

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. This study has been organized differently from previous studies of Article 25 in the *Repertory* and *Supplements* Nos. 7 and 2. A distinction has now been made between those cases in which the Security Council, in requiring acceptance and implementation of its decisions, made specific references to Article 25 and those in which it did not do so, but recalled or reaffirmed previous decisions, called on the Member States concerned to comply with them or censured non-compliance. Accordingly, a new heading, "A. Modalities for obtaining acceptance and implementation of Security Council decisions", has replaced the heading, "A. The question of the scope of the obligation under Article 25", in the Analytical Summary of Practice. No constitutional significance, however, should be attached to the change.

GENERAL SURVEY

2. During the period under review, Article 25 was explicitly invoked in two resolutions and in one draft resolution which was not adopted. The two resolutions dealt with the implementation of decisions previously taken by the Council in connexion with the situation in the Republic of the Congo¹ and with the situation in Southern Rhodesia.² The draft resolution which was not adopted also dealt with the situation in the Republic of the Congo.³

3. Two resolutions were also adopted by the Council in which resolution 146 (1960) of 9 August 1960, containing an explicit reference to Article 25, was reaffirmed and recalled.⁴ Consequently, they might also be considered as having a bearing on Article 25.

4. Compliance with Security Council resolutions was the subject of constitutional discussion during consideration of the following items: the situation in the Republic of the Congo,⁵ the Palestine question,⁶ the India-Pakistan question,⁷ the policies of *apartheid* of the Government of the Republic of South Africa,⁸

the situation in the Territories in Africa under Portuguese administration,⁹ and the situation in Southern Rhodesia.¹⁰ In some of those instances, explicit references to Article 25 were made, while in others there were frequent references to the necessity to carry out and accept Council decisions. All those cases are treated in the Analytical Summary of Practice.

5. The Security Council also adopted a number of resolutions in connexion with the complaint by the Government of Cyprus which, in addition to references to previous resolutions, also contained calls for compliance with them or reaffirmed earlier decisions.¹¹ However, there was no constitutional discussion bearing on Article 25 during the Council's deliberations on the subject.

6. In several other resolutions adopted in the period under review, the Council recalled and reaffirmed previous resolutions, but there was no constitutional

¹ See paras. 10–17 below.

² See paras. 22–29 below. Although, in principle, this *Supplement* covers decisions taken before 31 August 1966, the resolution of 16 December 1966 has also been treated here since it was the last in the series of decisions leading to the application of mandatory sanctions under Articles 39 and 41 of the Charter.

³ See paras. 18–21 below.

⁴ S C resolution 161 A (1961), oper. para. 5, see paras. 43–47 below; S C resolution 169 (1961), 1st preamb. para., see paras. 48–51 below.

⁵ See paras. 30–51 below.

⁶ See paras. 52–65 below.

⁷ See paras. 71–91 below.

⁸ See paras. 92–101 below.

⁹ See paras. 102–120 below.

¹⁰ See paras. 121–125 below.

¹¹ S C resolution 187 (1964), 2nd preamb. para. and oper. paras. 1 and 2.

S C resolution 192 (1964), 2nd preamb. para. and oper. paras. 1 and 2.

S C resolution 193 (1964), 2nd preamb. para.

S C decision of 11 August 1964.

S C resolution 194 (1964), 3rd and 4th preamb. paras.

and oper. paras. 1 and 2.

S C resolution 198 (1964), 4th and 5th preamb. paras.

and oper. paras. 1 and 2.

S C resolution 201 (1965), 4th and 5th preamb. paras.

and oper. paras. 1 and 2.

S C resolution 206 (1965) 4th and 5th preamb. paras.

and oper. paras. 1 and 2.

S C resolution 207 (1965), oper. paras. 1 and 2.

S C resolution 219 (1965), oper. para. 1.

S C resolution 220 (1966), oper. paras. 1 and 2.

S C resolution 222 (1966), oper. paras. 1 and 2.

discussion bearing on Article 25. These resolutions were adopted in connexion with the situation in the Democratic Republic of the Congo,¹² the policies of *apartheid* of the Government of the Republic of South Africa,¹³ the complaint by Senegal,¹⁴ the situation in the Dominican Republic¹⁵ and the situation in Southern Rhodesia.¹⁶

7. During the period under review the General Assembly, at its fourth emergency special session, adopted resolution 1474 (ES-IV) on the situation in the Congo in which it reaffirmed Security Council resolution 146 (1960) of 9 August 1960 containing explicit references to Articles 25 and 49 of the Charter and reaffirmed specifically the Council's reminder to Member States about their obligations under Articles 25 and 49.¹⁷ Explicit and implicit references to that Council resolution were also made in several resolutions at the fifteenth session of the General Assembly.¹⁸

8. Article 25 was further explicitly referred to in the General Assembly during discussion of the situation in the Congo¹⁹ and of the financial implications of United Nations activities in the Congo and in the Middle East. In the latter case, the view was expressed that all Member States had an obligation to share the financial expenses of the Organization incurred during operations aimed at the maintenance of peace.²⁰ On the other hand, it was contended

¹² S C resolution 199 (1964), 4th preamb. para.

¹³ S C resolution 181 (1963), 2nd preamb. para. and oper. para. 2;

S C resolution 190 (1964), 2nd preamb., para. and oper. para. 2.

¹⁴ S C resolution 204 (1965), oper. paras. 2 and 3.

¹⁵ S C resolution 205 (1965), 2nd preamb., para. and oper. para. 1.

¹⁶ S C resolution 217 (1965), oper. para. 2; S C resolution 221 (1966), 1st preamb. para.

¹⁷ Second preamb. para. and oper. paras. 2 and 5 (b).

¹⁸ G A resolutions 1583 (XV), 1st preamb. para.; 1592 (XV), 2nd preamb. para.; 1599 (XV), 1st preamb. para.; 1600 (XV), oper. para. 1.

¹⁹ G A (ES-IV), 860th mtg.: Ghana, paras. 160 and 161; G A (XVII), Plen. 957th mtg.: India, paras. 295-297; G A (XV), 5th Com., 832nd mtg.: Iraq, paras. 20 and 23.

²⁰ G A (XV), 5th Com., 808th mtg.: Canada, para. 10; 811th mtg.: Pakistan, para. 12; 817th mtg.: Pakistan, para. 51; 841st mtg.: Brazil, para. 30; G A (XVII), 5th Com., 969th mtg.: Iran, para. 3; G A (E-IV), 5th Com., 993rd mtg.: Malaysia, para. 10. See also separate opinion of Judge Fitzmaurice in the case "Certain expenses of the United Nations

that certain procedures used for policy-making and financing with regard to the operations in the Congo and the United Nations Emergency Force in the Middle East (UNEF) were not in accordance with the Charter and consequently could not be considered as binding.²¹ Article 25 was explicitly referred to, together with other Articles, by several representatives during consideration of the comprehensive review of the whole question of peace-keeping operations. The Article was cited in support of,²² or in opposition to,²³ the view that the Security Council has exclusive jurisdiction in matters relating to organization, conduct and financing of peace-keeping operations by the United Nations.

9. Incidental references to Article 25 were made in the General Assembly during consideration of the following items: the policies of *apartheid* of the Government of the Republic of South Africa,²⁴ the grave situation in Tunisia,²⁵ the situation in Angola,²⁶ the situation in the Territories in Africa under Portuguese Administration,²⁷ and the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.²⁸

(Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962": ICJ, *Reports*, 1962, p. 210.

²¹ G A (XV), 5th Com., 817th mtg.: India, para. 3; G A (ES-IV), 5th Com., 990th mtg.: Czechoslovakia, para. 14; 998th mtg.: France, para. 23; 1001st mtg.: Czechoslovakia, para. 31; G A (XVIII), 5th Com., 1009th mtg.: USSR, para. 4. See also dissenting opinions of Judge V. Koretzky and Judge Bustamante in the case "Certain expenses of the United Nations (Article 17, paragraph 2, of the Charter), Advisory Opinion of 20 July 1962": ICJ, *Reports*, 1962, pp. 271, 274, 287, 299, 300 and 304.

²² G A (XX), Spec. Pol. Com., 483rd mtg.: Mongolia, para. 26.

²³ *Ibid.*, 464th mtg.: Ghana, para. 15; 482nd mtg.: China, para. 14.

²⁴ G A (XV), Spec. Pol. Com., 237th mtg.: Ireland, para. 3; G A (XVII), Spec. Pol. Com., 341st mtg.: Ghana, para. 10; G A (XVIII), Annexes, a. i. 30, addendum, A/5497 and Add. 1, paras. 509 and 510.

²⁵ G A (S-III), Plen. 1001st mtg.: Saudi Arabia, para. 4; 1004th mtg.: Tunisia, para. 45.

²⁶ G A (XVI), Plen., 1093rd mtg.: USSR, paras. 139-141; 1100th mtg.: Mali, para. 86.

²⁷ G A (XVIII), 4th Com., 1489th mtg.: Colombia, para. 42; 1490th mtg.: Ghana, para. 83. (For correction of Ghana's statement see 1491st mtg., para. 1.)

²⁸ G A (XVIII), 6th Com., 825th mtg.: United States, paras. 8 and 12.

II. ANALYTICAL SUMMARY OF PRACTICE

A. Modalities for obtaining acceptance and implementation of Security Council decisions

INVOCATION OF ARTICLE 25

(a) *Decisions of 9 August and 17 September 1960 in connexion with the situation in the Republic of the Congo*

(i) *Decision of 9 August 1960*

10. At the 884th to 886th meetings, held between 8 and 9 August 1960, the Security Council considered

the situation in the Republic of the Congo at the request of the Secretary-General.²⁹ The Council had before it the second report of the Secretary-General³⁰ on the implementation of Security Council resolutions 143 (1960) and 145 (1960).³¹ In his report the

²⁹ S C, 15th yr., Suppl. for July-Sept., p. 52, S/4417, para. 10.

³⁰ *Ibid.*, pp. 45-57.

³¹ On 14 July 1960 the Security Council adopted resolution 143 (1960) in which it, *inter alia*, called upon the Government of Belgium to withdraw its troops from the territory of the Republic of the Congo and decided to authorize the Secretary-

Secretary-General informed the Council about the difficulties the United Nations Force had encountered in entering the province of Katanga in the Congo which had declared its independence. In his communication dated 4 August 1960, transmitted through the Belgian diplomatic mission in Leopoldville, to Mr. Tshombe, president of the provincial government of Katanga, the Secretary-General drew attention to Articles 25 and 49, "which articles confer on the Security Council an authority applicable directly to Governments, and, *a fortiori*, to subordinate territorial non-governmental authorities of Member nations". The Secretary-General stated further that the same obligations must be regarded as applicable by analogy to nations which, like the Republic of the Congo, had been recommended for admission to the United Nations. Resistance by a Member Government to a Security Council decision had legal consequences laid down in the Charter, which necessarily applied also to the subordinate territorial organs of a nation to which the Charter rules applied. The Secretary-General asked for instructions from the Security Council and for such decisions as the Council might find appropriate in order to achieve its aims integrally. In his opinion speedy implementation of Security Council resolutions might well follow if the entry of the United Nations Force into Katanga was carried out in a way that would effectively separate questions of internal structure of the Republic of the Congo from any questions relating to the presence of the United Nations Force.

11. In introducing his report, the Secretary-General stated that the stand taken by the Belgian Government and those representing it had been summed up by the Prime Minister of Belgium as being one of "submission" to the Security Council resolutions and to the entrance of the United Nations Force which, in the Secretary-General's opinion, meant only an absence of active resistance. In his view, that presented a serious problem, especially in a situation like the one created by Mr. Tshombe and in which the presence of Belgian troops was the main cause of continued danger. Articles 25 and 49 were explicit bases for the expectation that the local authorities in the Congo would adjust to the obligations which their country had incurred.

12. The representative of the Congo asserted that Belgium created and kept alive resistance to the entry of the United Nations forces into Katanga and that the immediate withdrawal of Belgian troops from the entire territory of the Republic, including Katanga and the bases at Kamina and Kitona, was the *sine qua non* for peace, order and unity in the Congo. The representative of Belgium stated in reply that the whole of the territory of the Congo except Katanga had been evacuated by the Belgian troops,

General to take the necessary steps, in consultation with the Government of the Republic of the Congo, to provide the Government with such military assistance as might be necessary until the national security forces were able to meet their task fully. On 22 July 1960 the Security Council adopted resolution 145 (1960) in which, having considered the Secretary-General's first report on the implementation of resolution 143 (1960), it once again called, *inter alia*, on the Government of Belgium to implement speedily its resolution 143 (1960).

who had withdrawn to their bases, and that no one could say that Belgium did not respect Security Council decisions. Those troops would also be withdrawn from Katanga if the Secretary-General declared that he was able officially to ensure security without leaving a vacuum.

13. During the discussion it was stated by several representatives that local authorities in Katanga would have no grounds for objecting to the entry of the United Nations forces once the Council had given assurances that their only task was to ensure law and order and, thereby, Belgian withdrawal. It was further stated that Belgium should move from passive to active support of the attempt by the United Nations to implement Security Council resolutions in the Congo.

14. The view was expressed that Belgium had been flagrantly intervening in the domestic affairs of the Congo, in violation of Security Council resolutions and the United Nations Charter. The United Nations troops were entitled as a matter of protection or in self-defence, to resort to arms for the purpose of overcoming armed resistance in fulfilling the task imposed upon them by the Security Council.

15. Several representatives contended that Belgian actions showed that Belgium was abiding by the Council's decisions and that the basic difficulty was a dispute of an internal character.

16. At the 885th meeting a draft resolution³² was submitted by the representatives of Ceylon and Tunisia, which would provide as follows:

"The Security Council,

"Recalling its resolution of 22 July 1960 (S/4405), *inter alia*, calling upon the Government of Belgium to implement speedily the Security Council resolution of 14 July (S/4387) on the withdrawal of its troops and authorizing the Secretary-General to take all necessary action to this effect,

"Noting, however, that the United Nations had been prevented from implementing the aforesaid resolutions in the province of Katanga although it was ready, and in fact attempted, to do so,

"2. Calls upon the Government of Belgium to withdraw immediately its troops from the province of Katanga under speedy modalities determined by the Secretary-General and to assist in every possible way the implementation of the Council's resolutions;

"3. Declares that the entry of the United Nations Force into the province of Katanga is necessary for the full implementation of this resolution;

"5. Calls upon all Member States, in accordance with Articles 25 and 49 of the Charter of the United Nations, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Council;

³² S C, 15th yr., Suppl. for July-Sept., p. 91, S/4426.

17. A draft resolution³³ submitted by the representative of the USSR would, *inter alia*, have noted that the Belgian Government was grossly violating the decisions of the Security Council calling for the speedy withdrawal of Belgian troops from the territory of the Congo and the maintenance of the territorial integrity and political independence of the Republic of the Congo, and would have imposed on the Secretary-General the obligation to take decisive measures, without hesitating to use any means to that end, to remove the Belgian troops from the territory of the Congo and to put an end to acts directed against the territorial integrity of the Republic of the Congo.³⁴

Decision

At the 886th meeting on 9 August 1960, the draft resolution submitted by Ceylon and Tunisia was adopted by 9 votes to none, with 2 abstentions.³⁵ The representative of the USSR did not press for a vote on his draft resolution.³⁶

(ii) Decision of 17 September 1960

18. At its 896th to 906th meetings inclusive, between 9 September and 17 September 1960, the Security Council again considered the situation in the Republic of the Congo at the request of the Secretary-General,³⁷ who had presented his fourth report on implementation of Council resolutions,³⁸ and at the request of the representative of Yugoslavia.³⁹

19. In his report the Secretary-General informed the Security Council about internal conflicts developing in the Congo and stated that parties to those conflicts obtained certain assistance from the outside, contrary to the spirit of the Security Council resolutions. The representative of Yugoslavia stated in his letter that there was a lack of strict implementation of Security Council resolutions, that the secessionist leaders in the Congo were receiving outside support and that such outside support had been facilitated by the practices adhered to by the Command of the United Nations Force under the appearance of non-intervention.

20. During the discussion several representatives contended that Belgium had not fully complied with Security Council resolutions about the withdrawal of Belgian troops from the Congo and was rendering assistance to the provincial government of Ka-

³³ S C, 15th yr., 885th mtg., para. 119.

³⁴ For text of relevant statements, see S C, 15th yr., 884th mtg.: Secretary-General, paras. 13, 19, 22 and 23; 885th mtg.: Belgium, paras. 24 and 31; Congo, paras. 7 and 15; Tunisia, paras. 52, 69 and 71; USSR, paras. 91, 105 and 110; United States, para. 47; 886th mtg.: Argentina, paras. 72 and 76; Belgium, para. 242; Ceylon, paras. 3 and 26; Ecuador, paras. 47 and 49; France, para. 173; Poland, para. 90; USSR, paras. 218, 227; United Kingdom, paras. 137 and 138.

³⁵ S C, 15th yr., 886th mtg., para. 272.

³⁶ *Ibid.*, para. 273.

³⁷ S C, 15th yr., Suppl. for July–Sept., p. 145, S/4488.

³⁸ *Ibid.*, p. 135, S/4482. In his *note verbale* of 8 September 1960 to the representative of Belgium, the Secretary-General explicitly referred to Article 25 of the Charter (*ibid.*, p. 139, S/4482 and Add. 1).

³⁹ *Ibid.*, p. 143, S/4485.

tanga. One representative stated that despite the successive resolutions of 14 and 22 July and 9 August 1960, in which the Security Council, with increasing firmness, enjoined the Belgian Government to withdraw its troops, they were still there after 29 August 1960, the date by which the Belgian Government had specifically undertaken to effect their complete withdrawal. The representative of Belgium stated in reply, at the 905th meeting on 16 September 1960, that there were no longer any Belgian combat troops in any part of the Congo and that officers of Belgian nationality in the Katanga gendarmerie had been placed under the direction and disciplinary authority of the local administration.

21. At the 906th meeting, on 16 September 1960, the representatives of Ceylon and Tunisia submitted a draft resolution⁴⁰ which would provide as follows:

“The Security Council,

“ . . .

“5. Reaffirms specifically:

“ . . .

“(b) Its call to all Member States, in accordance with Articles 25 and 49 of the Charter of the United Nations, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Council.”⁴¹

Decision

The draft resolution submitted by Ceylon and Tunisia was put to the vote. The result of the vote was 8 in favour to 2 against, with 1 abstention. The draft resolution was not adopted,⁴² one of the negative votes being that of a permanent member.

(b) Decision of 16 December 1966 in connexion with the situation in Southern Rhodesia

22. At the 1331st to 1333rd and 1335th to 1340th meetings, between 8 and 16 December 1966, the Security Council again considered the question relating to the situation in Southern Rhodesia,⁴³ at the request of the representative of the United Kingdom.

23. At the 1331st meeting the representative of the United Kingdom asserted that resolution 217 (1965) of 20 November 1965 calling upon all States to

⁴⁰ S C, 15th yr., Suppl. for July–Sept., p. 172, S/4523.

⁴¹ For text of relevant statements, see S C, 15th yr., 896th mtg.: Secretary-General, paras. 97, 104 and 108; Tunisia, para. 157; Yugoslavia, paras. 124, 125 and 131; 897th mtg.: President (Italy), para. 84; 901st mtg.: Tunisia, paras. 103 and 104; USSR, paras. 31, 38, 41, 57 and 58; 902nd mtg.: Argentina, paras. 12 and 15; United States, para. 33; 903rd mtg.: France, para. 36; USSR, para. 73; United Kingdom, para. 49; 904th mtg.: Ceylon, paras. 5 and 6; Poland, para. 61; 905th mtg.: Belgium, paras. 153, 156 and 157; Italy, paras. 17 and 19.

⁴² S C, 15th yr., 906th mtg., para. 157.

⁴³ On 6 May, 12 November, 20 November 1965, and 9 April 1966, the Security Council had adopted four resolutions in connexion with the situation in Southern Rhodesia in which it called, *inter alia*, for the prevention of the unilateral declaration of independence by Southern Rhodesia, and for various measures against Southern Rhodesia after independence had been unilaterally declared.

desist from providing the illegal régime of Southern Rhodesia with arms, equipment and military *matériel*, and to do their utmost to break all economic relations with Southern Rhodesia, including an embargo on oil and petroleum products, was based on voluntary action. The representative declared that his Government now came before the Council with a request that it reinforce with a resolution under Chapter VII of the Charter, the measures of economic pressure. He submitted a draft resolution which would provide as follows:

"The Security Council,

"Reaffirming its resolutions 216 (1965) of 12 November 1965, 217 (1965) of 20 November 1965 and 221 (1966) of 9 April 1966, and in particular its appeal to all States to do their utmost in order to break off economic relations with Southern Rhodesia,

"...

"Reaffirming that to the extent not superseded in this resolution, the measures provided for in resolution 217 (1965) of 20 November 1965, as well as those initiated by Member States in implementation of that resolution, shall continue in effect,

"...

"Acting in accordance with Articles 39 and 41 of the United Nations Charter,

"1. Decides that all States Members of the United Nations shall prevent:

"(a) The import into their territories of asbestos, iron ore, chrome, pig-iron, sugar, tobacco, copper, meat and meat products and hides, skins and leather originating in Southern Rhodesia and exported therefrom after the date of this resolution;

"(b) Any activities by their nationals or in their territories which promote or are calculated to promote the export of these commodities from Southern Rhodesia and any dealings by their nationals or in their territories in any of these commodities originating in Southern Rhodesia and exported therefrom after the date of this resolution, including in particular any transfer of funds to Southern Rhodesia for the purposes of such activities or dealings;

"(c) Shipment in vessels or aircraft of their registration of any of these commodities originating in Southern Rhodesia and exported therefrom after the date of this resolution;

"(d) Any activities by their nationals or in their territories which promote or are calculated to promote the sale or shipment to Southern Rhodesia of arms, ammunition of all types, military aircraft, military vehicles, and equipment and materials for the manufacture and maintenance of arms and ammunition in Southern Rhodesia;

"(e) Any activities by their nationals or in their territories which promote or are calculated to promote the supply to Southern Rhodesia of all other aircraft and motor vehicles and of equipment and materials for the manufacture, assembly or maintenance of aircraft and motor vehicles in

Southern Rhodesia; the shipment in vessels and aircraft of their registration of any such goods destined for Southern Rhodesia; and any activities by their nationals or in their territories which promote or are calculated to promote the manufacture or assembly of aircraft or motor vehicles in Southern Rhodesia⁴⁴

"notwithstanding any contracts entered into or licences granted before the date of this resolution;

"2. Calls upon all States Members of the United Nations to carry out this decision of the Security Council in accordance with Article 25 of the United Nations Charter;

"3. Urges, having regard to the principles stated in Article 2 of the United Nations Charter, States not Members of the United Nations to act in accordance with the provisions of paragraph 1 of the present resolution;

"4. Calls upon States Members of the United Nations or of the specialized agencies to report to the Secretary-General the measures each has taken in accordance with the provisions of paragraph 1 of the present resolution."

In presenting his draft resolution the representative of the United Kingdom emphasized that he was proposing mandatory selective sanctions against Southern Rhodesia only.

24. The view was expressed by several representatives that the intransigent position taken by the Smith régime and the failure of the negotiations with the United Kingdom and of the efforts by the United Nations were due primarily to the fact that Security Council resolution 217 (1965) had not been implemented by some of the Governments bordering on Southern Rhodesia as well as by some powerful States. Doubts were expressed as to the effectiveness of the proposed sanctions if they were applied without the active co-operation of South Africa and Portugal. Some representatives called for the extension of sanctions and their application to South Africa.

25. In opposing that view, one representative maintained that a conflict of limited dimensions was not solved by turning it into a conflict of much wider dimensions.

26. The view was expressed by some representatives that unlike the voluntary sanctions which the Council approved a year before those now requested were mandatory, and under Article 25 of the Charter all Members were obliged to carry them out. Furthermore, in accordance with Article 2 (6) of the Charter, all non-Members were called upon to do so too. One representative noted that the United Kingdom draft resolution made no mention of the sanctions to be applied to States which might refuse to submit to the Security Council decision. The suggestion was also made to include oil in the list of export commodities banned from Southern Rhodesia and to have general and comprehensive sanctions rather than selective sanctions.

27. One representative maintained that it was in the exclusive competence of the United Kingdom

⁴⁴ Paragraph 1 (e) was included by the United Kingdom at the 1339th meeting.

to deal with Southern Rhodesia, and although he could not associate his Government with the proposed decision, his Government would respond to the United Kingdom's appeal to the international community.

28. At the 1335th meeting, the representatives of Mali, Nigeria and Uganda submitted amendments, revised⁴⁵ at the 1338th meeting, to the draft resolution before the Council. The more important amendments were as follows:

"2. Before operative paragraph 1, insert the following two operative paragraphs and renumber operative paragraph 1 as operative paragraph 3:

"1. *Determines* that the present situation in Southern Rhodesia constitutes a threat to international peace and security;

"2. *Deplores*,

"(a) . . .

"(b) The action of States, notably Portugal and South Africa, which have been rendering support to the rebel régime in contravention of Security Council resolution 217 (1965) of 20 November 1965'.

"3. Amend sub-paragraph (a) of former operative paragraph 1 as follows: in the third line, insert between 'leather' and 'originating' the following: 'coal and all manufactured goods'.

"4. After sub-paragraph (d) of former operative paragraph 1, insert the following sub-paragraph:

"(e) Participation in their territories or territories under their administration or in land or air transport facilities or by their nationals or vessels of their registration in the supply of oil or oil products to Southern Rhodesia'.⁴⁶

"5. After former operative paragraph 1 (now operative paragraph 3), insert the following operative paragraphs:

" . . .

"5. *Invites* the Government of the United Kingdom to prevent by all means the transport to Southern Rhodesia of oil or oil products;

"6. *Reminds* Member States that the failure or refusal by any of them to implement the present resolution shall constitute a violation of Article 25 of the Charter; "

29. The representative of the United Kingdom objected to including in the draft resolution a request to prevent by all means the transport of oil or oil products to Southern Rhodesia.⁴⁷

⁴⁵ S C, 21st yr., Suppl. for Oct.—Dec., p. 180, S/7630/Rev. 1.

⁴⁶ Subparagraph (f) in final draft. See S C, 21st yr., 1340th mtg., para. 73.

⁴⁷ For text of relevant statements, see *ibid.*, 1331st mtg.; United Kingdom, paras. 5, 11, 22, 25–27 and 31; 1332nd mtg.: Argentina, paras. 48, 50, 52 and 59; Zambia, paras. 28 and 29; 1333rd mtg.: Japan, paras. 46, 47 and 49; Senegal, para. 38; United States, para. 23; 1335th mtg.: Uganda, paras. 13–15; 1336th mtg.: India, paras. 16–18; 1337th mtg.: Algeria, paras. 17 and 18; Netherlands, paras. 88–91; USSR, paras. 33–35, 38 and 50–53; 1339th mtg.: France, paras. 13 and 14; 1340th mtg.: Jordan, paras. 8–12; Nigeria, paras. 116, 117, 128 and 129; United Kingdom, paras. 53, 54 and 62; Uruguay, paras. 37, 38, 40 and 41.

Decisions

At the 1340th meeting of the Council, on 16 December 1966, of the amendments quoted in paragraph 27 above, paragraph 2 (b) of the second amendment, the third amendment and paragraph 5 of the fifth amendment were rejected, having failed to obtain the affirmative votes of nine members;⁴⁸ paragraph 1 of the second amendment, the fourth amendment and paragraph 6 of the fifth amendment were adopted.⁴⁹ The draft resolution submitted by the representative of the United Kingdom, as amended, was adopted by 11 votes to none, with 4 abstentions,⁵⁰ as resolution 232 (1966).

2. RECALLING OR REAFFIRMING PREVIOUS SECURITY COUNCIL DECISIONS, CENSURING NON-COMPLIANCE WITH COUNCIL DECISIONS, REQUESTING COMPLIANCE WITH THOSE DECISIONS

(a) *Decisions of 22 July, 13 December 1960, 21 February, 24 November 1961 in connexion with the situation in the Republic of the Congo*

(i) *Decision of 22 July 1960*

30. At the 877th to 879th meetings, inclusive, between 20 and 22 July 1960, the Security Council considered the first report of the Secretary-General⁵¹ on the implementation of Security Council resolution 143 (1960) of 14 July 1960 regarding military assistance to the Republic of the Congo and the withdrawal of Belgian troops.⁵² In his report the Secretary-General informed the Security Council on the establishment of the United Nations Force and its progress and on the state of the withdrawal of Belgian troops.

31. In presenting his report at the 877th meeting, the Secretary-General stated that, in his view, the resolution of 14 July 1960 clearly applied to the whole of the Territory of the Republic and, consequently, the United Nations Force was entitled to access to all parts of the territory in fulfilment of its duties. He informed the Security Council that that was made clear in his reply to a communication from Mr. Tshombé, president of the provincial government of Katanga. The Secretary-General further stated that his representatives in the Congo had taken initiatives to co-ordinate the implementation of the Security Council decision on the United Nations Force with the implementation of its decision on the withdrawal of Belgium troops and that a clarification of his mandate on that point would be useful.

32. The representative of the Republic of the Congo, requesting that the Security Council put an end to the aggressive action of Belgian troops in the Congo, stated that not only were they still in the territory of the Congo but that additional units were arriving, despite the Security Council resolution asking for their evacuation as quickly as possible. He further requested that no degree of recognition

⁴⁸ S C, 21st yr., 1340th mtg., paras. 87, 88 and 91.

⁴⁹ *Ibid.*, paras. 85, 89 and 92.

⁵⁰ *Ibid.*, para. 110.

⁵¹ S C, 15th yr., Suppl. for July—Sept., p. 16, S/4389 and Add. 1–3.

⁵² See also para. 20 above.

for an independent Katanga be permitted. In reply the representative of Belgium confirmed Belgium's assent to Security Council resolution 143 (1960) and expressed Belgium's preparedness to withdraw its troops as soon as sufficiently large numbers of United Nations troops arrived for their command to take responsibility for the public peace.

33. Several representatives who considered that Belgium was not complying with Security Council resolution 143 (1960), called for the immediate withdrawal of Belgian forces from the Congo and for respect of the territorial integrity of the new State. A draft resolution to that effect was submitted at the 877th meeting by the representative of the USSR.⁵³ In support of that draft it was emphasized that the most pressing problem was to put a stop to the military aggression of Belgium against the Republic of the Congo.

34. The view was expressed by several representatives that the provision of Security Council resolution 143 (1960) calling on the Government of Belgium to withdraw its troops was contingent upon the successful carrying out of the entire resolution by the United Nations, that is, upon the restoration of order by the United Nations Force in the Congo. Others were of the view that restoration of order, calm and safety was not the basic objective of resolution 143 (1960) but rather the withdrawal of the Belgian troops from the Congo. It was also argued that in Katanga the object of the Belgian intervention was to enable Katanga to separate itself from the rest of the Congo.

35. At the 878th meeting of the Security Council, a draft resolution was submitted by the representatives of Ceylon and Tunisia⁵⁴ which would provide as follows:

"The Security Council,

"Having considered the first report by the Secretary-General (S/4389 and Add. 1-3) on the implementation of Security Council resolution S/4387 of 14 July 1960,

"...

"1. Calls upon the Government of Belgium to implement speedily the Security Council resolution of 14 July 1960 on the withdrawal of its troops, and authorizes the Secretary-General to take all necessary action to this effect;

"2. Requests all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and the political independence of the Republic of the Congo;

"...

"5. Invites the specialized agencies of the United Nations to render to the Secretary-General such assistance as he may require;⁵⁵

"..."

⁵³ S C, 15th yr., 877th mtg., para. 176.

⁵⁴ S C, 15th yr., 878th mtg., para. 39.

⁵⁵ The Secretary-General referred to that paragraph of the resolution, after it had been adopted, as a new obligation for

36. It was argued by one of the sponsors that it would be difficult to make effective a call for "immediate" implementation by Belgium of Security Council resolution 143 (1960), that there should be some connexion between the withdrawal of the Belgian troops and the establishment of the United Nations Force, and that the United Nations should have the right to decide if the United Nations Force had been sufficiently strengthened to assure the maintenance of law and order.⁵⁶

Decision

At the 879th meeting, on 22 July 1960, the draft resolution submitted by Ceylon and Tunisia was adopted unanimously⁵⁷ as resolution 145 (1960). The representative of the USSR did not press for a vote on his draft resolution.⁵⁸

(ii) Decision of 13 December 1960

37. At the 912th to 920th meetings, between 7 December and 13/14 December 1960, the Security Council considered the situation in the Republic of the Congo, at the request of the representative of the USSR. In its statement of 6 December 1960 the Government of the USSR declared, *inter alia*, that the decisions of the Security Council had not been carried out in the Congo by the United Nations representatives, including the Secretary-General, and called for the removal from the Congo of all Belgian troops and officials in accordance with decisions taken by the Security Council and by the special session of the General Assembly.⁵⁹

38. The Secretary-General stated that the aim of the United Nations Operation in the Congo was to protect life and property within the Congo, in danger after the breakdown of the national security system, and consequently, to eliminate the purported necessity for Belgian military intervention. The principles of the operation were that the Organization should maintain a position of strict neutrality in relation to all domestic problems of a political nature in which the Organization had no right to interfere. Forcible intervention in internal constitutional and political conflict would not be compatible with the basic principles of Article 2,⁶⁰ but since the United Nations

the specialized agencies, since the Security Council's decision, under Chapter VII of the Charter, was mandatory in relation to Governments and therefore, necessarily so in relation to governmental organizations (S C, 15th yr., Suppl. for July—Sept., p. 60, S/4417/Add.5).

⁵⁶ For text of relevant statements, see S C, 15th yr., 877th mtg.: Secretary-General, paras. 15, 16 and 18; Belgium, paras. 106 and 142; Congo, paras. 51, 52 and 59; USSR, paras. 149, 150 and 174; United States, para. 188; 878th mtg.: Argentina, para. 131; Ceylon, paras. 72 and 74; Poland, paras. 104 and 106; Tunisia, paras. 22, 25, 29, 30 and 37; 879th mtg.: China, para. 34; Ecuador, para. 79; France, paras. 55 and 60; Italy, para. 6; USSR, paras. 100 and 120; United Kingdom, para. 27.

⁵⁷ S C, 15th yr., 879th mtg., para. 108.

⁵⁸ *Ibid.*, para. 109.

⁵⁹ S C, 15th yr., Suppl. for Oct.—Dec., p. 75, S/4573.

⁶⁰ The Secretary-General referred to Article 25 in his letter of 14 December 1960 addressed to the President of the Republic of the Congo (Leopoldville). See S C, 15th yr., Suppl. for Oct.—Dec., p. 102, S/4599.

Force had been requested to assume functions in rejected to law and order, there was a legal basis for the Secretary-General to concern himself with the observance of elementary and generally accepted human rights. The first aim of the operation, namely, the withdrawal of Belgian troops from the territory of the Congo, had been achieved before the end of August, and the establishment of peace and order in the territory had appeared some months before to be close to realization, but then the situation changed and internal struggles ensued.

39. The view was expressed by several representatives that Belgium was not complying with previous Security Council and General Assembly resolutions and continued its interference in Congolese affairs.

40. At the 914th meeting of the Council, the representative of the USSR submitted a draft resolution⁶¹ which would provide as follows:

“*The Security Council,*

“ . . .

“*Calls upon the Government of Belgium, in accordance with the decision of the United Nations Security Council and the special emergency session of the United Nations General Assembly, immediately to withdraw Belgian military, paramilitary and civil personnel from the Congo.*”

41. Several representatives denied that the presence of Belgian civilian personnel in the Congo was in contravention of obligations under Security Council resolutions, and it was stated that Belgium had carried out the decisions of the Council.

42. Referring to the difficulties in the way of the movement of *matériel* and essential provisions for the United Nations Force, due to the obstructive actions of the Congolese Government, one representative asserted that those actions were a violation of Article 25 of the Charter, since the United Nations forces were in the Congo to implement Security Council decisions taken at the request of the Republic of the Congo.⁶²

Decision

At the 920th meeting on 13 December 1960, the draft resolution submitted by the USSR was rejected⁶³ by 8 votes to 2, with 1 abstention.

(iii) *Decision of 21 February 1961*

43. At the 928th to 942nd meetings, inclusive, between 1 and 21 February 1961, the Security Council again considered the situation in the Re-

⁶¹ S C, 15th yr., 914th mtg., para. 62.

⁶² For text of relevant statements, see S C, 15th yr., 913th mtg.: Secretary-General, paras. 16, 25, 29, 31, 39, and 46; 914th mtg.: Argentina, para. 97; USSR, paras. 49 and 58; 915th mtg.: Yugoslavia, para. 128; 916th mtg.: Secretary-General, para. 7; Ecuador, para. 77; Indonesia, para. 128; Italy, para. 46; United Arab Republic, paras. 89, 119 and 120; 917th mtg.: Ceylon, para. 19; China, paras. 7 and 13; India, paras. 100 and 162; 918th mtg.: France, paras. 63, 66 and 67; Poland, para. 43; Tunisia, paras. 81–84, 117 and 124; 919th mtg.: Guinea, para. 24; Yugoslavia, para. 140; 920th mtg.: Secretary-General, paras. 73 and 74; Ceylon, para. 119; Guinea, para. 183; Indonesia, para. 9; Tunisia, para. 136; USSR, para. 50; United States, para. 211.

⁶³ S C, 15th yr., 920th mtg., para. 159.

public of the Congo and examined recent events there which, it was alleged, had created a threat to international peace and security. The consideration was requested by the President of the Republic of the Congo (Leopoldville) and the President of the College of Commissioners-General and Commissioner-General for Foreign Affairs,⁶⁴ by the representatives of Ceylon, Ghana, Guinea, Mali, Morocco, United Arab Republic and Yugoslavia⁶⁵ and by the representative of the USSR.⁶⁶

44. It was stated by several representatives during the discussion that Belgium had not complied with previous Security Council resolutions, since it had not withdrawn its personnel and had not ceased to interfere in the internal affairs of the Republic of the Congo. Statements were further made to the effect that Belgian withdrawal was either incomplete or not at all *bona fide* and that Belgian military, paramilitary and civilian personnel were still in the Congo. Belgian non-compliance with Security Council resolutions was referred to as the chief reason for the deterioration of the situation in the Republic of the Congo, culminating in the transfer to the province of Katanga of Patrice Lumumba and some of his associates.

45. The representative of the Congo (Leopoldville) and several other representatives asserted that, by supplying arms and equipment to the followers of Antoine Gizenga in Stanleyville, the United Arab Republic violated provisions of the Security Council resolutions concerning non-interference in the internal affairs of the Congo. It was asserted by other representatives that bilateral foreign military aid was still arriving in the Congo in contravention of Security Council and General Assembly resolutions and that all foreign military aid should therefore be removed from the Congo.

46. At the 933rd meeting, on 13 February 1961, the Secretary-General reported concerning the death of Mr. Lumumba and his two colleagues. During the discussion at subsequent meetings, several representatives asserted that that tragic event was the result of Belgian defiance of Security Council resolutions and that enforcement action provided for in the Charter was needed to ensure Belgium's compliance.⁶⁷

⁶⁴ S C, 16th yr., Suppl. for Jan.—March, p. 59, S/4639.

⁶⁵ *Ibid.*, p. 62, S/4641.

⁶⁶ *Ibid.*, p. 66, S/4644.

⁶⁷ For text of relevant statements, see S C, 16th yr., 928th mtg.: United Arab Republic, para. 126; 929th mtg.: India, paras. 75, 79, 80 and 83; 930th mtg.: Belgium, para. 105; Morocco, paras. 11, 31 and 37; USSR, paras. 52, 55 and 64; 931st mtg.: Guinea, paras. 87, 88 and 94; Indonesia, para. 139; 932nd mtg.: Congo (Leopoldville), paras. 22, 24 and 25; Ecuador, para. 109; France, paras. 81 and 97; United Arab Republic, para. 128; 933rd mtg.: Secretary-General, paras. 2–4; 934th mtg.: USSR, paras. 72, 76, 80 and 106; United States, paras. 34 and 58; 935th mtg.: Belgium, para. 93; 936th mtg.: Ecuador, para. 11; 937th mtg.: Poland, para. 9; Sudan, paras. 158 and 169; 938th mtg.: Czechoslovakia, paras. 41 and 48; Iraq, para. 67; Liberia, paras. 8 and 9; United Arab Republic, paras. 15 and 26; 939th mtg.: Central African Republic, paras. 64 and 66; Yugoslavia, para. 5, 14 and 15; 941st mtg.: India, paras. 44 and 46; Morocco, para. 153; Pakistan, para. 122; United States, paras. 80 and 84–87; 942nd mtg.: Belgium, para. 240; United Kingdom, para. 11.

47. At the 939th meeting the representatives of Ceylon, Liberia and the United Arab Republic submitted a draft resolution⁶⁸ which would provide as follows:

“*The Security Council,*

“... ”

“1. *Urges* that the United Nations take immediately all appropriate measures to prevent the occurrence of civil war in the Congo, including arrangements for cease-fires, the halting of all military operations, the prevention of clashes, and the use of force, if necessary, in the last resort;

“2. *Urges* that measures be taken for the immediate withdrawal and evacuation from the Congo of all Belgian and other foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries;

“3. *Calls upon* all States to take immediate and energetic measures to prevent the departure of such personnel for the Congo from their territories, and for the denial of transit and other facilities to them;

“4. *Decides* that an immediate and impartial investigation be held in order to ascertain the circumstances of the death of Mr. Lumumba and his colleagues and that the perpetrators of these crimes be punished;

“5. *Reaffirms* the Security Council resolutions of 14 July, 22 July and 9 August 1960 and the General Assembly resolution 1474 (ES-IV) of 20 September 1960 and reminds all States of their obligations under these resolutions.”

Decision

The draft resolution submitted by Ceylon, Liberia and the United Arab Republic was adopted⁶⁹ by 9 votes to none, with 2 abstentions, as resolution 161 (1961).

(iv) Decision of 24 November 1961

48. At the 973rd to 979th and 982nd meetings, between 13 November and 24 November 1961, the Security Council considered the situation in the Republic of the Congo at the request of the representatives of Ethiopia, Nigeria and Sudan, pursuant to their letter⁷⁰ dated 3 November 1961 which referred to the situation prevailing in the province of Katanga, caused by the lawless acts of mercenaries.

49. It was asserted during the discussion that Security Council resolution 161 (1961) of 21 February 1961 had not been fully carried out and that it was therefore necessary for the Security Council once again to deal with the Congolese question.⁷¹ The

⁶⁸ S C, 16th yr., Suppl. for Jan.—March, p. 147, S/4741.

⁶⁹ S C, 16th yr., 942nd mtg., para. 95.

⁷⁰ S C, 16th yr., Suppl. for Oct.—Dec., p. 66, S/4973.

⁷¹ In communicating with Belgium and other Member States concerning the implementation of Security Council resolutions and, in particular, of resolution 161 (1960), the Secretary-General referred explicitly to Article 25, and to the

view was also expressed that the secession of the province of Katanga was the result of Belgian interference in the internal affairs of the Republic of the Congo despite Security Council resolutions. Several representatives asserted that Belgian officers were participating in actions directed by the Katangese gendarmerie against the United Nations Force even after the Secretary-General had brought that violation of Security Council resolution 161 (1961) to the attention of the Belgian Government. One representative declared that the mercenaries in the Congo had been instrumental in frustrating the observance by their native lands of the obligations imposed by Article 25 of the Charter. Some representatives called for mercenaries to be brought to justice in their native countries. Mention was made in that respect of the Secretary-General's Annual Report⁷² to the General Assembly at its sixteenth session in which the Secretary-General stated that he had drawn the attention of the Belgian Government to the fact that since Council resolutions were mandatory under Article 25 of the Charter, States were under a legal obligation to adapt their national legislation to the extent necessary to give effect to those resolutions.

50. The representative of France maintained that France had adopted the measures recommended in paragraph 3 of resolution 161 A (1961) so far as its nationals were concerned; it had also taken steps to prevent its territory from being used for the recruitment of stateless persons or foreigners by the Katangese authorities. The representative of Belgium declared that, except so far as Katanga was concerned, his Government was prepared to recall from the Congo all persons who were acknowledged to be covered by Security Council resolution 161 (1961) and who were answerable to the Belgian Government. He also referred to the existing prohibition on the recruitment of mercenaries in Belgium and to the difficulties in determining who was a mercenary in Katanga. The representative of the Congo (Leopoldville) mentioned the delivery of aircraft by the Federal Republic of Germany to a Belgian firm and then to Katanga and the continued recruitment of mercenaries in France as violations of United Nations resolutions.

51. At the 974th meeting the representatives of Ceylon, Liberia and the United Arab Republic

obligations of Member States under that Article. See *note verbale* of 22 February 1961 to the representative of Belgium (S C, 16th yr., Suppl. for Jan.—March, p. 178, S/4752); letter of 23 February 1961 to all States Members of the Organization (*ibid.*, annex III, p. 182); letter of 27 February 1961 to the President of the Republic of the Congo (Leopoldville) (*ibid.*, annex IV, p. 183); *note verbale* of 2 March 1961 to the representative of Belgium (*ibid.*, p. 190); letter of 2 March 1961 to the President of the Republic of the Congo (Leopoldville) (*ibid.*, p. 193, S/4752/Add. 1); message of 2 March 1961 to Mr. Tshombé through the Special Representative of the Secretary-General in the Congo (*ibid.*, p. 195); *note verbale* of 8 March 1961 to the representative of Belgium (*ibid.*, p. 201, S/4752/Add. 4); message of 8 March 1961 to the President of the Republic of the Congo (Leopoldville) (*ibid.*, p. 261, S/4775); message of 12 March 1961 to the President of the Republic of the Congo (Leopoldville) (*ibid.*, p. 269, S/4775); second report of the Secretary-General on certain steps taken in regard to the implementation of the Security Council resolution 161 (1961) (*ibid.*, Suppl. for April—June, p. 43, S/4807, para. 4).

⁷² G A, (XVI), Suppl. No. 1.

submitted a draft resolution, later revised,⁷³ the aim of which was said to be the effective implementation of Security Council resolution 161 (1961). After certain amendments were voted on and introduced into the text⁷⁴ the draft resolution would provide as follows:

"The Security Council,

"Recalling its resolutions S/4387, S/4405, S/4426 and S/4741,

"Recalling further General Assembly resolutions 1474 (ES-IV), 1592 (XV), 1599 (XV), 1600 (XV) and 1601 (XV),

"Reaffirming the policies and purposes of the United Nations with respect to the Congo (Leopoldville) as set out in the aforesaid resolutions, namely,

"(a) To maintain the territorial integrity and the political independence of the Republic of the Congo,

"(b) To assist the Central Government of the Congo in the restoration and maintenance of law and order,

"(c) To prevent the occurrence of civil war in the Congo,

"(d) To secure the immediate withdrawal and evacuation from the Congo of all foreign military, paramilitary and advisory personnel not under the United Nations Command, and all mercenaries, and

"(e) To render technical assistance,

"...

"Bearing in mind the imperative necessity of speedy and effective action to implement fully the policies and purposes of the United Nations in the Congo to end the unfortunate plight of the Congolese people, necessary both in the interests of world peace and international co-operation, and stability and progress of Africa as a whole,

"1. Strongly deprecates the secessionist activities illegally carried out by the provincial administration of Katanga, with the aid of external resources and manned by foreign mercenaries;

"...

"8. Declares that all secessionist activities against the Republic of the Congo are contrary to the 'Loi fondamentale' and Security Council decisions and specifically demands that such activities which are now taking place in Katanga shall cease forthwith;

"9. Declares full and firm support for the Central Government of the Congo, and the determination to assist that Government, in accordance with the decisions of the United Nations to maintain law and order and national integrity, to provide technical assistance and to implement those decisions;

"10. Urges all Member States to lend their support, according to their national procedures, to the Central Government of the Republic of

the Congo, in conformity with the Charter and the decisions of the United Nations;

*"11. Requests all Member States to refrain from any action which may directly or indirectly impede the policies and purposes of the United Nations in the Congo and is contrary to its decisions and the general purpose of the Charter."*⁷⁵

Decision

At the 982nd meeting of the Council, on 24 November 1961, the draft resolution, as amended, was adopted by 9 votes to none, with 2 abstentions,⁷⁶ as resolution 169 (1961).

(b) *Decisions of 11 April 1961, 9 April 1962 and 3 August 1966 in connexion with the Palestine question*

(i) *Decision of 11 April 1961*

52. At the 947th to 949th meetings, held between 6 April and 11 April 1961, the Security Council considered the Palestine question at the request of the representative of Jordan. In its letter of submission⁷⁷ Jordan asserted that the contemplated Israel military parade in the Israeli-occupied part of the Holy City of Jerusalem would be a violation of the General Armistice Agreement and a contravention of the decision of the Israel-Jordan Mixed Armistice Commission, adopted on 20 March 1961.

53. At the 947th meeting of the Council the representative of Jordan stated that tanks, armoured vehicles and heavy artillery far in excess of arms allowed in the Jerusalem sector under annex II of the General Armistice Agreement were observed in Jerusalem on the Israel side during a rehearsal of the parade. He referred to the Mixed Armistice Commission's condemnation of that act by Israel as a breach of the Armistice Agreement and called for the Security Council to endorse that condemnation since the General Armistice Agreement was signed by Jordan and Israel, under United Nations chairmanship, in order to implement Security Council resolution 62 (1948) of 16 November 1948. The representative of Israel maintained that the refusal of Arab States to make peace with Israel, contrary to their obligations under the Charter, United Nations resolutions and the General Armistice Agreement, was the basis of the difficulties and not the contemplated parade which he termed a minor matter of a technical character. One representative noted that Israel parades had taken place in Jerusalem previously without contentions that they were violations of the Armistice Agreement.

54. It was asserted by several representatives during the discussion that the planned staging of the military

⁷³ For text of relevant statements, see S C, 16th yr., 973rd mtg.: Ethiopia, paras. 36, 38, 55 and 58; 974th mtg.: Belgium, paras. 94, 105, 108 and 112; France, para. 62; Liberia, paras. 10, 22 and 25; Sweden, para. 79; United Arab Republic, paras. 31, 38 and 48; 975th mtg.: Ceylon, paras. 28 and 33; USSR, paras. 88, 89 and 102; United States, paras. 50-53; 976th mtg.: Congo (Leopoldville), paras. 198-201; 977th mtg.: Ecuador, para. 31; Chile, paras. 12 and 13.

⁷⁶ S C, 16th yr., 982nd mtg., para. 99.

⁷⁷ S C, 16th yr., Suppl. for April-June, p. 1, S/4777.

⁷³ S C, 16th yr., Suppl. for Oct.-Dec., p. 132, S/4985/Rev.1.

⁷⁴ S C, 16th yr., 982nd mtg., paras. 77-84.

parade in the Israel part of Jerusalem would be a breach of the General Armistice Agreement. It was also stated that decisions of the mixed Armistice Commission were legally binding and that the Security Council should uphold them.

55. At the 948th meeting of the Council the representatives of Ceylon and the United Arab Republic submitted a draft resolution⁷⁸ which would, in operative paragraphs 1 and 2, endorse the decision of the Mixed Armistice Commission of 20 March 1961 and urge Israel to comply with that decision. At the 949th meeting of the Council the representative of the United States submitted an amendment⁷⁹ to the draft resolution by which the Security Council would also request the members of the Mixed Armistice Commission to co-operate so as to ensure that the General Armistice Agreement would be complied with.⁸⁰

Decisions

At the 949th meeting on 11 April 1961, the amendment submitted by the United States was adopted⁸¹ by 7 votes to none, with 4 abstentions. The draft resolution submitted by Ceylon and the United Arab Republic, as amended, was adopted⁸² by 8 votes to none, with 3 abstentions, as resolution 162 (1961).

(ii) Decision of 9 April 1962

56. At the 999th to 1005th meetings, between 28 March 1962 and 9 April 1962, the Security Council considered complaints by Syria and Israel.⁸³ Syria maintained that a grave situation had arisen from the acts of aggression committed by Israel on the Syrian frontier and in the demilitarized zone. Israel, on the other hand, asserted that Syrian armed forces had committed recurrent acts of aggression and provocation.

57. During consideration of the complaints the representative of Syria declared that Israel was flouting the Armistice Agreement as well as the decisions of the Security Council and submitted a draft resolution⁸⁴ which would have the Council, *inter alia*, condemn Israel for its attack in violation of Council resolution 54 (1948) of 15 July 1948 and again warn Israel of the Security Council's resolve to call for appropriate sanctions against it.

58. Israel maintained that the Armistice Agreement had been violated by Syria. Several representatives declared that Israel actions violated the Armistice

⁷⁸ S C, 16th yr., 948th mtg., para. 20.

⁷⁹ S C, 16th yr., Suppl. for April—June, p. 9, S/4785.

⁸⁰ For text of relevant statements, see S C, 16th yr., 947th mtg.: Israel, paras. 36, 38, 54, 56, 57 and 61; Jordan, paras. 13, 22, 25 and 27; USSR, paras. 86 and 91; United Arab Republic, paras. 68—71; 948th mtg.: China, para. 31; France, paras. 13 and 14; Israel, para. 53; Turkey, para. 49; United Kingdom, para. 39; 949th mtg.: Chile, para. 35; Ecuador, paras. 47 and 48; Jordan, para. 28; Liberia, para. 15; United Arab Republic, para. 52; United States, paras. 2, 4 and 9.

⁸¹ S C, 16th yr., 949th mtg., para. 75.

⁸² *Ibid.*, para. 76.

⁸³ S C, 17th yr., Suppl. for Jan.—March, p. 97, S/5096 and S/5098.

⁸⁴ S C, 17th yr., Suppl. for April—June, p. 93, S/5107/Rev. 1.

Agreement, its international commitments and previous resolutions of the Security Council, and they deplored at the same time military actions undertaken by both sides.⁸⁵

59. At the 1005th meeting of the Council the representatives of the United Kingdom and the United States submitted a draft resolution⁸⁶ which would provide as follows:

“*The Security Council,*

“*Recalling* its resolutions of 15 July 1948 and 18 May 1951,

“ . . .

“2. *Reaffirms* the Security Council resolution of 19 January 1956 which condemned Israeli military action in breach of the General Armistice Agreement, whether or not undertaken by way of retaliation;

“3. *Determines* that the Israeli attack of 16 to 17 March 1962 constitutes a flagrant violation of that resolution and calls upon Israel scrupulously to refrain from such action in the future;

“ . . .

“6. *Calls for* strict observance of article V of the General Armistice Agreement which provides for the exclusion of armed forces from the Demilitarized Zone and annex IV of that Agreement which sets limits on forces in the defensive area and calls upon the Governments of Israel and the Syrian Arab Republic to co-operate with the Chief of Staff in eliminating any violations thereof;”.

Decision

At its 1006th meeting, on 9 April 1962, the Council adopted the draft resolution submitted by the representatives of the United Kingdom and the United States, by 10 votes to none, with 1 abstention, as its resolution 171 (1962).⁸⁷ Syria did not press for a vote, on its draft resolution.⁸⁸

(iii) Decision of 3 August 1966

60. At the 1288th to 1295th meetings, between 25 July and 3 August 1966, the Security Council again considered the Palestine question. By letter⁸⁹ dated 21 July 1966, the representative of Syria requested the President of the Security Council to convene an urgent meeting to consider “the grave situation arising from the act of aggression committed by Israel”. By letter⁹⁰ dated 22 July 1966, the representative of Israel also requested the convening of an urgent meeting of the Council to consider its

⁸⁵ For text of relevant statements, see S C, 17th yr., 999th mtg.: Israel, paras. 59, 60 and 91; Syria, paras. 14, 15, 22 and 27; USSR, paras. 148—150; United States, para. 101; 1000th mtg.: Syria, para. 59; 1002nd mtg.: France, para. 19; USSR, para. 45; 1003rd mtg.: China, para. 7; Romania, para. 57; United Kingdom, para. 31; 1004th mtg.: Venezuela, para. 12; 1005th mtg.: Ghana, para. 11; United States, paras. 25 and 27.

⁸⁶ S C, 17th yr., Suppl. for April—June, p. 95, S/5110 and Corr. 1, same text as S/5511.

⁸⁷ S C, 17th yr., 1006th mtg., para. 106.

⁸⁸ *Ibid.*, para. 105.

⁸⁹ S C, 21st yr., Suppl. for July—Sept., p. 38, S/7419.

⁹⁰ *Ibid.*, p. 39, S/7423.

complaints against "acts of aggression committed by Syrian armed forces and by armed saboteur groups" and against declarations by official spokesmen of the Syrian Government containing threats against Israel.

61. During the discussion several representatives stated that by its attack against Syria, Israel had violated the General Armistice Agreement in defiance of Security Council resolutions. One representative observed that Israel had already been condemned by the Security Council for its actions against Syria and some other neighbouring States. It was further argued that the doctrine of retaliation proclaimed in the Government of Israel's documents and declarations and applied by that Government in its relations with its neighbours was contrary to the Charter and contradicted the General Armistice Agreement and that Israel's policy was contrary to decisions of the Council.

62. Several representatives deplored the actions of Israel against Syrian territory but noted that Syria had not fully implemented the General Armistice Agreement and called on both sides to abide scrupulously by their obligations under that Agreement and under the United Nations Charter.

63. The representative of Israel stated that actions of the Israel forces were of a brief and limited character and were taken in retaliation for violations by Syria of the General Armistice Agreement. Referring to alleged violations of previous Council resolutions by Israel, he stated that his Government regarded its actions as justified, and took them as the Government of a sovereign State responsible for its own security.

64. At the 1292nd meeting, on 29 July 1966, the representative of Jordan submitted a draft resolution⁹¹ co-sponsored by Mali which would provide as follows:

"The Security Council,

"...

"Recalling its resolutions 111 (1956) of 19 January 1956 and 171 (1962) of 9 April 1962, and in particular the provisions in these two resolutions relevant to the maintenance of the Armistice and the settlement of the disputes through the intermediary of the Mixed Armistice Commission,

"...

"1. *Condemns* Israel's wanton attack of 14 July 1966, as a flagrant violation of the cease-fire provisions of Security Council resolution 54 (1948) of 15 July 1948, of the terms of the General Armistice Agreement between Israel and Syria, and of Israel's obligations under the Charter of the United Nations;

"...

"3. *Reaffirms* resolutions 111 (1956) and 171 (1962), and deplores the resumption by Israel of aggressive acts unequivocally condemned by these resolutions;

"4. *Reminds* Israel that the Security Council has already condemned military action in breach of the General Armistice Agreement, and has called upon Israel to take effective measures to prevent such action;

"5. *Reiterates* its call on Israel to comply with its obligations under the Charter in default of which the Council will have to consider what further measures should be invoked;

"6. *Calls upon* the Government of Israel and Syria to co-operate with the Chief of Staff in carrying out his responsibilities under the General Armistice Agreement and the pertinent resolutions of the Security Council, and urges that all steps necessary for reactivating the Mixed Armistice Commission and for making full use of the Mixed Armistice machinery be promptly taken."

65. The draft resolution was contested on the ground that it would not induce both parties to adhere to the Armistice Agreement and that it pointed only in one direction though both Israel and Syria bore responsibility for the violence along the borders. Concerning the references to previous Council decisions, one representative stated that some of the previous resolutions had been adopted as a consequence of the situation existing at the time of their adoption and doubted their validity in the circumstances under consideration. Another representative noted, in opposing the draft resolution, that if the States Members of the United Nations did not abide by the decisions of the Security Council and if the measures prescribed in the Charter failed, States Members had to have recourse to arbitration as a means of preventing any breaches of the peace.⁹²

Decision

At the 1295th meeting, on 3 August 1966, the draft resolution submitted by Jordan and Mali was not adopted,⁹³ having failed to obtain the affirmative vote of nine members. There were 6 votes in favour, none against, with 9 abstentions.

(c) *Decision of 29 July 1961 in connexion with a complaint by Tunisia*

66. At the 964th to 966th meetings, on 28 and 29 July 1961, the Security Council again considered a complaint by Tunisia against France. In a letter⁹⁴ dated 27 July 1961, addressed to the President of the Security Council, the representative of Tunisia stated that the French military forces refused to comply with interim resolution 164 (1961), adopted by the Council on 22 July 1961, which called for

⁹² For text of the relevant statements, see S C, 21st yr., 1288th mtg.: Israel, paras. 137, 142 and 143; Syria, paras. 88, 92 and 108-111; USSR, para. 201; 1289th mtg.: Iraq, paras. 7 and 22; Israel, para. 73; Jordan, para. 67; 1290th mtg.: Syria, paras. 29 and 36; 1291st mtg.: United Kingdom, para. 25; United States, paras. 10 and 16; 1292nd mtg.: Bulgaria, paras. 27, 28 and 30; Israel, paras. 113 and 114; Jordan, paras. 32, 33-40 and 46; New Zealand, paras. 81 and 82; 1293rd mtg.: Netherlands, paras. 9, 12, 14, 16 and 18; Uruguay, paras. 37, 55 and 57; 1295th mtg.: Japan, para. 25; Jordan, para. 56; United States, para. 86.

⁹³ S C, 21st yr., 1295th mtg., para. 76.

⁹⁴ S C, 16th yr., Suppl. for July-Sept., p. 33, S/4893.

⁹¹ S C, 21st yr., Suppl. for July-Sept., p. 59, S/7437.

“an immediate cease-fire and a return of all armed forces to their original position”. The French military authorities operating in the Bizerta region had openly expressed, in violation of the provisions of the Security Council resolution, the deliberate intention of not returning to their original positions. Despite those clear provocations, the Tunisian Government had so far succeeded in applying the Security Council decision fully and faithfully.

67. In a letter dated 28 July 1961, placed before the Council at the request of the French representative at the 964th meeting, the French representative stated that the French delegation had no new facts to communicate to the Council and that the cease-fire at Bizerta and in the Sahara had been established and was being observed. Of course, agreement still had to be reached between the French and Tunisian authorities concerning procedures for restoring normal conditions in Bizerta. The French authorities had proposed that talks be opened with that end in view. In the circumstances the French delegation did not consider it necessary to associate itself with any discussions which might take place in the Security Council.

68. The representative of Tunisia stated that his Government, being fully aware of its duty, under Article 25 of the Charter, towards Council decisions, had executed quickly and in good faith Security Council interim resolution 164 (1961) but that France had not, and asked the Council to act vigorously to enforce its decisions. Several representatives stated that France was disregarding the resolution of the Security Council.

69. At the 965th meeting the representatives of Ceylon, Liberia and the United Arab Republic submitted a draft resolution,⁹⁵ which would provide as follows:

“*The Security Council,*

“ . . .

“*Having adopted* an interim resolution [S/4882] requesting an immediate cease-fire and the return of all armed forces to their original positions,

“1. *Expresses* its serious concern over the fact that France has not complied fully with the above resolution and that the situation continues to represent a serious threat to international peace and security;

“2. *Invites* France to comply immediately with all the provisions of the interim resolution.”

70. A draft resolution⁹⁶ was submitted by the representative of Turkey at the same meeting which, *inter alia*, would mention resolution 164 (1961) and express concern that it had not been fully carried out and call for its immediate and full implementation.⁹⁷

⁹⁵ S C, 16th yr., Suppl. for July—Sept., p. 47, S/4903.

⁹⁶ *Ibid.*, p. 48, S/4905.

⁹⁷ For text of relevant statements, see S C, 16th yr., 964th mtg.: Libe ia, para. 180; Tunisia, paras. 7, 16, 17, 23, 28 and 57; USSR, paras. 101, 108, 110 and 115; United States, para. 162; 965th mtg.: Liberia, paras. 1, 9 and 13; Turkey, para. 20; 966th mtg.: China, para. 7; Tunisia, para. 18.

Decision

At the 966th meeting, on 24 July 1966, neither draft resolution was adopted, each having failed to obtain the affirmative vote of seven members.⁹⁸

(d) *Decisions of 22 June 1962, 4 September, 6 September, 20 September, 27 September and 5 November 1965 in connexion with the India-Pakistan question*⁹⁹

(i) *Decision of 22 June 1962*

71. At its 990th and 1007th to 1016th meetings, between 1 February and 22 June 1962, the Security Council again considered the India-Pakistan question as requested by the representative of Pakistan.¹⁰⁰ In his first request, addressed to the President of the Security Council and dated 11 January 1962, the representative of Pakistan stated that the Security Council should consider the India-Pakistan question in order to speed up the settlement of the dispute in conformity with the two resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949, accepted both by India and by Pakistan.

72. At the 990th meeting of the Council, the representative of Pakistan contended that those resolutions, which became the international agreement between the two sides “were recorded also by the Security Council” and had not been fully implemented because no withdrawal plan had been agreed upon. Once a truce plan had been agreed upon, under section C, part II of the resolution of 13 August 1948, Pakistan would begin the withdrawal of its troops from Azad Kashmir, and then the withdrawal would proceed in a synchronized manner until all of the Pakistan troops, on one side, and the bulk of the Indian troops, on the other, had been withdrawn.

73. In reply the representative of India stated at the 1009th meeting that whatever the United Nations Commission for India and Pakistan might have said with regard to the implementation of the first part of the resolution of 13 August 1948 in the early half of 1949, those conditions had long ceased to

⁹⁸ S C, 16th yr., 966th mtg., paras. 64 and 67.

⁹⁹ At the 1087th to 1093rd, 1104th, 1105th and 1112th to 1117th meetings, between 3 February and 18 May 1964, the Security Council considered the India-Pakistan question at the request of the representatives of Pakistan and India (S C, 19th yr., Suppl. for Jan.—March, p. 26, S/5517 and p. 38, S/5522). At those meetings, the representatives discussed the state of implementation of previous Security Council resolutions and their validity. No decision of substance was adopted. At the 1117th meeting of the Council, the President (France) presented (*ibid.*, 1117th mtg., para. 6) a report at the request of the Council (*ibid.*, 1116th mtg., paras. 51—56) outlining, in the first part, the points on which there was no difference of view between the members of the Council, and, in the second part, the different opinions of the members. The representative of Pakistan, after having noted that the summation by the President was neither a consensus nor a statement of agreed conclusions, considered it to be of a purely descriptive character without any binding force (*ibid.*, 1117th mtg., para. 16). The representative of India stated that he agreed with the representative of Pakistan that the summation by the President did not bind either party (*ibid.*, paras. 19 and 20).

¹⁰⁰ S C, 17th yr., Suppl. for Jan.—March, p. 46, S/5058 and p. 57, S/5068.

exist. There had been no commitment by the Government of India to hold a plebiscite in Kashmir and, in any case, a plebiscite would become operable only after parts I, II and III of the resolution of 13 August 1948 had been implemented, which however, had not been the case.

74. The view was expressed by several representatives that the resolutions of 1948 and 1949 of the United Nations Commission for India and Pakistan could not be treated as if they had totally ceased to exist. They continued to be applicable. For one thing, they provided the legal basis for the current provisional *status quo* in Kashmir which had at least prevented the continuation of armed conflict. Since, however, the circumstances which then prevailed had been modified, it would be advisable to take them into account without departing from the basic principles contained in the Security Council resolutions.

75. One representative contended that the question of holding a plebiscite, dealt with in a previous resolution, had lapsed since the provisions which were a condition for holding it had never been fulfilled. That was why there was no longer any question of resurrecting, reaffirming, mentioning or recalling in some other way on behalf of the Council the significance and applicability of resolutions which the Council had adopted in a quite different set of circumstances.

76. At the 1016th meeting of the Council, a draft resolution was submitted by Ireland¹⁰¹ by which, *inter alia*, the Council would remind both parties of the principles contained in its resolution 38 (1948) of 17 January 1948, and in the resolutions of the United Nations Commission for India and Pakistan and would urge them to enter into negotiations at the earliest convenient time with a view to ultimate settlement in accordance with Article 33 and other relevant provisions of the Charter.

77. In opposing the draft resolution, the representative of India repeated his previous statements that the resolutions of 13 August 1948 and 5 January 1949 were engagements and not obligations. Those engagements had been carried out in the context within which they had come about, and if the resolutions had not been implemented, the fault did not lie with India. Since other parts of the resolution of 13 August 1948 had not been implemented, India would be entitled not to observe even the cease-fire agreement. But India would observe that agreement, he declared, until someone else broke it in such a way that it could no longer be maintained.¹⁰²

Decision

At the 1016th meeting on 22 June 1962 the draft resolution was not adopted.¹⁰³ There were 7 votes

¹⁰¹ S C, 17th yr., Suppl. for April—June, p. 104, S/5134.

¹⁰² For text of relevant statements, see S C, 17th yr., 990th mtg.: Pakistan, paras. 34 and 37; 1009th mtg.: India, paras. 19, 67 and 133; 1010th mtg.: USSR, paras. 16, 22, 28 and 31; 1013th mtg.: Ireland, paras. 54 and 55; Ghana, para. 15; 1014th mtg.: Venezuela, paras. 19 and 20; 1015th mtg.: United States, para. 7; USSR, para. 21; 1016th mtg.: India, paras. 29, 30, 33 and 64.

¹⁰³ S C, 17th yr., 1016th mtg., para. 92.

in favour, 2 against, with 2 abstentions, one of the negative votes being that of a permanent member of the Council.

(ii) *Decisions of 4 September, 6 September, 20 September, 27 September and 5 November 1965*

78. At the 1237th to 1272nd, 1244th to 1245th, 1247th to 1249th and 1251st meetings, between 4 September and 5 November 1965, the Security Council again considered the India-Pakistan question. The meetings were convened by the President in the light of the Secretary-General's appeal to India and Pakistan for a cease-fire in connexion with the serious conflict which at that time was taking place in Kashmir. In his report to the Security Council,¹⁰⁴ the Secretary-General stated that the cease-fire agreement entered into by the parties at Karachi on 27 July 1949, thus realizing an objective of Security Council resolution 47 (1948) of 21 April 1948, had collapsed

79. At the 1237th meeting, the representative of India contended that Pakistan had again committed aggression against the Indian State of Jammu and Kashmir and had thus violated the cease-fire agreement of 27 July 1949. Speaking at the same meeting the representative of Pakistan maintained that it was India that had violated the Security Council's resolutions on Kashmir and contravened the international agreement concerning the settlement of the Kashmir dispute and committed aggressive acts against Pakistan.

80. A draft resolution¹⁰⁵ was submitted at the 1237th meeting by the representatives of Bolivia, Ivory Coast, Jordan, Malaysia, Netherlands and Uruguay, by which the Security Council would, *inter alia*, call upon the Governments of India and Pakistan to take forthwith all steps for an immediate cease-fire and to respect the cease-fire line and have all armed personnel of each party withdrawn to its own side of the line.

81. It was stated by one of the sponsors of the draft resolution that it produced no judgements on the situation and made no findings, but was just a call for a halt to an escalation of the conflict.¹⁰⁶

Decision

At the 1237th meeting on 4 September 1965 the Security Council adopted unanimously the draft resolution¹⁰⁷ as its resolution 209 (1965).

82. At the 1238th meeting the Security Council considered the question of non-implementation by India and Pakistan of the resolution adopted at the previous meeting, pursuant to a report by the Secretary-General that the conflict was broadening and intensifying.¹⁰⁸

¹⁰⁴ S C, 20th yr., Suppl. for July—Sept., p. 240, S/6651.

¹⁰⁵ S C, 20th yr., 1237th mtg. para. 130, S/6657; same text as resolution 209 (1965).

¹⁰⁶ For text of relevant statements, see S C, 20th yr., 1237th mtg.: India, paras. 79, 82 and 120; Malaysia, paras. 132, 136 and 137; Netherlands, paras. 145—148; Pakistan, para. 127; USSR, para. 179; United States, para. 199.

¹⁰⁷ S C, 20th yr., 1237th mtg., para. 218.

¹⁰⁸ S C, 20th yr., Suppl. for July—Sept., p. 269, S/6661.

83. The representative of Pakistan declared that India ignored every Security Council resolution which would facilitate implementation of the international agreement enshrined in the two resolutions of the United Nations Commission for India and Pakistan of 13 August 1948 and 5 January 1949, jointly accepted by India and Pakistan. The agreement made it the firm obligation of India and Pakistan to demilitarize Kashmir and to enable the holding of a free and impartial plebiscite there. The representative of India maintained that resolution 209 (1965) adopted at the 1237th meeting of the Council did not take the existing situation into account. Since the United Nations had throughout accepted that the security of Jammu and Kashmir was the responsibility of India, the Government of India had no alternative but to give effective assistance to its forces by moving across the Wagah border to stop Pakistan at the bases from which the attacks in Jammu and Kashmir were being mounted and supported. Referring to the Security Council's call to respect the cease-fire line and have all armed personnel of each party withdrawn to its side of the line, the representative of India cited his Government's message, declaring that an immediate cease-fire and the implementation of paragraph 2 of Security Council resolution 209 (1965) could be brought about only when Pakistan took effective steps to stop further crossings of the cease-fire line on the Pakistan side by armed and unarmed personnel, civil and military; removed such personnel from the Indian side of the cease-fire line; ceased aggression in the Chhamb area; and undertook to respect the future border between India and Pakistan. Furthermore, India would have to be satisfied that there would be no recurrence of such a situation before a cease-fire could be effective and peace restored.¹⁰⁹

84. At the 1238th meeting of the Council, the representatives of Bolivia, Ivory Coast, Jordan, Malaysia, Netherlands and Uruguay submitted a draft resolution¹¹⁰ by which, *inter alia*, the Council would call upon the parties to cease hostilities in the entire area of conflict immediately, and promptly withdraw all armed personnel to the positions held by them before 5 August 1965.

Decision

At the 1238th meeting on 6 September 1965 the Council adopted unanimously¹¹¹ the six-Power draft resolution as its resolution 210 (1965).

85. On 17 September 1965, at the 1239th meeting, the Security Council had before it the preliminary report by the Secretary-General on his mission to India and Pakistan.¹¹² At the same meeting, the Secretary-General stated that, although the Security Council had passed urgently and unanimously two

resolutions requiring an immediate cessation of hostilities, he had not succeeded in securing effective practical measures of compliance by the two sides with those resolutions. Expressing his concern over the non-compliance with those previous resolutions, he suggested that the Security Council could order the two Governments concerned, pursuant to Article 40 of the Charter, to desist from further hostile military action and, to that end, to issue cease-fire orders to their military forces. The Council might also declare that failure by the Governments concerned to comply with that order would demonstrate the existence of a breach of the peace within the meaning of Article 39 of the Charter. The Security Council might wish to consider what assistance it could provide to ensure observance of the cease-fire and study means of assisting the parties in the withdrawal of armed personnel to the positions held by them before 5 August 1965. Furthermore, the Council could request the Heads of Government of India and Pakistan to meet at the earliest possible time to discuss the situation and could also consider the possibility of creating and making available a small committee to assist in such talks. The Secretary-General also assured the Council of his availability and his desire to continue to be of assistance in the matter in any way which might commend itself to the Council and to the two Governments.

86. The representative of India declared that his Government was prepared to accept an unconditional cease-fire. Referring to the Secretary-General's suggestions, the representative of Pakistan expressed doubt about treating non-compliance by the Governments concerned under Chapter VII of the Charter, since all actions had hitherto been taken under Chapter VI.

87. One representative asserted that a halt to hostilities and not the conducting of a plebiscite in Kashmir was the sole concern of the Security Council at that time. The view was expressed by some representatives that, in taking steps for a short-range solution, the Council should not lose sight of its long-range objective to eliminate the underlying political conflict. Several representatives asserted that in the circumstances attention must be focused on the need to implement the resolutions of the Security Council and on strict compliance with its decisions.¹¹³

88. At the 1242nd meeting of the Council, a draft resolution was submitted¹¹⁴ by the representative of the Netherlands, which would provide as follows:

"The Security Council,

" . . .

"Noting the differing replies by the parties to an appeal for a cease-fire as set out in the report of the Secretary-General, but noting further with

¹⁰⁹ S C, 20th yr., 1238th mtg.: India, para. 37; Malaysia, para. 65; Pakistan, paras. 21, 31 and 34.

¹¹⁰ S C, 20th yr., 1238th mtg., para. 61, S/6663; same text as resolution 210 (1965).

¹¹¹ S C, 20th yr., 1238th mtg., para. 69.

¹¹² S C, 20th yr., Suppl. for July-Sept. p. 295, S/6683.

¹¹³ For text of relevant statements, see S C, 20th yr., 1239th mtg.: Secretary-General, paras. 16 and 20-24; India, paras. 44 and 78; 1240th mtg.: Pakistan, paras. 60, 62 and 65; 1241st mtg.: China, paras. 107 and 108; France paras. 99 and 100; India, paras. 152 and 156; Ivory Coast, para. 170; Jordan, para. 4; Malaysia, paras. 31 and 32; Netherlands, para. 79; USSR, para. 132; United States, para. 91; 1242nd mtg.: Pakistan, para. 26; Uruguay, paras. 37 and 38.

¹¹⁴ S C, 20th yr., 1242rd mtg., para. 44, S/6694.

concern that no cease-fire has yet come into being;
“... ”

“1. *Demands* that a cease-fire should take effect on Wednesday, 22 September 1965, at 0700 hours GMT, and calls upon both Governments to issue orders for a cease-fire at that moment and a subsequent withdrawal of all armed personnel to the positions held by them before 5 August 1965;
“... ”

“4. *Decides* to consider, as soon as paragraph 1 of Council resolution 210 (1965) has been implemented, what steps could be taken to assist towards a settlement of the political problem underlying the present conflict, and in the meantime calls on the two Governments to utilize all peaceful means, including those listed in Article 33 of the Charter of the United Nations, to this end;”

Decision

At the 1242nd meeting, on 20 September 1965, the draft resolution was adopted without change by 10 votes to none, with 1 abstention,¹¹⁵ as resolution 211 (1965).

89. During further discussion of the question at the 1244th, 1245th, 1247th to 1249th and 1251st meetings, the Security Council in two resolutions expressed its concern that its previous resolutions had not been fully implemented.¹¹⁶

90. At the 1245th meeting, on 27 September 1965, the President (United States) submitted a draft resolution¹¹⁷ which he said reflected the consensus of the members of the Council. It would provide as follows:

“*The Security Council,*

“... ”

“*Expressing its grave concern* that the cease-fire agreed to unconditionally by the Governments of India and Pakistan is not holding,

“*Recalling* that the cease-fire demand in the Council’s resolutions was unanimously endorsed by the Council and agreed to by the Governments of both India and Pakistan,

“*Demands* that the parties urgently honour their commitments to the Council to observe the cease-fire, and further calls upon the parties promptly to withdraw all armed personnel as necessary steps in the full implementation of resolution 211 (1965).”

Decision

At the same meeting, the draft resolution was adopted¹¹⁸ as resolution 214 (1965).

¹¹⁵ S C, 20th yr., 1242nd mtg., para. 69.

¹¹⁶ For text of relevant statements, see S C, 20th yr., 1244th mtg.: President United States, para. 50; India, para. 45; Pakistan, para. 25; 1245th mtg.: India, paras. 13, 16 and 19; Pakistan, paras. 29 and 42; 1247th mtg.: India, para. 82; Jordan, para. 67; Pakistan, paras. 27, 29, 60 and 229; USSR, paras. 124–126, 240 and 242; United States, paras. 249 and 251; 1248th mtg.: Ivory Coast, paras. 52 and 54; Jordan, paras. 12–14, 21, 23 and 25; United Kingdom, para. 46; 1249th mtg.: China, para. 12; France, para. 7; Malaysia, para. 17; 1251st mtg.: France, para. 69, Netherlands, paras. 42 and 43; Uruguay, para. 14.

¹¹⁷ S C, 20th yr., 1245th mtg., para. 6.

¹¹⁸ *Ibid.*, para. 8.

91. At the 1251st meeting the representatives of Bolivia, Ivory Coast, Malaysia, Netherlands and Uruguay submitted a draft resolution which would provide as follows:

“*The Security Council,*

“*Regretting* the delay in the full achievement of a complete and effective cease-fire and a prompt withdrawal of armed personnel to the positions held by them before 5 August 1965, as called for in its resolutions 209 (1965) of 4 September, 210 (1965) of 6 September, 211 (1965) of 20 September and 214 (1965) of 27 September 1965,

“1. *Reaffirms* its resolution 211 (1965) in all its parts;

“2. *Requests* the Governments of India and Pakistan to co-operate towards a full implementation of paragraph 1 of resolution 211 (1965); calls upon them to instruct their armed personnel to co-operate with the United Nations and cease all military activity; and insists that there be an end to violations of the cease-fire;”

Decision

At the 1251st meeting, on 5 November 1965, the draft resolution was adopted without change by 9 votes to none, with 2 abstentions,¹¹⁹ as resolution 215 (1965).

(e) *Decisions of 4 December 1963 and 18 June 1964 in connexion with the policies of apartheid of the Government of the Republic of South Africa*

(i) *Decision of 4 December 1963*

92. At its 1073rd to 1078th meetings, inclusive, between 27 November and 4 December 1963, the Security Council considered the report of the Secretary-General¹²⁰ on the implementation of its resolution 181 (1963)¹²¹ of 7 August 1963 in connexion with the policies of *apartheid* of the Government of the Republic of South Africa. The meetings were convened at the request¹²² of the representatives of Algeria, Central African Republic, Ceylon, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Ivory Coast, Liberia, Madagascar, Malaysia, Mali, Mauritania, Morocco, Niger, Nigeria, Pakistan, Senegal, Sierra Leone, Somalia, Sudan, Tanganyika, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta to consider additional measures to ensure the compliance of the South African Government with previous Security Council resolutions and its obligations as a Member State.

¹¹⁹ S C, 20th yr., 1251st mtg., para. 80.

¹²⁰ S C, 17th yr., Suppl. for Oct.—Dec., p. 7, S/5438.

¹²¹ In resolution 181 (1963) the Security Council called all States to cease forthwith the sale and shipment of arms, ammunition of all types and military vehicles to South Africa and requested the Secretary-General to report to the Security Council on his observation of the situation by 30 October 1963 (oper. para. 4).

¹²² S C, 17th yr., Suppl. for Oct.—Dec., p. 41, S/5444 and Add. I.

93. In his report, the Secretary-General informed the Council about the implementation of resolution 181 (1963) by several Member States and stated that the Government of the Republic of South Africa considered that that resolution violated the provisions of Article 2 (7) of the Charter. That Government had therefore declined to comment on the matters raised by the Secretary-General since by doing so it would, in its view, by implication, recognize the right of the United Nations to intervene in South Africa's domestic affairs.¹²³ The report went on to say that the Government of South Africa had also stated that Member States could be asked to respect and carry out the resolutions of the Security Council only in so far as they were in accordance with the provisions of the Charter. Moreover, the Council, in the view of the Government of South Africa, clearly did not have the judicial power, in the circumstances, to take the action envisaged by that resolution which could not, therefore, have any binding effect on the Republic of South Africa or any other Member State.

94. During the discussion it was maintained that the Secretary-General's report clearly demonstrated the non-compliance of the Government of South Africa with resolutions of the United Nations. One representative contended that the measures decided upon by Council resolution 181 (1963) were binding on Member States in accordance with Article 25 of the Charter and that it was in that spirit that the majority of Member States had responded to the Secretary-General's request for information with regard to the arms embargo prescribed by the Council.

95. The opposite view was expressed by one representative who maintained that during consideration of the question in August 1963 the Council had not been prepared to agree that the situation in South Africa was one which called for action under Chapter VII of the Charter and that, accordingly, the measures recommended in that resolution could not be of a mandatory nature.

96. At the 1078th meeting of the Council, on 4 December 1963, the representative of Norway submitted a draft resolution¹²⁴ which would provide as follows:

"The Security Council,

"...

"Recalling previous resolutions of the Security Council and of the General Assembly which have dealt with the racial policies of the Government of the Republic of South Africa, and in particular the Security Council resolution of 7 August 1963,

"Having considered the Secretary-General's report contained in S/5438 and addenda,

"Deploring the refusal of the Government of the Republic of South Africa as confirmed in the reply of the Minister for Foreign Affairs of the Republic of South Africa to the Secretary-General received on 11 October 1963 [S/5438, para. 5], to comply with the Security Council resolution of

7 August 1963, and to accept the repeated recommendations of other United Nations organs,

"Noting with appreciation the replies to the Secretary-General's communication to the Member States on the action taken and proposed to be taken by their Governments in the context of that resolution's operative paragraph 3, and hoping that all the Member States as soon as possible will inform the Secretary-General about their willingness to carry out the provisions of that paragraph,

"...

"1. Appeals to all States to comply with the provisions of the Security Council resolution of 7 August 1963;

"2. Urgently requests the Government of the Republic of South Africa to cease forthwith its continued imposition of discriminatory and repressive measures which are contrary to the principles and purposes of the Charter and which are in violation of its obligations as a Member of the United Nations and of the provisions of the Universal Declaration of Human Rights;

"3. Condemns the non-compliance by the Government of the Republic of South Africa with the appeals contained in the above-mentioned resolutions of the General Assembly and the Security Council;

"...

"5. Solemnly calls upon all States to cease forthwith the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;"

97. Commenting on the provisions of the draft resolution, some representatives expressed the view that they did not have the character of sanctions or other mandatory action envisaged under Article 41, in Chapter VII, of the Charter.¹²⁵

Decision

At the same meeting the draft resolution was adopted unanimously¹²⁶ as resolution 182 (1963).

(ii) Decision of 18 June 1964

98. At its 1127th to 1135th meetings, between 8 and 18 June 1964, the Security Council again considered the policies of *apartheid* of the Government of the Republic of South Africa at the request of the representatives of Afghanistan, Algeria, Burma, Burundi, Cambodia, Cameroon, Central African Republic, Ceylon, Chad, Congo (Brazzaville), Congo (Leopoldville), Cyprus, Dahomey, Ethiopia, Gabon, Ghana, Guinea, India, Indonesia, Iran, Iraq, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Lebanon, Liberia, Libya, Madagascar, Malaysia, Mali, Mauritania, Mongolia, Morocco, Nepal, Niger, Nigeria, Pakistan, Philippines, Rwanda,

¹²⁵ For text of relevant statements, see S C, 17th yr., 1073rd mtg.: Liberia, para. 29; Tunisia, paras. 53, 59, 66 and 71-73; 1074th mtg.: India, para. 46; Norway, para. 82; 1075th mtg.: Morocco, para. 10; 1076th mtg.: Philippines, para. 7; USSR, paras. 30 and 50; 1078th mtg.: United Kingdom, paras. 9 and 21; United States, para. 65.

¹²⁶ S C, 17th yr., 1078th mtg., para. 137.

¹²³ See also this *Supplement* under Article 2 (7).

¹²⁴ S C, 17th yr., Suppl. for Oct.-Dec., p. 103, S/5469.

Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Syria, Tanganyika, Thailand, Togo, Tunisia, Turkey, Uganda, United Arab Republic, Upper Volta, Yemen and Zanzibar. In their letter¹²⁷ of submission dated 27 April 1964, those representatives referred, *inter alia*, to the negative reaction of the South African Government to Security Council resolution 182 (1963) of 4 December 1963; and to the opinion of the countries of Africa and Asia, in particular, that the Security Council should take effective measures to obtain the compliance of the South African Government with the earlier resolutions of both the General Assembly and the Security Council and with its obligations as a Member State.

99. Several representatives noted during the discussion that the Government of South Africa had not complied with the previous Security Council resolutions and was continuing its policy of *apartheid* and disregarding its obligations under the United Nations Charter. There were further assertions that the situation in South Africa was a threat to international peace and security and that effective economic and other sanctions had to be taken to ensure South Africa's compliance with United Nations decisions. Some representatives explicitly referred to Article 25 of the Charter as one of the legal bases for imposing economic sanctions against South Africa.

100. The proposals for sanctions were contested by some representatives who stated that, since the trial of several well-known African political leaders and other opponents of *apartheid* was in progress, the Security Council should not take any action which could be construed as interference in the internal affairs of a Member State. Referring to the non-compliance of the South African Government with previous decisions of the Council, one representative maintained that failure to take steps in accordance with the requests of the Council did not of itself create a situation in which a determination under Article 39 could be made.¹²⁸

101. At the 1133rd meeting of the Council the representatives of Bolivia and Norway submitted a draft resolution¹²⁹ which would provide as follows:

“The Security Council,

“ . . .

“Recalling the resolutions of the Security Council of 7 August 1963, 4 December 1963 and 9 June 1964 [S/5761],

¹²⁷ S C, 19th yr., Suppl. for April—June, p. 96, S/5674.

¹²⁸ For the text of relevant statements, see S C, 19th yr., 1127th mtg.: India, paras. 180, 183 and 184; Liberia, paras. 14 and 76; Sierra Leone, paras. 100, 103 and 105; 1128th mtg.: Brazil, para. 52; United Kingdom, para. 46; United States, para. 38; 1129th mtg.: Indonesia, paras. 12, 13, 15, 19, 22 and 31; Madagascar, paras. 65 and 72; Pakistan, paras. 40 and 46; Tunisia, paras. 106 and 114; 1130th mtg.: China, para. 38; Czechoslovakia, paras. 21 and 26; USSR, para. 61; 1131st mtg.: Indonesia, para. 9; Norway, para. 70; USSR, paras. 49 and 57; United Kingdom, paras. 88, 90 and 91; 1132nd mtg.: Bolivia, para. 29; Ivory Coast, para. 17; 1133rd mtg.: Norway, para. 7; United States, paras. 30 and 31; 1134th mtg.: Brazil, paras. 12 and 13; Indonesia, paras. 53—55; 1135th mtg.: India, para. 113; Ivory Coast, para. 8; Morocco, para. 17; USSR, paras. 31 and 34.

¹²⁹ S C, 19th yr., Suppl. for April—June, p. 249, S/5773.

“Convinced that the situation in South Africa is continuing seriously to disturb international peace and security,

“*Deploring* the refusal of the Government of the Republic of South Africa to comply with pertinent Security Council resolutions,

“ . . .

“8. *Decides* to establish an expert committee, composed of representatives of each present member of the Security Council, to undertake a technical and practical study and report to the Council as to the feasibility, effectiveness and implications of measures which could, as appropriate, be taken by the Council under the Charter of the United Nations;

“ . . .

“12. *Reaffirms* its call upon all states to cease forthwith the sale and shipment to South Africa of arms, ammunition of all types, military vehicles, and equipment and materials for the manufacture and maintenance of arms and ammunition in South Africa;

“13. *Requests* all Member States to take such steps as they deem appropriate to persuade the Government of the Republic of South Africa to comply with this resolution”.

Decision

At the 1135th meeting of the Council, on 18 June 1964, the draft resolution was adopted by 8 votes to none, with 3 abstentions,¹³⁰ as resolution 191 (1964).

(f) *Decisions of 31 July, 11 December 1963 and 23 November 1965 in connexion with the situation in the Territories in Africa under Portuguese administration*

(i) *Decision of 31 July 1963*

102. At the 1040th to 1049th meetings, held between 22 July and 31 July 1963, the Security Council considered the situation in the Territories in Africa under Portuguese administration at the request¹³¹ of the representatives of Algeria, Burundi, Cameroon, Central African Republic, Chad, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Liberia, Libya, Madagascar, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra-Leone, Somalia, Sudan, Tanganyika, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta. They said in their letter of submission that a state of war prevailed in some of the Territories under Portuguese domination after the persistent refusal of Portugal to comply with the provisions of General Assembly resolution 1514 (XV) and particularly of Security Council resolution 163 (1961).¹³² That, they contended, constituted a definite breach of peace and security

¹³⁰ S C, 19th yr., 1135th mtg., para. 43.

¹³¹ S C, 18th yr., Suppl. for July—Sept., p. 6, S/5347.

¹³² By resolution 163 (1961) of 9 June 1961 the Security Council called upon the Portuguese authorities to desist forthwith from repressive measures and expressed the hope that a peaceful solution would be found to the problem of Angola in accordance with the Charter of the United Nations.

in the African continent as well as a threat to international peace and security.

103. It was stated during the discussion that the Security Council should secure Portugal's compliance with its obligations as a Member State and with the provisions of Security Council resolutions. Its non-compliance with Council resolutions was viewed as a serious threat to peace. Several representatives maintained that Portugal's course of action was in violation of Article 25 of the Charter. The opinion was expressed that Portugal was wrong in asserting that the matter fell under Article 2 (7) of the Charter and that, consequently, any calls for compliance were not in accordance with the Charter.

104. Some representatives called for the application of economic and diplomatic sanctions against Portugal in the case of further non-compliance with Security Council resolutions, for the imposition of a total embargo on all supplies of arms, ammunition and strategic material destined for Portugal and for inviting States to withhold all support and all forms of military assistance, direct or indirect, likely to be used by Portugal in pursuing its colonial policy. It was proposed, *inter alia*, that the Council should decide to suspend Portugal from membership in the United Nations, in accordance with Article 5 of the Charter, if by the opening of the eighteenth session of the General Assembly no positive steps had been taken by Portugal to give effect to the decisions of the Security Council.

105. The representative of Portugal argued that non-compliance with Security Council resolutions had never led to a state of war and denied that a threat to peace existed. In reply to a question put by the representative of Tunisia as to whether the Portuguese Government considered itself bound by Article 25 of the Charter, the representative of Portugal stated, after having made references to the *Repertory of Practice of United Nations Organs* and to the opinion of certain legal experts, that Portugal accepted Article 25 of the charter in the same way as it accepted the other provisions of that document, taking into account the practice, jurisprudence and doctrinal interpretation of the Article. Referring to the hopes for peaceful solution of the problem mentioned in Security Council resolution 163 (1961), the representative of Portugal contended that for all practical purposes the aims of that resolution had been fulfilled.

106. One representative, criticizing Portugal's view, regretted that the Government of Portugal clearly regarded itself bound by the obligations laid down in Article 25 only to the extent that they coincided with its own interpretation. He also stated that the unconditional undertaking contained in Article 25 was essential if the Security Council was to shoulder its responsibilities with respect to the maintenance of international peace and security, and that the obligations laid down in Article 25 derived logically from Article 24 (1).

107. Several representatives objected to the proposal for an embargo or sanctions on the ground that the situation in the Portuguese Territories did not fall under Chapter VII of the Charter. The view was expressed that it was not permissible to urge or

even to contemplate the use of non-peaceful means save in the specific circumstances permitted and contemplated in the Charter itself.

108. At the 1044th meeting of the Council a draft resolution was submitted¹³³ by the representatives of Ghana, Morocco and the Philippines which would provide as follows:

"*The Security Council,*

"...

"*Recalling* its resolution of 9 June 1961 and General Assembly resolutions 1807 (XVII) of 14 December 1962 and 1819 (XVII) of 18 December 1962,

"...

"2. *Decides* that the policies of Portugal in claiming the Territories under its administration as "overseas territories" and as an integral part of metropolitan Portugal are contrary to the principles of the Charter and the relevant resolutions of the General Assembly and the Security Council;

"3. *Condemns* the attitude of the Portuguese Government, its repeated violations of the principles of the United Nations Charter and its continued refusal to implement the resolutions of the General Assembly and the Security Council;"

109. At the 1048th meeting of the Council, the representative of Venezuela submitted amendments¹³⁴ to the draft resolution by which, *inter alia*, the Security Council would "affirm" instead of "decide" in the second operative paragraph and would "deprecate" instead of "condemn" in the third operative paragraph. The amendments were accepted by the sponsors.¹³⁵

Decision

At the 1049th meeting, on 31 July 1963, the draft resolution, as amended, was adopted¹³⁶ by 8 votes to none, with 3 abstentions, as resolution 180 (1963).

(ii) *Decision of 11 December 1963*

110. At its 1079th to 1083rd meetings, between 6 and 11 December 1963, the Security Council considered the situation in the Territories in Africa under Portuguese Administration at the request¹³⁷ of the representatives of Algeria, Burundi, Cameroon, Central African Republic, Congo (Brazzaville), Congo (Leopoldville), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Liberia, Madagascar,

¹³³ S C, 18th yr., 1044th mtg., para. 4.

¹³⁴ *Ibid.*, 1048th mtg., para. 21.

¹³⁵ For text of relevant statements, see S C, 18th yr., 1040th mtg.: Liberia, paras. 22 and 30; Tunisia, paras. 96, 99, 115, 119 and 124-126; 1041st mtg.: Madagascar, paras. 5 and 13; Sierra Leone, paras. 26 and 34; USSR, paras. 37, 85 and 86; 1042nd mtg.: Ghana, paras. 81, 82 and 98; Portugal, paras. 7-9; 1043rd mtg.: Brazil, paras. 9 and 13; 1044th mtg.: Liberia, para. 76; Norway, paras. 33 and 37; Portugal, paras. 52-56 and 58; Venezuela, para. 47; 1045th mtg.: France, paras. 22 and 24; United Kingdom, para. 36; United States, paras. 73 and 78; 1046th mtg.: Sierra Leone, para. 8; Tunisia, paras. 13-16, 62 and 67; 1049th mtg.: Ghana, para. 5; United States, para. 28.

¹³⁶ S C, 18th yr., 1049th mtg., para. 17.

¹³⁷ S C, 18th yr., Suppl. for Oct.-Dec., p. 94, S/5460.

Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Arab Republic and Upper Volta. They asked that the report of the Secretary-General be considered in pursuance of Security Council resolution 180 (1963) of 31 July 1963. That resolution, they alleged, had not been implemented, and the Security Council should therefore consider appropriate measures to ensure its implementation.

111. During the discussion it was stated that Portugal was not complying with its obligations under the Charter or with decisions of the Security Council and General Assembly. Several representatives maintained that Portugal, in denying self-determination to the peoples in the Territories under its administration, did not accept the definition and interpretation of self-determination of peoples contained in General Assembly resolutions on the subject and reaffirmed by Security Council resolution 180 (1963). It was suggested that economic, political and other sanctions should be adopted to ensure Portugal's unconditional compliance with the decisions of the Security Council and its obligations as a Member State. One representative asserted that Security Council decisions were mandatory and that the Security Council should not be a passive onlooker when faced with the aggressive policy of Portugal in the Territories under its administration. It was further noted that some Member States were not complying with paragraph 6 of Security Council resolution 180 (1963) requesting all States (a) to refrain from offering to Portugal assistance which would enable it to continue its repression of the peoples in the Territories and (b) to take all measures to prevent the sale and supply of arms and military equipment for that purpose to the Portuguese Government.¹³⁸

122. At the 1082nd meeting of the Council, the representatives of Ghana, Morocco and the Philippines submitted a draft resolution¹³⁹ which would provide as follows:

"The Security Council,

"...

"Recalling further its resolution of 31 July 1963,

"...

"2. Calls upon all States to comply with paragraph 6 of its resolution of 31 July 1963;

"3. Deprecates the non-compliance of the Government of Portugal with the resolution of 31 July 1963;

"4. Reaffirms the interpretation of self-determination as laid down in General Assembly resolution 1514 (XV) as follows:

"All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development";

"..."

¹³⁸ For text of relevant statements, see S C, 18th yr., 1079th mtg.: Liberia, para. 36; Tunisia, paras. 62, 64 and 78; 1080th mtg.: Madagascar, paras. 15 and 20; Sierra Leone, para. 33; 1081st mtg.: Portugal, paras. 5, 17 and 18; 1082nd mtg.: Liberia, para. 24; USSR, paras. 42, 45, 51, 53, 65 and 70; 1083rd mtg.: France, para. 63; Portugal, paras. 7 and 28; USSR, paras. 126, 127 and 131; United Kingdom, para. 72.

¹³⁹ S C, 18th yr., Suppl. for Oct.—Dec., p. 110, S/5480.

Decision

At the 1083rd meeting, on 11 December 1963, the Council adopted¹⁴⁰ the draft resolution by 10 votes to none, with 1 abstention, as its resolution 183 (1963).

(iii) Decision of 23 November 1965

113. At its 1250th, 1253rd to 1256th and 1266th to 1268th meetings, between 4 and 23 November 1965, the Security Council considered the situation in the Territories in Africa under Portuguese administration at the request of the representatives of Algeria, Burundi, Cameroon, Central African Republic, Chad, Democratic Republic of the Congo, Dahomey, Ethiopia, Ghana, Guinea, Ivory Coast, Kenya, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Morocco, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanzania, Togo, Tunisia, Uganda, United Arab Republic, Upper Volta and Zambia.¹⁴¹ Referring to Portugal's refusal to implement the measures called for in Security Council and General Assembly resolutions, those Governments requested the Security Council to examine once again the situation in the Territories under Portuguese administration and to take appropriate measures envisaged in the Charter to give effect to its resolutions on the question.

114. During the discussion, several representatives declared that the Security Council should decide on serious economic measures to ensure the compliance of Portugal with General Assembly and Security Council resolutions.

115. The view was expressed by other representatives that discussions should be arranged with Portugal to explore avenues towards a peaceful solution of the problem. Resumed contacts were also required to implement prior resolutions of the Council.

116. A draft resolution¹⁴² was submitted by Ivory Coast, Jordan, Liberia, Madagascar, Malaysia, Sierra Leone and Tunisia at the 1266th meeting of the Council, which would provide as follows:

"The Security Council,

"...

"Recalling Security Council resolutions 180 (1963), of 31 July 1963, and 183 (1963), of 11 December 1963,

"...

"Noting with deep concern the continued refusal of Portugal to take the necessary steps to implement the aforementioned resolutions of the Security Council,

"Considering that, in spite of the measures laid down by the Security Council in paragraph 5 of resolution 180 (1963), the Government of Portugal is intensifying its measures of repression and its military operations against the African population, with a view to defeating their legitimate hopes of achieving self-determination and independence,

¹⁴⁰ S C, 18th yr., 1083rd mtg., para. 158.

¹⁴¹ S C, 20th yr., Suppl. for July—Sept., p. 147, S/6585.

¹⁴² S C, 20th yr., Suppl. for Oct.—Dec., p. 382, S/6953/Rev. 1.

"*Convinced* that the implementation of the pertinent resolutions of the Security Council and the General Assembly, and in particular Council resolutions 180 (1963) and 183 (1963), is the only means to achieve a peaceful solution of the question of Portuguese Territories in accordance with the principles of the Charter of the United Nations,

"1. *Affirms* that the situation resulting from the policies of Portugal, both as regards the African population of its colonies and the neighbouring States, endangers international peace and security;

"2. *Deplores* the failure of the Government of Portugal to comply with previous resolutions of the Security Council and the General Assembly and to recognize the right of the peoples under its administration to self-determination and independence,

"6. *Calls upon* all States to comply with paragraph 6¹⁴³ of Security Council resolution 180 (1963);

"7. *Calls upon* all States to take all necessary measures to prevent the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition in Portugal and the Territories under Portuguese administration;

"8. *Calls upon* all States to take all the necessary measures, either separately or collectively, to boycott all Portuguese imports and exports;

"9. *Requests* all States to inform the Secretary-General on whatever measures are undertaken towards implementation of paragraphs 6, 7 and 8 of the present resolution;".

117. One of the sponsors of the draft resolution maintained that the Council should no longer hesitate to decide on an economic boycott as an effective means of implementing a measure previously decided upon in resolution 180 (1963), in which the situation in the Territories under Portuguese rule had already been referred to as constituting an increasingly serious threat to international peace and security. Several representatives reiterated that view during the discussion.

118. The opposite view was expressed by several representatives who reserved their positions regarding the proposed call for economic boycott. One representative declared that the situation in the Territories should not be treated under Chapter VII of the Charter.

119. In the view of the representative of Portugal, the measures hastily proposed in the draft resolution and clearly falling under Chapter VII of the Charter would be absolutely out of proportion, even if the allegations made against his Government had been proved.

¹⁴³ In that paragraph, the Security Council requested that all States should refrain forthwith from offering the Portuguese Government any assistance which would enable it to continue its repression of the peoples of the Territories under its administration, and to take all measures to prevent the sale and supply of arms and military equipment for that purpose to the Portuguese Government.

120. At the 1268th meeting, the representative of Uruguay submitted¹⁴⁴ two amendments to the draft resolution. One of those would replace operative paragraphs 6 and 7, quoted above, with a single paragraph which would repeat the Council's request in resolution 180 (1963) that all States (a) refrain forthwith from offering the Portuguese Government any assistance which would enable it to continue its repression of the people of the Territories under its administration, and (b) take the necessary measures to prevent the sale and supply of arms and military equipment for that purpose to the Portuguese Government. In addition, the new paragraph would include, among the necessary measures, the prevention of the sale and shipment of equipment and materials for the manufacture and maintenance of arms and ammunition to be used in those Territories. The other amendment would replace the word "endangers" in operative paragraph 1 of the seven-Power draft resolution quoted above with the words "seriously disturbs" in order to make it clear that the draft resolution came under Chapter VI of the Charter.¹⁴⁵

Decision

At the 1268th meeting of the Council on 23 November 1965, the two amendments to the draft resolution submitted by Uruguay were voted on and adopted.¹⁴⁶ Operative paragraph 8 of the draft resolution, calling for a boycott of all Portuguese imports and exports, put to a separate vote, was not adopted, having failed to obtain the affirmative votes of seven members.¹⁴⁷ The draft resolution, as amended, was adopted by 7 votes to none, with 4 abstentions,¹⁴⁸ as resolution 218 (1965).

(g) *Decision of 23 May 1966 in connexion with the situation in Southern Rhodesia*¹⁴⁹

121. At the 1278th to 1285th meetings, between 17 and 23 May 1966, the Security Council considered

¹⁴⁴ S C, 20th yr., 1268th mtg., paras. 3 and 4.

¹⁴⁵ For text of relevant statements, see S C, 20th yr., 1250th mtg.: Sierra Leone, para. 117; Tunisia, para. 100; 1254th mtg.: Netherlands, para. 97; 1255th mtg.: USSR, paras. 115-130; 1256th mtg.: United States, para. 23; Uruguay, para. 34; 1266th mtg.: Malaysia, para. 41; Portugal, paras. 24, 25 and 32; Tunisia, paras. 14 and 15; 1267th mtg.: China para. 42; France, para. 50; Liberia, para. 9; USSR, paras. 19 and 20; Uruguay, paras. 46 and 69-73.

¹⁴⁶ S C, 20th yr., 1268th mtg., paras. 15 and 16.

¹⁴⁷ *Ibid.*, para. 19.

¹⁴⁸ *Ibid.*, para. 30.

¹⁴⁹ On 9 April 1966 the Council adopted resolution 221 (1966) in which it recalled its resolutions 216 (1965) and 217 (1965) in connexion with the situation in Southern Rhodesia and in particular its call to all States to do their utmost to break off economic relations with Southern Rhodesia, including an embargo on oil and petroleum products, and called upon the Government of the United Kingdom of Great Britain and Northern Ireland to prevent, by the use of force if necessary, the arrival at Beira of vessels reasonably believed to be carrying oil destined for Southern Rhodesia, and empowered the United Kingdom to arrest and detain the tanker known as the "Joanna V" upon her departure from Beira in the event that her oil cargo was discharged there. There was, however no constitutional discussion having a bearing on Article 25.

the situation in Southern Rhodesia at the request¹⁵⁰ of the representatives of Algeria, Burundi, Cameroon, Chad, Congo (Brazzaville), Congo (Democratic Republic of), Dahomey, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Kenya, Liberia, Libya, Malawi, Mali, Mauritania, Morocco, Niger, Nigeria, Rwanda, Sierra Leone, Somalia, Sudan, Togo, Tunisia, Uganda, United Arab Republic, United Republic of Tanzania, Upper Volta and Zambia. They stated that the measures previously adopted by the Security Council had proved ineffective in bringing down the racist régime in Southern Rhodesia. Referring to Council resolution 221 (1966) authorizing the use of force by the United Kingdom to ensure the observance of the embargo on oil and petroleum products called for by the Security Council on 20 November 1965, they stated, *inter alia*, that the use of force covered only one relatively minor sector. Substantial quantities of oil and petroleum products continued to enter Southern Rhodesia through other sectors, in clear violation of the embargo, and preparations were said to be in progress to set up a permanent supply system through those sectors.

122. The view was expressed during the debate that some Member States, South Africa and Portugal, in particular, were not complying with Security Council resolutions 216 (1965) and 217 (1965) and that resolution 221 (1966) was not fully effective. It was asserted that economic sanctions of a permissive nature, taken under resolution 217 (1965), could not work alone; that that resolution was not adequate to meet the situation; and that more decisive measures were needed. Some representatives maintained that the obligations of Member States to comply with Security Council decisions could not be denied even if they were not taken under Chapter VII of the Charter. The United Kingdom had not taken all measures expected of it under decisions of the Council, and in particular it had not used force against the illegal régime in Southern Rhodesia.

123. At the 1279th meeting of the Security Council, a draft resolution¹⁵¹ was submitted by the representatives of Mali, Nigeria and Uganda, which would provide as follows:

"The Security Council,

"Recalling its resolutions 216 (1965) and 217 (1965), of 12 and 20 November 1965, respectively, and 221 (1966), of 9 April 1966, and in particular its call to all States to do their utmost to break off all economic relations with Southern Rhodesia, including an embargo on oil and petroleum products,

"Noting with concern that this call has not been heeded by all States and that economic measures have failed to bring down the racist régime of Salisbury,

"Pointing out that the grave threat to international peace and security inherent in the situation in Southern Rhodesia has already induced it to authorize the use of force, by its resolution 221 (1966) of 9 April 1966, in exercise of the powers

which Chapter VII of the United Nations Charter alone confers upon it,

"Gravely concerned by the reports that substantial supplies of oil are reaching Southern Rhodesia and that arrangements are being made to devise a permanent system of oil supply to that territory,

"1. Determines that the situation in Southern Rhodesia continues to constitute a threat to international peace and security;

"2. Calls upon all States to apply measures with a view to the complete severance of economic relations and communications with Southern Rhodesia in accordance with Article 41 of the United Nations Charter;

"3. Invites the Portuguese and South African Governments, in particular, to take forthwith the necessary measures under Article 41 of the Charter to sever economic relations and communications with Southern Rhodesia;

"4. Calls upon all States, and particularly the Portuguese and South African Governments, to take all necessary measures to prevent the supply of oil and petroleum products to Southern Rhodesia;

"5. Calls upon the United Kingdom to take the measures provided for in Chapter VII of the Charter in order, by the use of air, sea or land forces, to prevent any supplies, including oil and petroleum products, from reaching Southern Rhodesia;

"9. Calls upon the United Kingdom Government to take all necessary measures, including the use of force, to abolish the racist minority régime in Southern Rhodesia and to ensure the immediate application of General Assembly resolution 1514 (XV)."

124. Statements were made in support of the draft resolution to the effect that it was the United Kingdom that had asked for the application of Chapter VII in April 1966 to prevent the oil tankers from reaching Beira, and since the measures under resolution 221 (1966) were inadequate and the threat to international peace and security had become more serious, forceful actions should be extended to ensure compliance with the Security Council resolutions.

125. The representative of the United Kingdom said that the effect of economic sanctions could seldom be quick. The effect of the Rhodesian sanctions had indeed been slower than had been wished or expected. He warned, however, against belittling and questioning the effectiveness of economic sanctions. Replying to the references to the use of force called for in Security Council resolution 221 (1966), he pointed out the limited character of that use of force, which corresponded to the means and powers existing to put it into full effect. The view was also expressed that the United Kingdom was duty bound to investigate any prospect of peaceful solutions of the problem under consideration by the Council. One representative stated that resolution 217 (1965) of 20 November 1965 had not been adopted under Chapter VII of the Charter and

¹⁵⁰ S C, 21st yr., Suppl. for April-June, p. 80, S/7285 and Add. 2.

¹⁵¹ S C, 21st yr., Suppl. for April-June, p. 82, S/7285/Add.1.

did not impose obligatory terms. Security Council resolution 221 (1966) opened the door to coercive measures but thus far the Security Council had not clearly stated that the situation in Southern Rhodesia constituted a threat to international peace and security. It was further stated that since the application of certain binding measures, pursuant to Chapter VII, was proposed, the Security Council did not have to take upon itself control over the application of those measures, for, according to one representative, they were in themselves binding, obligatory and to be fulfilled under Article 25 of the Charter. Non-compliance would lead the Council at some future time to consider what further measures should be taken. Some representatives stated that it would be preferable to repeat the appeals of previous decisions before taking compulsory measures and that measures under Article 42 were to be taken only when measures envisaged in Article 41 were not effective.¹⁵²

Decision

At the 1285th meeting on 23 May 1966, the draft resolution submitted by Mali, Nigeria and Uganda was rejected¹⁵³ by 6 votes to 1, with 8 abstentions.

¹⁵² For text of relevant statements, see S C, 21st yr., 1278th mtg.: India, paras. 54, 56 and 58; Pakistan, paras. 78, 81-84 and 89; Senegal, paras. 35, 42, 43 and 45; Zambia, paras. 9, 12 and 18; 1279th mtg.: Algeria, para. 20; Nigeria, paras. 39 and 65; Sierra Leone, paras. 84 and 85; 1280th mtg.: USSR, paras. 69, 72 and 79; United Kingdom, paras. 12, 13 and 32-34; 1281st mtg.: Japan, paras. 59 and 60; New Zealand, paras. 42, 43, 47 and 48; United States, paras. 6-8, 24 and 25; Uruguay, paras. 29-39; 1282nd mtg.: France, para. 46; 1283rd mtg.: Argentina, paras. 7, 8, 10, 11, 15 and 18; 1284th mtg.: Bulgaria, paras. 6 and 14; Mali, para. 41; Netherlands, paras. 65, 70-72, 78 and 79; Zambia, para. 51; 1285th mtg.: Argentina, paras. 15 and 18; Nigeria, paras. 5 and 7; Uruguay, para. 23.

¹⁵³ S C, 1285th mtg., para. 33. For the adoption of a resolution on this question, invoking Article 25, see paras. 22-29 above.

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

126. During the period under review there were two instances in which the question of the applicability of Article 25 to States not Members of the United Nations arose. In one instance, in connexion with the situation in the Congo, the Secretary-General in his letter¹⁵⁴ dated 4 August 1960 to Mr. Tshombe, president of the provincial government of Katanga, stated, *inter alia*, that obligations pursuant to Articles 25 and 49 of the Charter were applicable by analogy to nations which, like the Republic of the Congo, had been recommended for admission to the United Nations.¹⁵⁵ The other instance was in connexion with the situation in Southern Rhodesia and the adoption of resolution 232 (1966) on 16 December 1966.¹⁵⁶ In that resolution, the Council, having regard to the principles of Article 2 of the Charter, urged States not Members of the United Nations to act in accordance with paragraph 2 of the resolution, which stipulated that all States Members should impose mandatory sanctions against Southern Rhodesia. Furthermore, in the discussions preceding the adoption of that resolution, references¹⁵⁷ were made to the provisions of Article 2 (6) and to the mandatory character of the resolution for States not Members of the United Nations. There was, however, no constitutional discussion.

¹⁵⁴ S C, 15th yr., Suppl. for July-Sept. p. 49 S/4417 and addenda.

¹⁵⁵ The Republic of the Congo was admitted to membership in the United Nations by the decision of the General Assembly, taken on 20 September 1960, upon the recommendation of the Security Council, dated 7 July 1960.

¹⁵⁶ See paras. 22-29 above.

¹⁵⁷ S C, 21st yr., 1332nd mtg.: Argentina, para. 59; 1333rd mtg.: Japan, para. 46; United States, para. 23; 1337th mtg.: Netherlands, para. 91; 1340th mtg.: President (Uruguay), para. 38.