switzerland expressing a desire to know the conditions on which Switzerland could become a party to the Statute of the International Court of Justice under Article 93 (2) of the Charter.

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38/ For texts of relevant statements, see S C, 9th yr.,

658th mtg.: Israel, paras. 98, 100 and 113;

659th mtg.: Egypt, para. 65;

661st mtg.: Egypt, paras. 65-73;

662nd mtg.: New Zealand, paras. 16-18;

663rd mtg.: Denmark, paras. 12 and 15; France, paras. 35 and 41; Lebanon, paras. 55, 56 and 58; United Kingdom, paras. 26 and 30; United States, paras. 1, 5 and 6;

664th mtg.: Brazil, paras. 16 and 19; Colombia, para. 22; Egypt, para. 155; France, para. 114; Turkey, para. 67; USSR, paras. 43, 46-50 and 96.

39/ S C, 9th yr., 664th mtg., para. 69.

40/ S C, 1st yr., 2nd Series, Suppl. No. 7 (annex 12, S/185).

50. The Council referred the matter to the Committee of Experts for consideration and report.

51. At its 80th meeting on 15 November 1946, the Council had before it the report 41/ of the Committee of Experts which advised that among the conditions to be determined by the General Assembly upon the recommendation of the Security Council should be the following:

"(b) acceptance of all the obligations of a Member of the United Nations under Article 94 of the Charter;"

52. In an observation on this condition, the Committee of Experts stated that the obligations imposed by Article 94 upon a Member of the United Nations should apply equally to States not Members of the United Nations which become parties to the Statute and to States not parties to the Statute which were allowed access to the Court. In its opinion, the obligations of a Member of the United Nations under Article 94 included the complementary obligations arising under Articles 25 and 103 of the Charter in so far as the provisions of those Articles might relate to the provisions of Article 94. Accordingly, States not Members of the United Nations which became parties to the Statute, and States not parties to the Statute which had access to the Court, became bound by these complementary obligations under Articles 25 and 103 in relation to the provisions of Article 94 (but not otherwise), when they accepted "all the obligations of a Member of the United Nations under Article 94". The Committee pointed out that the conditions recommended in the case of Switzerland were not intended to constitute a precedent to be followed in any future case under Article 93 (2).

#### Decision

At the 80th meeting on 15 November 1946, the report of the Committee of Experts was adopted 42/ without objection.

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41/ S C, 1st yr., 2nd Series, Suppl. No. 8 (annex 13, S/191).

42/ S C, 1st yr., 2nd Series, No. 22, 80th mtg., p. 502.

By resolution 91 (I) the General Assembly adopted the conditions recommended by the Security Council. The instrument by which Switzerland accepted these conditions and thus became a party to the Statute was deposited with the Secretary-General on 28 July 1948 (S C, 3rd yr., Suppl. for Sept., pp. 1-3, S/947).

The same conditions as in the case of Switzerland were also subsequently recommended by the Council and adopted by the General Assembly with respect to the Principality of Liechtenstein, Japan and the Republic of San Marino. For texts of relevant applications and reports of the Committee of Experts, and for the decisions of the Council, see:

S C, 4th yr., Suppl. for April, p. 6, S/1298 and Corr.1; Suppl. for July, pp. 2 and 3, S/1342;

S C, 4th yr., No. 35, 432nd mtg., p. 6 (Liechtenstein);

S C, 8th yr., Suppl. for Oct.-Dec., p. 37, S/3126; p. 72, S/3146;

S C, 8th yr., 645th mtg., para. 11 (Japan);

S C, 8th yr., Suppl. for Oct.-Dec., pp. 56 and 57, S/3137; p. 73, S/3147;

S C, 8th yr., 645th mtg., para. 13 (San Marino).

*2. Decision of 16 December 1946 in connexion with  
the Greek frontier incidents question*

53. At the 84th meeting on 16 December 1946, the Security Council considered the conditions to be laid down, in accordance with the spirit of Article 32, for the participation of Albania and Bulgaria, as States not Members of the United Nations, in the discussion of the Greek question. <sup>43/</sup> The President suggested that the most appropriate condition for the Council to lay down would be that Albania and Bulgaria should accept in advance, for the purposes of the case, "the obligations of pacific settlement provided in the Charter".

54. This suggestion, which had been put forward at a previous meeting by several members of the Council, occasioned a discussion of the scope of the obligations to be accepted by non-member States involved in a dispute under consideration by the Council. Specifically, the question was raised whether the obligation contained in Article 25 should be among the obligations of pacific settlement to be assumed by Albania and Bulgaria.

55. One representative, while supporting the course proposed by the President as the most suitable procedure to ensure equality of position to all parties to the case - both the two non-member States and the two other States which were Members of the United Nations - favoured a clarification of the meaning of the phrase "accept the obligations of pacific settlement". He assumed that this would mean that the two non-member States would accept the obligations, wherever they were found in the Charter, in respect of peaceful settlement, and not merely the obligations contained in Chapter VI. One of the most important obligations of a Member was the one contained in Article 25. If, in the course of the procedure of pacific settlement, the Security Council did take a decision under Chapter VI, then the non-member States also would be expected to accept and carry out that decision, since in that case Article 25 applied and non-members as well as Members were under an obligation to accept and to carry out the decision taken in respect of this matter of pacific settlement. If the parties to the dispute which were not Members of the United Nations accepted merely the obligations of pacific settlement contained in Chapter VI, they would be placed in a different position from that of Members of the United Nations.

56. In opposing any specific mention of Article 25 among the obligations to be accepted by Albania and Bulgaria, two other representatives contended that Article 25 referred to the obligations of the Members of the United Nations to carry out in all cases the decisions of the Security Council. There were many decisions of the Security Council which did not refer to the pacific settlement of disputes by which Members of the United Nations were obliged to abide. But, in the present case, the obligations of a State which was not a Member of the United Nations could not possibly go as far as the obligations of a Member. Accordingly, they favoured the language used by the President without any further definition in terms of Articles of the Charter. <sup>44/</sup>

Decision

At the 84th meeting on 16 December 1946, the proposal of the President that Albania and Bulgaria should accept in advance, for the purposes of the case, the obligations of pacific settlement provided in the Charter was adopted <sup>45/</sup> without objection.

<sup>43/</sup> See also in this Repertory under Article 32.

<sup>44/</sup> For texts of relevant statements, see S C, 1st yr., 2nd Series, No. 26, 84th mtg.: President (United States), pp. 608, 610 and 613; Australia, pp. 608, 611, 612 and 613; Mexico, pp. 611 and 612; USSR, p. 613.

<sup>45/</sup> S C, 1st yr., 2nd Series, No. 26, 84th mtg., p. 613.

