

# ARTICLE 11

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TEXT OF ARTICLE 11

1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

INTRODUCTORY NOTE

1. During the period covered by this Supplement, there was no express discussion of the provisions of Article 11, nor explicit reference to Article 11 in the texts of the resolutions adopted by the General Assembly. Two questions previously treated in the Repertory were again the subject of constitutional debate during this period:

(a) The question of the relationship between the responsibilities of the General Assembly and the primary responsibility of the Security Council with regard to matters concerning the maintenance of international peace and security;

(b) The question of the extent of the competence and powers of the General Assembly with regard to questions "on which action is necessary".

There was no discussion in the General Assembly of the question of the meaning and scope of the term "action" in Article 11 (2), treated previously in the Repertory. <sup>1/</sup>

2. Two new questions bearing on Article 11 were considered in the course of the proceedings of the eleventh session of the General Assembly and of three emergency special sessions convoked pursuant to the provisions of General Assembly resolution 377 A (V), entitled "Uniting for peace". <sup>2/</sup> These constitutional discussions concerned the question of the force of a determination by the General Assembly of the obligation of Member States under Article 2 (4) of the Charter (see paragraphs 158 to 222, below), and the question of the nature and limits of the power of investigation of the General Assembly in matters related to the maintenance of international peace and security (see paragraphs 223 to 254 below).

3. The four questions treated in the Analytical Summary of Practice in this study bear on different but interrelated aspects of the delimitation of functions and powers between the General Assembly and the Security Council in matters concerning the maintenance of international peace and security. The arrangement of material under one or the other of these headings reflects the emphasis placed on the issue in the texts of proposals or resolutions or in the constitutional discussion relating thereto.

4. The resolutions selected to illustrate the practice of the General Assembly in connexion with these four questions are indicated under the questions discussed. As in previous Repertory studies, reference to such resolutions under Article 11 does not imply a judgement on the question of the Charter authority under which the General Assembly acted in adopting them.

5. The constitutional discussion treated in the Analytical Summary of Practice arose in connexion with agenda items concerning the substance of matters originally considered by the Security Council in proceedings in which the Council ultimately had resort to the provisions of General Assembly resolution 377 A (V) on the ground that

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<sup>1/</sup> In the Security Council, however, there was a discussion, on one occasion, of the relationship between the provisions of Article 11 (2) and Article 12 (1). Since the question concerned the conditions for the entry into operation of the provisions of the latter, the matter is referred to in this Supplement in the study under Article 12.

<sup>2/</sup> In section A of G A resolution 377 A (V), "Uniting for peace", the General Assembly

"1. Resolves that if the Security Council, because of lack of unanimity of the permanent members, fails to exercise its primary responsibility for the maintenance of international peace and security in any case where there appears to be a threat to the peace, breach of the peace, or act of aggression, the General Assembly shall consider the matter immediately with a view to making appropriate recommendations to Members for collective measures, including in the case of a breach of the peace or act of aggression the use of armed force when necessary, to maintain or restore international peace and security. If not in session at the time, the General Assembly may meet in emergency special session within twenty-four hours of the request therefor. Such emergency special session shall be called if requested by the Security Council on the vote of any seven members, or by a majority of the Members of the United Nations;

"2. Adopts for this purpose the amendments to its rules of procedure set forth in the annex to the present resolution".

lack of unanimity among the permanent members of the Council prevented it from exercising its primary responsibility for the maintenance of international peace and security. The decisions of the Security Council calling for three emergency special sessions of the General Assembly, and the relevant constitutional discussion, are dealt with in this Supplement in the study of Article 24.

6. Some of the resolutions of the General Assembly which are examined in the Analytical Summary of Practice in this study, and the proceedings leading to them which include significant references to the principles of the Charter contained in Articles 2 (4) and 2 (7), are also treated under those Articles.

7. As in the earlier Repertory studies, the General Survey contains (a) an explanation of the criteria applied in the preparation of two tabulations which are appended as annexes I and II; (b) an indication of the addressees of the recommendations of the General Assembly; (c) a review of the practice of the General Assembly with regard to disarmament and the regulation of armaments, including a tabulation of the relevant positive and negative decisions, appended as annex III. These annexes are intended to give merely a general view of the range and types of action of the General Assembly which may be considered as bearing upon Article 11, 3/ and no special constitutional significance should therefore be attached to them.

## I. GENERAL SURVEY

### A. Criteria applied in the preparation of annexes I and II

8. None of the resolutions of the General Assembly listed in annex II contained express reference to Article 11 of the Charter; neither was reference to this Article made in any of the requests for inclusion of items in the agenda of the General Assembly during the period under review.

9. As in the previous Repertory studies, the agenda items and resolutions in annexes I and II should not be regarded, therefore, as a constitutional classification of the items and still less as implying that the resolutions adopted under these items necessarily constituted an application of Article 11.

10. The list of agenda items contained in annex I comprises:

(a) agenda items considered by the General Assembly at three emergency special sessions in consequence of the application of resolution 377 A (V), entitled "Uniting for peace";

(b) agenda items initially considered at emergency special sessions and placed by decisions of the General Assembly on the agenda of subsequent regular sessions;

(c) agenda items implicitly brought before the General Assembly under Article 11;

(d) agenda items previously listed in annex I of the Repertory studies of Article 11 and included again in the agenda during the period under review, their subject matter being substantially the same as that considered at the previous sessions; and

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3/ See the studies in this Supplement under Articles 10 and 14 for other resolutions which relate primarily to these Articles but also have some relation to Article 11.

(e) agenda items which, when their subject matter and the relevant proceedings are taken into account, seem to be either wholly or in greater part more closely related to Article 11 than to any other Article concerned with the functions and powers of the General Assembly.

11. The resolutions of the General Assembly from which the provisions tabulated in annex II have been drawn are those adopted in connexion with the agenda items listed in annex I.

### B. Addressees of recommendations of the General Assembly

12. During the sessions of the General Assembly covered in this Supplement, the General Assembly directly or indirectly addressed its resolutions relating to the maintenance of international peace and security as follows: to specific Members of the United Nations, 4/ to all Members of the United Nations, 5/ to all States, 6/ to certain authorities, 7/ to the Security Council, 8/ and to the Secretary-General. 9/

### C. The practice of the General Assembly with respect to disarmament and the regulation of armaments

13. The resolutions of the General Assembly adopted at the eleventh, twelfth and thirteenth sessions constituted the basis for the continued efforts of the United Nations with respect to disarmament and the regulation of armaments. Some of the resolutions concerned problems which the General Assembly had dealt with previously under the general heading of regulation, limitation and balanced reduction of all armed forces and all armaments. Other resolutions concerned such matters as the need for a technical approach to aspects of the disarmament problem lending themselves to an objective study; and encouragement of initiatives on disarmament taking place outside the specific framework of the United Nations but promoting the fundamental aims of the Charter. Furthermore, the General Assembly twice during the period under review enlarged the composition of the Disarmament Commission in order to meet new

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- 4/ G A resolutions 997 (ES-I), paras. 1 and 2; 999 (ES-I), para. 1; 1002 (ES-I), paras. 2 and 3; 1004 (ES-II), paras. 1, 2 and 5; 1005 (ES-II), para. 1; 1006 (ES-II), paras. 1-3; 1007 (ES-II), para. 4; 1015 (XI), paras. 3 and 5; 1016 (XI), paras. 3 and 4; 1018 (XI), paras. 2 and 3; 1120 (XI), para. 2; 1124 (XI), para. 2; 1125 (XI), para. 2; 1127 (XI), para. 2; 1128 (XI), para. 1; 1130 (XI), paras. 1 and 2; 1131 (XI), paras. 3 and 4; 1132 (XI), para. 2; 1133 (XI), para. 8; 1178 (XII), para. 3; 1179 (XII), para. 3; 1191 (XII), paras. 4 and 5; 1302 (XIII), paras. 3 and 5; 1312 (XIII), para. 7.
- 5/ G A resolutions 997 (ES-I), para. 3; 1004 (ES-II), paras. 6 and 8; 1007 (ES-II), para. 2; 1014 (XI), paras. 1 and 2; 1130 (XI), para. 4; 1132 (XI), paras. 3 and 5; 1212 (XII), para. 4; 1248 (XIII), para. 3; 1301 (XIII), paras. 2-5.
- 6/ G A resolutions 1018 (XI), paras. 6 and 8; 1236 (XII), last para.
- 7/ G A resolutions 1006 (ES-II) section I, paras. 2 and 3; 1127 (XI), para. 2; 1133 (XI), para. 8; 1180 (XII), para. 3; 1264 (XII), paras. 1-3; 1312 (XIII), para. 7.
- 8/ G A resolution 1017 A (XI), para. 2, 1017 B (XI), para. 2.
- 9/ G A resolutions 997 (ES-I), para. 5; 998 (ES-I); 999 (ES-I), para. 3; 1000 (ES-I), para. 4; 1001 (ES-I), paras. 3 and 7; 1002 (ES-I), para. 4; 1004 (ES-II), paras. 4 and 7; 1005 (ES-II), paras. 3 and 4; 1007 (ES-II), para. 3; 1016 (XI), para. 5; 1120 (XI), para. 3; 1123 (XI), para. 2; 1125 (XI), para. 4; 1127 (XI), para. 3; 1128 (XI), para. 2; 1130 (XI), para. 3; 1131 (XI), para. 5; 1132 (XI), paras. 4 and 6.

situations and enable the United Nations to continue to carry out its responsibilities in the field of disarmament.

14. In instructions to its subsidiary organs concerned with disarmament, the General Assembly continued to stress the importance of unanimity among the permanent members of the Security Council who made up the Sub-Committee of the Disarmament Commission. By resolution 1011 (XI), the General Assembly, welcoming the progress made on certain aspects of the disarmament problem by the Disarmament Commission and its Sub-Committee subsequent to the tenth session of the General Assembly, unanimously recommended that they give prompt attention to proposals submitted to the United Nations at various times by the permanent members of the Security Council. To this end, the General Assembly requested the Disarmament Commission to reconvene its Sub-Committee for the purpose of preparing a progress report for consideration by the Commission. The General Assembly also invited the Disarmament Commission "to consider the advisability of recommending that a special session of the General Assembly or a general disarmament conference be convened at the appropriate time". 10/ Again, in resolution 1148 (XII), in which the General Assembly requested the Disarmament Commission to reconvene its Sub-Committee, it particularly stressed the importance of having the members of the Sub-Committee reach a disarmament agreement.

15. The General Assembly also offered guidance to the Disarmament Commission on approaches to the problem of disarmament likely to foster the required agreement. For example, in resolution 1148 (XII), it expressed the belief that "immediate, carefully measured steps can be taken for partial measures of disarmament and that such steps will facilitate further measures of disarmament", and urged that the States concerned, and particularly those which were members of the Sub-Committee of the Disarmament Commission, should give priority to reaching a disarmament agreement which, upon its entry into force, would provide for a number of partial disarmament measures. To attain this aim, the General Assembly, in an attempt to isolate the non-controversial scientific elements from the politically controversial elements in the problem of disarmament, requested the Disarmament Commission to invite its Sub-Committee, as one of its first tasks, to establish a group or groups of technical experts to study inspection systems for disarmament measures on which the Sub-Committee might reach agreement in principle, and to report to the Commission within a fixed period. The General Assembly recommended that any such technical group or groups shall be composed of one expert from each of the members of the Sub-Committee and one from each of three other Members of the United Nations, which should be designated by the Secretary-General in consultation with the Sub-Committee.

16. By resolution 1149 (XII), the General Assembly, noting that public opinion must be made aware both of the effects of modern weapons of all kinds and of the necessity of reaching a disarmament agreement providing effective measures of control, considered that it was desirable to seek ways and means of organizing an effective and continuing publicity campaign on a world-wide scale, under the auspices of the United Nations and disregarding all ideological or political considerations. To achieve this goal, the General Assembly requested the Disarmament Commission to make recommendations on the nature of the information to be disseminated and requested the Secretary-General to

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10/ This provision had a precedent in resolution 502 (VI), para. 8, in which the General Assembly "Declares that a conference of all States should be convened to consider the proposals for a draft treaty (or treaties) prepared by the Disarmament Commission as soon as the work of the Commission shall have progressed to a point where in the judgement of the Commission any part of its programme is ready for submission to governments".

report to the Commission on the means available for conducting such an international campaign.

17. By resolution 1252 A, B and C (XIII), the General Assembly, reaffirming the continuing responsibility of the United Nations in the field of disarmament, encouraged initiatives taking place outside the specific framework of the United Nations - namely, the Conference on the Discontinuance of Nuclear Weapon Tests 11/ and the Conference of Experts for the Study of Possible Measures which might be helpful in Preventing Surprise Attack and for the Preparation of a Report thereon to Governments 12/ - in so far as they would assist in promoting the fundamental aims of the Charter. It did so (a) by inviting the parties concerned to avail themselves of the assistance and services of the Secretary-General; (b) by inviting the Secretary-General, in consultation with the Governments concerned, to render whatever advice and assistance might seem appropriate to facilitate current developments or any further initiatives related to problems of disarmament; and (c) by asking the parties concerned to report to the General Assembly on the progress achieved.

18. With a view to fostering agreement between the principal States concerned and in an effort to base the composition of the subsidiary disarmament bodies, so far as possible, on the principle of "parity", successive changes were made in the composition of the Disarmament Commission at the twelfth and thirteenth sessions of the General Assembly.

19. At the twelfth session, the Union of Soviet Socialist Republics submitted a draft resolution 13/ in the First Committee, which would have dissolved the existing Disarmament Commission and established a permanent disarmament commission composed of all Members of the United Nations. This draft resolution was rejected by the Committee and also by the General Assembly, where it was later reintroduced. In the General Assembly, a new draft resolution 14/ was introduced by Canada and Japan which, as later revised and sponsored by additional Members, would enlarge the Disarmament Commission by the addition of fourteen Member States; for the first year, from 1 January 1958 to 1 January 1959 these would be Argentina, Australia, Belgium, Brazil, Burma, Czechoslovakia, Egypt, India, Italy, Mexico, Norway, Poland, Tunisia and Yugoslavia. This proposal was adopted by the General Assembly as resolution 1150 (XII). The Soviet Union declared that it would not take part in the work of the Disarmament Commission because its composition continued to be unsatisfactory.

20. By resolution 1252 D (XIII), the General Assembly unanimously decided that "the Disarmament Commission shall, for 1959 and on an ad hoc basis, be composed of all the Members of the United Nations". The resolution did not change the constitutional framework of the Commission as a subsidiary organ of the General Assembly with special responsibilities to and relations with, the Security Council. 15/ In operative paragraph 3 of the resolution, the General Assembly requested the Commission to convene as appropriate and to submit constructive proposals and recommendations in the field of disarmament "to the Security Council and to the General Assembly at a special session if necessary".

11/ Palais des Nations, Geneva, GEN/DNT (mimeographed), from 31 December 1958.

12/ A/4078 (mimeographed), 10-18 December 1958.

13/ G A (XII), Annexes, a.i. 24, p. 9, A/C.1/797, para. 9.

14/ Ibid., p. 17, A/L.230.

15/ See the study under this Article in the Repertory, vol. I, para. 26 et seqq. In an earlier version, the draft resolution which later became resolution 1252 D (XIII) would have referred to the enlarged Disarmament Commission "as a Committee of the General Assembly". This phrase was deleted in the course of the debate on the resolution.

## II. ANALYTICAL SUMMARY OF PRACTICE

### A. The question of the relationship between the responsibilities of the General Assembly and the primary responsibility of the Security Council with regard to matters concerning the maintenance of international peace and security

21. Discussion of this question occurred in the course of consideration by the General Assembly of the following agenda items:

(a) Question considered by the Security Council at its 749th and 750th meetings held on 30 October 1956 (first emergency special session, agenda item 5);

(b) Question considered by the first emergency special session of the General Assembly from 1 to 10 November 1956 (eleventh session, agenda item 66);

(c) The situation in Hungary (second emergency special session, agenda item 5);

(d) Question considered by the second emergency special session of the General Assembly from 4 to 10 November 1956 (eleventh session, agenda item 67);

(e) The situation in Hungary (thirteenth session, agenda item 69);

(f) Question considered by the Security Council at its 838th meeting on 7 August 1958 (third emergency special session, agenda item 5).

22. The foregoing agenda items concerned the substance of questions originally considered by the Security Council. In each case, the Security Council, taking into account that the lack of unanimity had prevented it from exercising its primary responsibility for the maintenance of international peace and security, decided to call an emergency special session of the General Assembly in accordance with the provisions of General Assembly resolution 377 A (V).

23. During the discussion of the agenda items related to Suez, the general view was that in acting under General Assembly resolution 377 (V), "Uniting for peace", the General Assembly was appropriately exercising its responsibilities for the maintenance of international peace and security since the United Nations could not be frustrated in this task by the abuse of the veto power in the Security Council. It was stated that though the General Assembly had no power of action under the Charter, it had the power of recommendation; when faced with an actual breach of the peace, it was bound to discharge its responsibilities in accordance with the provisions of resolution 377 A (V) and to recommend such necessary basic measures as a cease fire and a withdrawal of armed forces, with a view to putting an end to hostilities and re-establishing the status quo ante. This thesis, while not contested, was met with arguments to the effect that the General Assembly should take measures to prevent the return of the conditions which had resulted in the outbreak of hostilities. In addition to providing "interim measures", such as those to separate the armed forces, it was argued that recommendations should also be made by the General Assembly with a view to bringing about a general political settlement. This argument was opposed by the view that in this particular instance it was the Security Council and not the General Assembly which possessed the necessary competence.

24. In connexion with the problem of obtaining compliance with the decisions of the General Assembly concerning the withdrawal of troops, the view was maintained that the General Assembly was empowered to undertake measures to enforce its recommendations, as required by the situation. The opposing contention was that the application of

sanctions required certain actions by Member States which could be taken only after a decision by the Security Council, since a General Assembly decision was only a recommendation without binding force, and it required the consent of the parties before it could be implemented.

25. In the course of the discussion of the agenda items related to Hungary, the main question considered was the effect of the Security Council's inability to take a decision on the General Assembly's function in respect of the maintenance of international peace and security. It was maintained that in the circumstances envisaged by the "Uniting for peace" resolution, the General Assembly was empowered to condemn intervention of the Soviet Union by armed force in Hungary and to call for the cessation of such interference. It was also empowered to undertake an investigation of the situation and to recommend other political measures looking to the restoration of law and order in Hungary. It was further asserted that in exercising its responsibilities under the "Uniting for peace" resolution, the General Assembly could by means of its recommendations perform the functions set out in Chapter VII of the Charter, which had been extended to the General Assembly when the Security Council had resorted to the provisions of resolution 377 A (V).

26. It was also contended that although under the Charter the decisions of the General Assembly were only recommendations, the basic provisions of the Charter for which the General Assembly urged respect were mandatory in character. Emergency measures decided upon by the General Assembly, which concerned the maintenance of international peace and security and which had resulted from the fact that the Security Council was prevented from acting, were the kind of General Assembly recommendation which could not remain unimplemented. Throughout the discussion relevant to Hungary, the competence of the General Assembly to deal with the situation in Hungary was objected to on the ground that it constituted intervention in essentially domestic matters.

27. The proceedings of the General Assembly on the agenda items listed in paragraph 21 above are reviewed below under headings showing the resolutions adopted by the General Assembly in the exercise of its responsibilities for the maintenance of international peace and security, as affected by the application of the provisions of General Assembly resolution 377 A (V).

*1. Resolutions 997 to 1003 (ES-I) [Cessation of military action in Egypt]*

a. PRECIS OF PROCEEDINGS

28. By a note 16/ dated 1 November 1956, the Secretary-General transmitted to the General Assembly the resolution 17/ adopted by the Security Council at its 751st meeting on 31 October 1956, in which the Council, considering that a grave situation had been created by action undertaken against Egypt, and taking into account that the lack of unanimity of its permanent members at the 749th and 750th meetings of the Security Council had prevented it from exercising its primary responsibility for the maintenance of international peace and security, had decided to call an emergency special session of the General Assembly under the terms of General Assembly resolution 377 A (V), in order to make appropriate recommendations. The note stated further that the Secretary-General, acting under the provisions of rule 8 (b) of the rules of procedure of the General Assembly, had, by telegram dated 31 October 1956, summoned the first emergency special session of the General Assembly to meet at Headquarters on 1 November 1956.

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16/ G A (ES-I), Annexes, a.i. 5, p. 2, A/3213.

17/ S C, 11th yr., Suppl. for Oct.-Dec., p. 116, S/3721.

29. At its 561st plenary meeting, on 1 November 1956, the General Assembly decided 18/ to include in the agenda of its first emergency special session the item, "Question considered by the Security Council at its 749th and 750th meetings held on 30 October 1956". The General Assembly also decided at that meeting to convene in plenary session only. The agenda item was considered at the 561st to 563rd, 565th to 567th and 572nd plenary meetings, held from 1 to 10 November 1956.

30. At the 561st plenary meeting, the representative of the United States submitted a draft resolution 19/ which would urge that all parties involved in hostilities against Egyptian territory should agree to an immediate cease-fire, that the forces of parties to the armistice agreement should be withdrawn behind the armistice lines and that the provisions of the armistice agreements should be observed scrupulously. The Secretary-General would be requested to observe and report promptly on compliance with the resolution to the Security Council and to the General Assembly, for such further action as they might deem appropriate in accordance with the Charter. In the meantime, pending compliance with the resolution, the General Assembly would remain in emergency session.

31. At its 562nd plenary meeting, on 1 November 1956, the General Assembly adopted 20/ the United States draft resolution by 64 votes to 5, with 6 abstentions.

32. At its 563rd plenary meeting, on 3 November 1956, the General Assembly had before it a report 21/ of the Secretary-General concerning compliance with General Assembly resolution 997 (ES-I); the report indicated that the Egyptian Government had agreed to a cease-fire, subject to the condition that the armed forces attacking Egypt should desist from their attack. Also before the General Assembly were two draft resolutions 22/ submitted by the United States, one concerning settlement of the major problems between the Arab States and Israel, and the other offering a means of finding a solution to the Suez Canal question.

33. At the same plenary meeting, the representative of India introduced a draft resolution, 23/ jointly sponsored by nineteen Member States, which would reaffirm the previous resolution and once again call upon the parties to comply immediately with the cease-fire and withdraw their forces. The Secretary-General would be authorized to arrange with the parties for the implementation of these provisions, and would be requested to report compliance forthwith - in any case, within twelve hours.

34. At the same plenary meeting, the representative of Canada submitted another draft resolution 24/ which would request the Secretary-General, as a matter of priority, to submit a plan to the General Assembly within forty-eight hours, for setting up, with the consent of the nations concerned, an emergency international United Nations force to secure and supervise the cessation of hostilities.

35. At the continuation of the same plenary meeting on 3 November 1956, the representative of India agreed that priority in the voting should be given to the Canadian draft resolution, and proposed an amendment to the latter, which the sponsor

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18/ G A (ES-I), Plen., 561st mtg., para. 23.

19/ G A (ES-I), Annexes, a.i. 5, p. 2, A/3256.

20/ G A (ES-I), Plen., 562nd mtg., para. 286. G A resolution 997 (ES-I).

21/ G A (ES-I), Annexes, a.i. 5, p. 3, A/3267.

22/ Ibid., p. 6, A/3272 and A/3273.

23/ G A (ES-I), Annexes, a.i. 5, p. 7, A/3275.

24/ Ibid., p. 8, A/3276.

accepted. 25/ The Canadian draft resolution, as amended, was adopted 26/ by 57 votes to none, with 19 abstentions. The nineteen-Power draft resolution was also adopted 27/ by 59 votes to 5, with 12 abstentions.

36. At its 565th plenary meeting on 4 November 1956, the General Assembly had before it three reports 28/ of the Secretary-General concerning the implementation of General Assembly resolutions 997 (ES-I), 998 (ES-I) and 999 (ES-I). In addition to these reports, the General Assembly also had before it a draft resolution, 29/ jointly submitted by Canada, Colombia and Norway, to establish a United Nations Command for an emergency international force to secure and supervise the cessation of hostilities.

37. At the same plenary meeting, the draft resolution proposed by Canada, Colombia and Norway was adopted 30/ by 57 votes to none, with 19 abstentions.

38. At its 566th plenary meeting on 7 November 1956, the General Assembly had before it a communication from Israel, agreeing unconditionally to a cease-fire, and almost identical letters from France and the United Kingdom agreeing to cease all military action upon the acceptance by both Egypt and Israel of a plan for an international force endorsed by the United Nations. 31/ The General Assembly also had before it the second and final report 32/ of the Secretary-General on the plan for an emergency international United Nations force. The representative of Denmark submitted a draft resolution 33/ jointly sponsored by seven Member States, which would endorse the guiding principles set forth in the reports of the Secretary-General for the organization and functioning of the emergency international United Nations Force. An Advisory Committee composed of seven Member States - Brazil, Canada, Colombia, India, Iran, Norway and Pakistan - would be established under the chairmanship of the Secretary-General, to undertake the development of those aspects of planning for the emergency force and its operation which were not already dealt with by the General Assembly and which did not fall under the direct responsibility of the Chief of Command.

39. At its 567th plenary meeting, on 7 November 1956, after voting on several amendments which had been proposed, the General Assembly adopted 34/ the seven-Power draft resolution, as amended, by 64 votes to none, with 12 abstentions.

40. At the 566th plenary meeting, the representative of Ceylon submitted a draft resolution 35/ jointly sponsored by nineteen Member States, which would reaffirm the previous General Assembly resolutions calling for a cease-fire and withdrawal of forces, as well as the resolutions providing for the establishment and functioning of an emergency international force, and would call once again upon France, Israel and the United Kingdom to withdraw all their forces from Egyptian-controlled territory immediately.

25/ G A (ES-I), Plen., 563rd mtg., paras. 273-276 and 282.

26/ *Ibid.*, para. 285. G A resolution 998 (ES-I).

27/ *Ibid.*, para. 286. G A resolution 999 (ES-I).

28/ G A (ES-I), Annexes, a.i. 5, p. 10, A/3284; *ibid.*, p. 11, A/3287; *ibid.*, p. 14, A/3289.

29/ G A (ES-I), Annexes, a.i. 5, p. 15, A/3290.

30/ G A (ES-I), Plen., 565th mtg., para. 109. G A resolution 1000 (ES-I).

31/ G A (ES-I), Annexes, a.i. 5, p. 19, A/3301; *ibid.*, p. 16, A/3294 and A/3293.

32/ *Ibid.*, p. 19, A/3302 and Add.1-16.

33/ *Ibid.*, p. 28, A/3308.

34/ G A (ES-I), Plen., 567th mtg., paras. 268 and 269. G A resolution 1001 (ES-I).

35/ G A (ES-I), Annexes, a.i. 5, p. 29, A/3309.

41. At the 567th plenary meeting of the General Assembly, this nineteen-Power draft resolution was adopted 36/ by 65 votes to 1, with 10 abstentions.

42. At the 572nd plenary meeting on 10 November 1956, the representative of the United States submitted a draft resolution 37/ which would place on the provisional agenda of the eleventh regular session of the General Assembly, as a matter of priority, the question considered at the first emergency special session. The General Assembly would also have been requested to give urgent consideration at its eleventh regular session to two draft resolutions submitted previously by the United States, 38/ which had not been voted upon at the emergency special session; this provision was later deleted 39/ from the draft resolution.

43. At the same meeting, the United States draft resolution, as amended orally, was adopted 40/ by 66 votes to none, with 2 abstentions.

b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

44. In connexion with the adoption of the agenda of the first emergency special session of the General Assembly, an objection was made that General Assembly resolution 377 A (V) was being applied illegally. It was contended that this resolution, entitled "Uniting for peace", could be invoked only when the Security Council had failed, because of lack of unanimity among the permanent members, to exercise its primary responsibility for the maintenance of international peace and security in any case where there appeared to be a threat to the peace, a breach of the peace or an act of aggression. When the Security Council had decided, at its 751st meeting, to convene an emergency special session of the General Assembly, it had been considering the complaint raised in a letter 41/ from the representative of Egypt, dated 30 October 1956. During that debate, no draft resolution had been submitted; therefore there had been no vote and consequently, it was argued, no manifestation of a lack of unanimity among the permanent members. The Council could not, therefore, legally bring the Egyptian complaint before the General Assembly. On the other hand, the item submitted by a letter 42/ from the representative of the United States, dated 29 October 1956, which the Security Council had considered at its 749th meeting and at part of its 750th meeting, was clearly within the framework of Chapter VI, not Chapter VII, of the Charter. In that case, there was no reason for the General Assembly to be seized of the matter because, irrespective of whether Chapter VII was involved, there had been no fulfilment of the second condition in the "Uniting for peace" resolution, namely, a previous determination by the Security Council that there appeared to be a threat to the peace, a breach of the peace or an act of aggression.

45. After the adoption of the agenda, similar reservations were expressed as to the legality of the emergency special session.

46. Among the arguments in support of convening the emergency special session were the following: the "Uniting for peace" resolution had provided a way of avoiding the misuse of the veto in the Security Council and had enabled collective measures to be undertaken for the prevention and removal of threats to the peace. The General Assembly

36/ G A (ES-I), Plen., 567th mtg., para. 278. G A resolution 1002 (ES-I).

37/ G A (ES-I), Annexes, a.i. 5, p. 32, A/3329.

38/ See para. 32 above.

39/ G A (ES-I), Plen., 572nd mtg., paras. 27 and 74.

40/ Ibid., para. 74. G A resolution 1003 (ES-I).

41/ S C, 11th yr., Suppl. for Oct.-Dec., pp. 111 and 112, S/3712.

42/ Ibid., p. 108, S/3706.

was therefore urged to assume whatever powers the Charter had provided for such circumstances. The General Assembly was acting appropriately in applying the "Uniting for peace" resolution, since the United Nations could not allow itself to be frustrated in its task of maintaining international peace and security.

47. After the vote on General Assembly resolution 997 (ES-I) had been taken, opinions were placed on record calling for stronger terms in the text of the recommendations contained in the resolution. The votes in favour of the resolution were described as having been prompted by the urgent and inescapable need for the General Assembly to assume responsibilities under the "Uniting for peace" resolution.

48. During subsequent discussions, in connexion with the question of non-compliance by the parties concerned with General Assembly resolution 997 (ES-I), statements were made by various representatives on the responsibilities and powers of the General Assembly in relation to those of the Security Council.

49. One representative stated that a breach of the peace and an act of aggression had been committed by France and the United Kingdom, two permanent members of the Security Council; they had paralysed the Council by using the right of veto against the draft resolution before the Council. In such circumstances, the General Assembly, in accordance with the provisions of its resolution 377 A (V), was bound to discharge its responsibilities and to take necessary measures for the suppression of acts of aggression and other breaches of the peace. The discharge of responsibilities by the General Assembly, in the view of another representative, resulted as much from the provisions of the Charter as from those of General Assembly resolutions 377 (V) entitled "Uniting for peace", 378 (V) regarding the duties of States in the event of the outbreak of hostilities, and 380 (V) relating to peace through deeds.

50. The view was also expressed that the General Assembly, which was meeting for the first time in pursuance of the "Uniting for peace" resolution, was the constituted authority to deal with just such circumstances as had arisen. While under the Charter the General Assembly had no power of action, it had the power of recommendation which would be influential in the situation then prevailing when it reflected the moral judgement of the world community. Other statements likewise supported the view that under the "Uniting for peace" resolution, the General Assembly could not make decisions applying sanctions, but could only make recommendations. On the other hand, it was observed that the emergency special session had been called to take all measures possible under the "Uniting for peace" resolution to effect a cease-fire, in view of the failure of the Security Council to do so. A cease-fire resolution was not to be construed as a "recommendation" because, unlike resolutions of the General Assembly on other matters, it was taken to meet an immediate need, namely a breach of the peace and an act of aggression that must be stopped immediately.

51. As to the measures which the General Assembly might take, one representative stated that they should include condemnation of the armed aggression against Egypt, a cease-fire and withdrawal order and, in case of non-compliance with such an order, the immediate assistance prescribed by the provisions of Chapter VII of the Charter to be made available to the victim of aggression. It was also noted that the General Assembly was meeting under resolution 377 A (V), which provided for collective measures to maintain or restore international peace and security, and that the resolution stipulated the employment of force when necessary. It was further contended that the emergency special session which had been convened enabled the General Assembly to consider collective measures to remove the threat to the peace and the breach of the peace - with particular reference to Chapter VII of the Charter - in order to apply such sanctions as were appropriate to the requirements of the situation.

52. In connexion with the three-Power draft resolution proposing the establishment of an emergency international force to secure and supervise the cessation of hostilities, 43/ one representative noted that the Charter of the United Nations laid down two distinct procedures: (a) the conciliation procedure for the pacific settlement of disputes, and (b) collective action under Chapter VII, which was a function of the Security Council. If collective action should prove impossible because of a veto in the Security Council, then under the "Uniting for peace" resolution the matter would pass to the General Assembly where, however, it would be subject to the conciliation procedure of Chapter VI. In this event, the General Assembly could authorize the use of force only in cases of individual or collective self-defence. Apart from such authorizations for self-defence, the General Assembly could not take any decision involving the use of force or order any collective measure because, under Chapter VII, to do so was a function of the Security Council.

53. A discussion on the scope of General Assembly action at its first emergency special session arose in connexion with the two draft resolutions 44/ submitted by the United States. Under one of these proposals, 45/ the General Assembly would establish a committee which would prepare recommendations, after consultation with the parties to the general armistice agreements of 1949, regarding the major problems outstanding between the Arab States and Israel, and would submit the recommendations to the General Assembly, or to the Security Council, as appropriate. The other draft resolution 46/ would establish a committee to prepare and operate a plan, in consultation with the parties concerned, for a settlement of the Suez Canal question, and likewise report to the General Assembly or to the Security Council, as appropriate.

54. It was contended, on the one side, that while continuing its efforts to obtain quick compliance with the cease-fire resolution, the General Assembly should not lose sight of the problems and conditions which gave rise to the emergency situation. The two draft resolutions that had been introduced dealt with the substance of the problems which had caused the critical situation in the Middle East. The General Assembly should, therefore, lay the foundation for constructive action which had to follow the cessation of hostilities, and should seize the opportunity to make a start towards the solution of the grave Middle East issues, thus living up to its responsibilities under the Charter.

55. On the other side, objections to the two draft resolutions were raised on the grounds that the basis for the authority provided by resolution 377 A (V), under which the General Assembly was holding its emergency special session, must be an actual breach of the peace, and the General Assembly could meet only because the lack of unanimity in the Security Council had resulted in its failure to discharge its responsibilities for the maintenance of international peace and security. The questions dealt with in the United States proposals had not presented aspects which would bring them fully within the purview of the "Uniting for peace" resolution. The emergency special session was not the occasion for discussing permanent solutions to the Palestine problem and the Suez Canal question. Consequently, the emergency special session should confine itself to the grave situation which had caused the Security Council to convoke the General Assembly session. Its competence at its first emergency special session was restricted to considering the action undertaken against Egypt. In addition, the question arose whether the General Assembly could consider the particular problem of the Suez Canal at all, since the Security Council was seized of the matter.

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43/ G A (ES-I), Annexes, a.i. 5, p. 15, A/3290; see para. 36 above.

44/ See para. 32 above.

45/ G A (ES-I), Annexes, a.i. 5, p. 6, A/3272.

46/ Ibid., p. 6, A/3273.

56. In connexion with the proposal to transfer the question considered at the first emergency special session of the General Assembly <sup>47/</sup> to the provisional agenda of the eleventh regular session, one representative observed that the sole purpose in convening the first emergency special session had been to deal with the question considered by the Security Council at its 749th and 750th meetings, and not to transfer the question to another session since, in a constitutional and juridical sense, the emergency special session was distinct from a regular session of the General Assembly. In his view, both Assemblies could even coexist legally. It was therefore doubtful whether an emergency special session could transfer to another General Assembly session an item for the consideration of which the emergency special session had been convoked. Therefore, if the agenda item remained before the emergency special session, it might continue to be considered whenever the situation required, thus maintaining the emergency basis of the General Assembly session and the exercise by the General Assembly of its emergency powers.

57. In a statement regarding these observations, the President of the General Assembly remarked that holding an emergency special session simultaneously with a regular session would be contrary to the provisions for convening emergency special sessions; these were held solely because the General Assembly was not in regular session. When the provisions had been drawn up, it had not been intended to hold emergency special sessions when the General Assembly was in regular session and hence fully capable of dealing with the items before it. <sup>48/</sup>

2. *Resolutions 1120 (XI), 1121 (XI) and 1123 to 1126 (XI) [Cessation of military action in Egypt]*

a. PRECIS OF PROCEEDINGS

58. At its 576th plenary meeting, on 13 November 1956, the General Assembly, without objection, decided <sup>49/</sup> to include in its agenda and to consider directly in plenary meeting the item entitled "Question considered by the first emergency special session of the General Assembly from 1 to 10 November 1956". Various phases of the question were discussed by the General Assembly at its 591st to 597th meetings, from 23 to 27 November 1956; the 624th and 629th to 632nd meetings, from 18 to 21 December 1956; the 638th to 642nd, 644th to 646th and 649th to 652nd meetings, from 17 January to 2 February 1957; and the 659th to 661st and 664th to 668th meetings, from 22 February to 8 March 1957.

59. At the 591st plenary meeting, on 23 November 1956, the representative of Sudan introduced a draft resolution <sup>50/</sup> jointly sponsored by Afghanistan, Burma, Cambodia, Ceylon, Egypt, Ethiopia, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Morocco,

<sup>47/</sup> G A (ES-I), Annexes, a.i. 5, p. 32, A/3329; see para. 42 above.

<sup>48/</sup> For texts of relevant statements, see G A (ES-I), 561st mtg.: Egypt, para. 49; France, paras. 17-22; United Kingdom, paras. 65 and 66; United States, paras. 134, 151 and 152; 562nd mtg.: Canada, paras. 299 and 300; Colombia, paras. 37 and 38; Czechoslovakia, para. 393; Jordan, para. 28; Mexico, para. 316; Poland, para. 341; Saudi Arabia, para. 252; Syria, paras. 55 and 56; 563rd mtg.: Indonesia, para. 234; Iraq, para. 43; Jordan, para. 228; Lebanon, para. 160; Philippines, paras. 58-62; Thailand, para. 261; United States, paras. 22, 24 and 37; 565th mtg.: Colombia, para. 87; 572nd mtg.: President, para. 28; Guatemala, paras. 76 and 77; India, paras. 33 and 34; Philippines, paras. 5, 9 and 10.

<sup>49/</sup> G A (XI), Plen., 576th mtg., paras. 128-131.

<sup>50/</sup> G A (XI), Annexes, vol. II, a.i. 66, p. 18, A/3385.

Nepal, Pakistan, Saudi Arabia, Syria, Tunisia and Yemen. At the 593rd meeting, on 24 November 1956, the General Assembly had before it a revised text of a draft resolution 51/ sponsored by the same Powers with the exception of Egypt. Under this twenty-Power draft resolution, the General Assembly, having received the report 52/ of the Secretary-General on compliance with resolutions 997 (ES-I) and 1002 (ES-I), would (a) note with regret that two-thirds of the French forces remained on Egyptian territory, that all the United Kingdom forces remained, though arrangements had been made for the withdrawal of one battalion, and that no Israel forces had been withdrawn behind the armistice line though a considerable time had elapsed; and (b) reiterate its call to France, Israel and the United Kingdom for compliance forthwith. At the 593rd meeting, on 24 November, the representative of Belgium submitted an amendment 53/ to replace both of the aforementioned paragraphs of the revised draft resolution by a single paragraph under which the General Assembly would note the withdrawal of forces that had already taken place and would consider that such withdrawals should be expedited, having particular regard "to the functions vested in the United Nations forces".

60. At the 591st plenary meeting, on 23 November 1956, the representative of Colombia submitted a draft resolution 54/ jointly sponsored by Canada, India, Norway, United States and Yugoslavia, under which the General Assembly, having received the reports of the Secretary-General on the presence and functioning in Egypt of the United Nations Emergency Force, 55/ and on arrangements for clearing the Suez Canal, 56/ would note with approval the contents of both these reports, and would authorize the Secretary-General to proceed with arrangements for clearing the Canal.

61. At the 594th plenary meeting, on 24 November 1956, after the amendment submitted by Belgium had been rejected 57/ by 37 votes to 23, with 18 abstentions, the General Assembly adopted, 58/ by 63 votes to 5, with 10 abstentions, the twenty-Power draft resolution. At the same meeting the General Assembly adopted 59/ the six-Power draft resolution by 65 votes to none, with 9 abstentions.

62. At the 638th meeting, on 17 January 1957, the representative of Ceylon submitted a draft resolution 60/ jointly sponsored by twenty-five Member States, under which, having received a report 61/ of the Secretary-General, the General Assembly would (a) note with regret and concern the failure of Israel to comply with the withdrawal provisions of previous General Assembly resolutions, and (b) request the Secretary-General to continue his efforts to secure complete withdrawal, and to report on the subject within five days.

63. At the 642nd plenary meeting, on 19 January 1957, the General Assembly adopted 62/ the draft resolution sponsored by twenty-five Powers, by 74 votes to 2, with 2 abstentions.

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- 51/ Ibid., p. 19, A/3385/Rev.1.  
52/ Ibid., p. 16, A/3384 and Add.1 and 2.  
53/ G A (XI), Annexes, vol. II, a.i. 66, p. 73, A/L.215.  
54/ Ibid., p. 19, A/3386.  
55/ Ibid., p. 9, A/3375.  
56/ Ibid., p. 10, A/3376.  
57/ G A (XI), Plen., vol. I, 594th mtg., para. 148.  
58/ Ibid., para. 157. G A resolution 1120 (XI).  
59/ G A (XI), Plen., vol. I, 594th mtg., para. 159. G A resolution 1121 (XI).  
60/ G A (XI), Annexes, vol. II, a.i. 66, p. 44, A/3501/Rev.1.  
61/ Ibid., p. 42, A/3500 and Add.1.  
62/ G A (XI), Plen., vol. II, 642nd mtg., para. 123. G A resolution 1123 (XI).

64. At the 644th plenary meeting, on 28 January 1957, the General Assembly had before it a note 63/ by the Secretary-General transmitting an aide-mémoire on the Israel position regarding the Sharm el-Sheikh area and the Gaza Strip, and the report 64/ of the Secretary-General, in pursuance of General Assembly resolution 1123 (XI), stating that at the expiration of the time-limit set by the resolution, Israel had not fully complied with the requests of the General Assembly for withdrawal.

65. At the 650th plenary meeting, on 2 February 1957, the General Assembly had before it two draft resolutions jointly submitted by Brazil, Colombia, India, Indonesia, Norway, United States and Yugoslavia. Under the first draft resolution, 65/ the General Assembly would (a) deplore the non-compliance of Israel with the General Assembly's repeated requests for withdrawal and (b) call upon Israel to complete its withdrawal without further delay. Under the second draft resolution, 66/ which dealt with the measures set forth in the Secretary-General's report, the General Assembly, recognizing that withdrawal by Israel must be followed by action which would assure progress towards the creation of peaceful conditions, would (a) note with appreciation the report of the Secretary-General, (b) call upon Egypt and Israel scrupulously to observe the provisions of the 1949 Armistice Agreement, (c) consider that scrupulous maintenance of that agreement, after full withdrawal of Israel from the Sharm el-Sheikh and Gaza areas, required placing the United Nations Emergency Force on the armistice demarcation line and implementing other measures as proposed in the report and (d) request the Secretary-General, in consultation with the parties concerned, to take steps to carry out these measures and to report, as appropriate, to the General Assembly.

66. At the 652nd plenary meeting, on 2 February 1957, the General Assembly, after rejecting 67/ a motion by the representative of the Union of Soviet Socialist Republics to defer voting on the second draft resolution until 5 February, adopted 68/ the first draft resolution by 74 votes to 2, with 2 abstentions, and thereafter adopted 69/ the second draft resolution by 56 votes to none, with 22 abstentions.

67. At the 659th plenary meeting, on 22 February 1957, the General Assembly had before it the report 70/ of the Secretary-General in pursuance of its resolutions 1124 (XI) and 1125 (XI), and another report 71/ of the Secretary-General on arrangements concerning the status of the United Nations Emergency Force in Egypt. A draft resolution 72/ had been jointly submitted by ten Member States in connexion with the latter report.

68. At the same meeting, the General Assembly adopted 73/ the ten-Power draft resolution by 67 votes to none, with 7 abstentions. After the Secretary-General had orally supplemented 74/ his report on the question of withdrawal, the representative of Lebanon introduced a draft resolution 75/ jointly submitted by six Member States. Under

63/ G A (XI), Annexes, vol. II, a.i. 66, p. 45, A/3511.

64/ Ibid., p. 47, A/3512.

65/ Ibid., p. 50, A/3517.

66/ G A (XI), Annexes, vol. II, a.i. 66, p. 52, A/3518.

67/ G A (XI), Plen., vol. II, 652nd mtg., para. 222.

68/ Ibid., para. 223. G A resolution 1124 (XI).

69/ Ibid., para. 224. G A resolution 1125 (XI).

70/ G A (XI), Annexes, vol. II, a.i. 66, p. 57, A/3527.

71/ Ibid., p. 52, A/3526.

72/ Ibid., p. 62, A/3542.

73/ G A (XI), Plen., vol. II, 659th mtg., para. 22. G A resolution 1126 (XI).

74/ Ibid., paras. 24-29.

75/ G A (XI), Annexes, vol. II, a.i. 66, p. 62, A/3557.

this draft resolution, the General Assembly would (a) condemn Israel for its non-compliance with the terms of the General Assembly resolutions concerning withdrawal, (b) call upon all States to deny all military, economic or financial assistance and facilities to Israel, (c) request all States to provide the Secretary-General with information on their implementation of these provisions and (d) request the Secretary-General to report again on the implementation of the relevant General Assembly resolutions.

69. At the 661st plenary meeting, on 26 February 1957, attention was drawn to a note 76/ by the Secretary-General on his discussions with the representative of Israel concerning withdrawal.

70. At the 666th plenary meeting, on 1 March 1957, the representative of Israel stated 77/ that Israel was prepared to withdraw its forces from the Sharm el-Sheikh area and the Gaza Strip, in compliance with General Assembly resolution 1124 (XI).

71. At the 668th plenary meeting, on 8 March 1957, the General Assembly had before it the second report 78/ of the Secretary-General in pursuance of its resolutions 1124 (XI) and 1125 (XI). At the same meeting, the Secretary-General, in supplementing his report orally, stated 79/ that Israel had virtually completed its full compliance with the request for unconditional withdrawal of its forces from the Gaza Strip and the Sharm el-Sheikh area, in accordance with resolution 1124 (XI). The six-Power draft resolution mentioned above (paragraph 68) was not put to the vote.

b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

72. At the eleventh session of the General Assembly, when the agenda item considered at the first emergency special session was being dealt with, the constitutional discussion was further concerned with the extent of the responsibilities of the General Assembly which were being discharged under the authority of the "Uniting for peace" resolution. In connexion with the resolutions adopted at the first emergency special session calling upon Israel immediately to withdraw its forces behind the armistice demarcation lines, the question arose whether certain assurances could be given to Israel concerning its future security in the Gaza Strip and the freedom of navigation in the Gulf of Aqaba and the Suez Canal.

73. It was contended, on the one side, that while the aim of the General Assembly should be to bring an end to the hostilities which had occurred, it should also endeavour to create conditions which would make the various questions susceptible of a final and equitable solution. It was considered essential, therefore, that on the withdrawal of Israel forces from the Gaza Strip and the positions in the Gulf of Aqaba, precautions should be adopted to ensure that these positions were not directly or indirectly occupied by Egyptian forces, thereby again creating a situation of imminent danger. In addition to adopting these provisions, described as "interim measures", it was also proposed that the General Assembly should proceed at an early stage to frame recommendations designed to bring about a general settlement of the Palestine question. The time had come, it was argued, for the General Assembly to lay the groundwork for just solutions to the questions of the Suez Canal and of the relations of Israel with the Arab States.

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76/ Ibid., p. 70, A/3563.

77/ G A (XI), Plen., vol. II, 666th mtg., para. 1.

78/ G A (XI), Annexes, vol. II, a.i. 66, p. 72, A/3568.

79/ G A (XI), Plen., vol. II, 668th mtg., paras. 138-140.

74. On the other side, the opinion was expressed that the General Assembly did not have broad jurisdiction over the Palestine question. It was contended that the General Assembly emergency session had been competent to deal solely with the question arising from the outbreak of hostilities on 29 October 1956. The organ of the United Nations which was seized of the other political and security questions that had been raised was the Security Council.

75. The view was expressed that the problem of Israel's right to unrestricted passage through the Suez Canal had to be considered by the Security Council, and the proposals of Israel in regard to the Gulf of Aqaba and the Straits of Tiran could be acted upon only by the Security Council. <sup>80/</sup> Other representatives were of the view that the appropriate place for resolving the question of free passage for Israel ships was the International Court of Justice. Another question of competence was raised when the view was expressed that the general question of strict observance of the provisions of the armistice agreements, after the hostilities that had taken place, was a matter which must be dealt with by the General Assembly separately from the question for which the first emergency special session of the General Assembly had been convened. The subject before the General Assembly, from the beginning of the first emergency special session, was the issue of the invasion of Egypt, and not the Arab-Israel question. In any event, complete withdrawal of Israel behind the armistice demarcation line was required before the United Nations could address itself to its general purposes of conciliation and the maintenance of peace in the Palestine area.

76. Several representatives maintained that the United Nations should act to compel compliance with its decisions on the withdrawal of Israel forces to positions behind the armistice lines. In view of the ineffectual reiteration of calls upon Israel to withdraw, the General Assembly should undertake certain measures which were not real sanctions, such as the Charter provided against aggression, though the conditions for sanctions existed. Under these measures, Israel should be condemned for its non-compliance with the General Assembly resolutions, and all States should deny Israel all types of assistance - financial, economic or military. A draft resolution submitted to the General Assembly by Afghanistan, Indonesia, Iraq, Lebanon, Pakistan and Sudan, which would provide for economic sanctions against Israel, was similar to a proposal to the same effect previously submitted to the Security Council. This had not been adopted, it was stated, because of the lack of unanimity among the Council's permanent members. It was the duty of the General Assembly to condemn Israel for its aggression and for its failure to comply with the General Assembly resolutions to withdraw unrewarded. Since Israel's defiance had to be met, the General Assembly's only choice was to apply vigorous measures, including discontinuance of foreign aid to Israel.

77. In expressing reservations on the drastic measures requested from the General Assembly, another representative noted that the application of sanctions to Israel would necessitate certain action on the part of Member States, and the decision on the matter should be taken by the Security Council rather than the General Assembly, since under the Charter a decision by the Security Council would be binding upon all States, whereas a decision of the General Assembly would merely be a recommendation. It was also emphasized that action through recommendations of the General Assembly, as contrasted with decisions of the Security Council under Chapter VII of the Charter, required the consent of the parties concerned for their implementation.

78. Upon the announcement by Israel of its prompt and unconditional withdrawal from Egyptian-controlled territory, it was stressed by another representative that the

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<sup>80/</sup> Concerning the matters dealt with in this paragraph, see below, para. 182 et seqq.

United Nations had fulfilled the mandate of the "Uniting for peace" resolution which provided for emergency special sessions. 81/

### 3. Resolutions 1004 to 1006 (ES-II) and 1008 (ES-II) [Situation in Hungary]

#### a. PRECIS OF PROCEEDINGS

79. By a note 82/ dated 4 November 1956, the President of the Security Council communicated to the Secretary-General the text of the resolution 83/ adopted by the Security Council at its 754th meeting, on 4 November 1956, to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V) "in order to make appropriate recommendations concerning the situation in Hungary".

80. At its 564th plenary meeting, on 4 November 1956, the General Assembly decided 84/ after discussion, to include in the agenda of the second emergency special session the item entitled, "The situation in Hungary". The General Assembly also decided 85/ at that meeting to convene in plenary session only. The agenda item was considered by the General Assembly at its 564th, 568th to 571st and 573rd plenary meetings, from 4 to 10 November 1956.

81. At the 564th plenary meeting, the representative of the United States submitted a draft resolution 86/ which would call upon the Government of the Union of Soviet Socialist Republics to desist forthwith from all armed attack on the people of Hungary and from any form of intervention, in particular armed intervention, in the internal affairs of Hungary, as well as to withdraw all its forces without delay from Hungarian territory. In addition, the Secretary-General would be requested, under this draft resolution, to investigate the situation in Hungary, to observe the situation directly through representatives named by him, to report to the General Assembly at the earliest moment, and as soon as possible suggest methods to bring an end to the existing situation in Hungary in accordance with the principles of the Charter. In consequence of an amendment moved 87/ by the representative of France and accepted 88/ by the United States, the words "the situation in Hungary" in the draft resolution were changed to "the situation caused by foreign intervention in Hungary".

82. At the same meeting, the General Assembly adopted 89/ the United States draft resolution, as amended, by 50 votes to 8, with 15 abstentions.

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81/ For texts of relevant statements, see G A (XI), Plen., vol. II, 638th mtg.: Australia, paras. 47, 48, 72, 73 and 78; Brazil, para. 93; Colombia, paras. 174-176 and 180; 639th mtg.: New Zealand, paras. 104, 111 and 113; 649th mtg.: Australia, para. 57; Indonesia, para. 148; 651st mtg.: India, paras. 106 and 113; 659th mtg.: Lebanon, para. 36; 660th mtg.: Jordan, paras. 26 and 27; Syria, paras. 167 and 168; USSR, paras. 108 and 111; 661st mtg.: Iraq, paras. 54-56; Saudi Arabia, paras. 98, 103 and 104; 664th mtg.: Indonesia, paras. 75 and 76; Ukrainian SSR, paras. 110 and 111; 665th mtg.: Romania, paras. 9 and 19; Yemen, para. 26; 667th mtg.: Peru, para. 188; USSR, para. 179.

82/ G A (ES-II), Annexes, a.i. 5, p. 2, A/3280.

83/ S C, 11th yr., Suppl. for Oct.-Dec., p. 127, S/3733.

84/ G A (ES-II), Plen., 564th mtg., para. 36.

85/ Ibid., para. 8.

86/ G A (ES-II), Annexes, a.i. 5, p. 2, S/3286.

87/ G A (ES-II), Plen., 564th mtg., para. 244.

88/ Ibid., para. 247.

89/ Ibid., para. 253. G A resolution 1004 (ES-II).

83. At the 569th plenary meeting, on 8 November 1956, the representative of Italy placed before the General Assembly a draft resolution 90/ jointly submitted with Cuba, Ireland, Pakistan and Peru, which would reiterate the call upon the Government of the Soviet Union to withdraw its armed forces from Hungary without any further delay, and would propose that, following the restoration of law and order, free elections should be held in Hungary under United Nations auspices. The draft resolution would also reaffirm its request to the Secretary-General to continue to investigate, through representatives named by him, the situation caused by foreign intervention in Hungary.

84. At the same meeting, the Secretary-General called attention to a communication 91/ he had addressed to the Government of Hungary in reference to the plans for implementation of resolution 1004 (ES-II).

85. At the 570th plenary meeting, on 9 November 1956, the representative of the United States submitted a draft resolution 92/ which would call upon the Soviet Union to "cease immediately actions against the Hungarian population which are in violation of the accepted standards and principles of international law, justice and morality".

86. At the 571st meeting, after being voted on paragraph by paragraph, the five-Power draft resolution was adopted 93/ as a whole by 48 votes to 11, with 16 abstentions. The United States draft resolution was adopted 94/ by 53 votes to 9, with 13 abstentions.

87. At the 573rd plenary meeting on 10 November 1956, the representative of the United States submitted a draft resolution 95/ which would place on the provisional agenda of the eleventh regular session of the General Assembly, as a matter of priority, the question considered at the second emergency special session. At the same plenary meeting, the representative of the United States accepted an amendment 96/ proposed by the representative of Italy.

88. The United States draft resolution, as amended was then adopted 97/ by 53 votes to 9, with 8 abstentions.

#### b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

89. Objection was made to the adoption of the agenda 98/ on the grounds of domestic jurisdiction. In countering this objection, the following arguments were adduced. The

90/ G A (ES-II), Annexes, a.i. 5, p. 4, A/3316.

91/ G A (ES-II), Plen., 569th mtg., para. 149. G A (ES-II), Annexes, a.i. 5, p. 3, A/3315.

92/ G A (ES-II), Plen., 570th mtg., para. 11. G A (ES-II), Annexes, a.i. 5, p. 4, A/3319.

93/ G A (ES-II), Plen., 571st mtg., para. 240. G A resolution 1005 (ES-II).

94/ Ibid., para. 243. G A resolution 1006 (ES-II).

95/ G A (ES-II), Plen., 573rd mtg., para. 1. G A (ES-II), Annexes, a.i. 5, p. 5, A/3330.

96/ Ibid., paras. 6 and 60.

97/ Ibid., para. 60. G A resolution 1008 (ES-II).

98/ See also the studies in this Supplement under Article 2 (4) and Article 2 (7).

threat and use of force by foreign troops in Hungary were in contravention of both the Peace Treaty with Hungary of 10 February 1947 and Article 2 (4) of the Charter. Moreover, since the emergency special session of the General Assembly had been convened under the procedures established by resolution 377 A (V), entitled "Uniting for peace", in order to deal with the situation created by the presence of such troops in Hungary, the General Assembly must consider the question.

90. After the agenda had been adopted, it was stated that General Assembly resolution 377 A (V) represented the consolidation of United Nations functions with respect to international peace, and the solution of the problem of ensuring a harmonious relationship between the Security Council and the General Assembly. It was also a recognition of the fact that if for any reason one of the organs of the United Nations was prevented from acting on vital questions, the General Assembly should assume the primary function of restoring international peace and security. This function was implicit in the spirit of the Charter; it had not been granted by this resolution but rather was recognized as belonging to the General Assembly. The jurisdiction of the General Assembly as regards the situation in Hungary was not only based on Article 2 (4) of the Charter, but also on the international nature of the crime of genocide as defined in the United Nations Convention on Genocide, since the action of the Government of the Soviet Union in Hungary had been stigmatized as genocide.

91. A parallel was drawn by some representatives between the question of the military operations against Egyptian territory and the situation in Hungary. Both were cases where the clear and unequivocal provisions of the Charter had been violated; the General Assembly should take similar steps to assert its authority in dealing with each of these questions, in order to safeguard international peace. As in the case of the question of Egypt, therefore, the General Assembly should act effectively in regard to the situation in Hungary and should state in definite and precise terms the necessity for the withdrawal of Soviet troops from Hungarian territory.

92. In opposing the view that such a parallel existed, other representatives maintained that though there was a flagrant case of armed aggression against Egypt, the Government of Hungary had objected categorically to any discussion either in the Security Council or in the General Assembly, of a matter which it considered within the exclusive jurisdiction of Hungary. Soviet armed forces had rendered their assistance to the Hungarian Government at its request, and pursuant to the Warsaw Pact. The question of the implementation of a regional agreement such as the Warsaw Pact concerned the contracting parties only, and any attempt to turn such a question into a subject for discussion by the United Nations was illegal and a violation of the Charter. Therefore, the only object in convening the General Assembly in emergency special session should have been to put an end to the hostile acts carried out by France, Israel and the United Kingdom against Egypt.

93. Discussion of the proposal to refer the agenda item on the situation in Hungary to the eleventh regular session of the General Assembly gave rise to a question similarly raised at the end of the first emergency special session, as to whether an emergency special session could be held simultaneously with a regular session of the General Assembly. One representative contended that if the proposal were not adopted, the second emergency session would continue to discharge its responsibilities in relation to Hungary. Another representative reserved his position on the relevance or irrelevance of the procedure under consideration in connexion with the provisions of

the "Uniting for peace" resolution; such a procedure, he suggested, might not be necessary. 99/

4. *Resolutions 1127 (XI), 1128 (XI) and 1130 to 1133 (XI) [Situation in Hungary]*

a. PRECIS OF PROCEEDINGS

94. At its 576th plenary meeting, on 13 November 1956, the General Assembly, after discussion, decided 100/ to include in its agenda and to consider directly, in plenary meetings the item entitled "Question considered by the second emergency special session of the General Assembly from 4 to 10 November 1956". The General Assembly considered the question at its 582nd to 587th, 604th to 609th, 613th to 618th and 633rd to 636th meetings, from 19 November 1956 to 10 January 1957. At its 669th plenary meeting, on 10 September 1957, the General Assembly reconvened in accordance with resolution 1119 (XI) of 8 March 1957, in order to consider the question further, together with the report of the Special Committee on the Problem of Hungary. This phase of the discussion occurred at its 669th to 677th meetings, from 10 to 13 September 1957.

95. At the 582nd plenary meeting, on 19 November 1956, the representative of Cuba introduced a revised draft resolution 101/ under which the General Assembly, after recalling its previous resolutions on the question, would (a) press for prompt compliance with its resolutions 1004 (ES-II) and 1005 (ES-II), calling for the withdrawal of Soviet forces from Hungary and for the dispatch of observers to Hungary by the Secretary-General; (b) urge the Government of the Soviet Union and the Hungarian authorities to take immediate steps to cease the deportation of Hungarian citizens and to return promptly to their homes those who had been deported from Hungarian territory; and (c) request the Secretary-General to keep the General Assembly informed as to compliance with its resolutions so that it would be in a position to consider such further action as might be necessary.

96. At the 583rd plenary meeting of the General Assembly, on 19 November 1956, the representative of El Salvador submitted an amendment 102/ to the Cuban draft resolution which would include in a preambular paragraph a reference to the principles of the Charter and, in particular, the terms of Article 2 (4). At the same meeting, another amendment 103/ to the Cuban draft resolution, then before the General Assembly, was withdrawn by its sponsor, the representative of the Philippines.

97. At the 584th plenary meeting on 20 November 1956, the General Assembly had before it a draft resolution 104/ jointly submitted by Ceylon, India and Indonesia. As later

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99/ For texts of relevant statements, see G A (ES-II), Plen., 564th mtg.: Australia, paras. 19, 20 and 23-28; Peru, para. 37; Union of South Africa, paras. 32-34; USSR, paras. 10, 11, 91, 92 and 113; 568th mtg.: Bulgaria, paras. 57, 68 and 69; Cuba, paras. 20 and 28; Hungary, paras. 3 and 4; Romania, para. 114; 569th mtg.: Chile, paras. 86 and 87; Ecuador, paras. 54, 60 and 61; Peru, paras. 139 and 140; Spain, para. 39; Thailand, para. 82; 570th mtg.: France, paras. 116 and 119; Union of South Africa, para. 94; USSR, paras. 27 and 63; 573rd mtg.: Australia, para. 16; Guatemala, paras. 56 and 57.

100/ G A (XI), Plen., vol. I, 576th mtg., paras. 204-206.

101/ G A (XI), Annexes, vol. II, a.i. 67, p. 6, A/3357/Rev.2.

102/ G A (XI), Plen., 583rd mtg., paras. 59 and 60, A/L.211.

103/ *Ibid.*, para. 64, A/L.212.

104/ G A (XI), Annexes, vol. II, a.i. 67, p. 7, A/3368.

revised 105/ to take account of an amendment 106/ submitted by the representative of Belgium, it would (a) note affirmations and denials by Members regarding forcible deportations of Hungarian nationals, (b) recall the General Assembly's request in its resolution 1004 (ES-II) that the Government of Hungary should admit observers designated by the Secretary-General into Hungarian territory, (c) note that the Secretary-General, in pursuing his efforts, had urged Hungary "as a Member of the United Nations, to co-operate with the great majority in the clarification" of the situation, (d) urge Hungary to accede to the request of the Secretary-General, without prejudice to its sovereignty, and (e) request the Secretary-General to report to the General Assembly without delay.

98. At the 587th plenary meeting, on 21 November 1956, the General Assembly adopted 107/ the revised Cuban draft resolution, as amended by El Salvador, by 55 votes to 10, with 14 abstentions. At the same meeting, the General Assembly adopted 108/ the revised draft resolution jointly submitted by Ceylon, India and Indonesia, by 57 votes to 8, with 14 abstentions.

99. At the 604th plenary meeting, on 3 December 1956, the General Assembly had before it a report 109/ of the Secretary-General on various aspects of the situation in Hungary, and on his efforts to ensure compliance with the relevant General Assembly resolutions. At the same meeting, the General Assembly also had before it a draft resolution 110/ jointly submitted by fourteen Member States, under which the General Assembly would (a) reiterate its call upon the Government of the Soviet Union and the Hungarian authorities to comply with its resolutions and to permit United Nations observers to enter Hungary to report on the situation; (b) request the Government of the Soviet Union and the Hungarian authorities to communicate to the Secretary-General not later than 7 December 1956, their consent to receive these observers; (c) recommend that, in the meantime, the Secretary-General should arrange for the immediate dispatch to Hungary and other countries, as appropriate, of observers named by him under the relevant provision of resolution 1004 (ES-II); and (d) request all Members to assist and co-operate with the representatives of the Secretary-General in the fulfilment of their responsibilities.

100. At the 608th plenary meeting, on 4 December 1956, the fourteen-Power draft resolution was adopted 111/ by 54 votes to 10, with 14 abstentions. At the same meeting, after hearing an oral report 112/ of the Secretary-General in regard to his proposed visit, and that of his representative, to Budapest, the General Assembly adopted 113/ by 54 votes to none, with 23 abstentions, a motion by the representative of India to accept the report of the Secretary-General.

101. At the 613th plenary meeting on 10 December 1956, the General Assembly had before it a draft resolution 114/ jointly submitted by twenty Member States, in which the

105/ Ibid., p. 8, A/3368/Rev.3.

106/ Ibid., A/L.213.

107/ G A (XI), Plen., vol. I, 587th mtg., para. 59. G A resolution 1127 (XI).

108/ Ibid., para. 64. G A resolution 1128 (XI).

109/ G A (XI), Annexes, vol. II, a.i. 67, p. 13, A/3403.

110/ Ibid., p. 23, A/3413.

111/ G A (XI), Plen., vol. I, 608th mtg., para. 182. G A resolution 1130 (XI).

112/ Ibid., paras. 2 and 3.

113/ Ibid., paras. 145, 146 and 213.

114/ G A (XI), Annexes, vol. II, a.i. 67, p. 26, A/3436. The draft resolution was originally sponsored by seventeen States; three States were later added to the list of sponsors (A/3436/Rev.2).

General Assembly would (a) declare that, by using its armed force against the Hungarian people, the Government of the Soviet Union was violating the political independence of Hungary; (b) condemn the violation of the Charter by the Government of the Soviet Union in depriving Hungary of its liberty and independence and the Hungarian people of the exercise of their fundamental rights; (c) reiterate its call upon the Government of the Soviet Union to desist forthwith from any form of intervention in the internal affairs of Hungary; and (d) call upon the Soviet Government to make immediate arrangements for the withdrawal, under United Nations observation, of its armed forces from Hungary, and to permit the re-establishment of the political independence of Hungary.

102. At the 614th plenary meeting, on 10 December 1956, the representative of India submitted amendments 115/ to the twenty-Power draft resolution. These amendments, jointly sponsored with Ceylon and Indonesia, would provide, in part, for (a) the replacement of the draft resolution's operative paragraph 1 by a declaration that intervention of Soviet armed forces in Hungary should cease and that arrangements for their withdrawal should be made; (b) the replacement of operative paragraph 2 by a provision urging the Governments of Hungary and the Soviet Union to promote the realization of this declaration in accordance with the purposes of the Charter and the declared intentions of the two Governments; and (c) the replacement of operative paragraph 4 by three new paragraphs, (i) to declare that recent events in Hungary had shown that the use of force could not promote a solution of the situation in Hungary, but had aggravated it and imposed severe privations and denials of freedom on the Hungarian people; (ii) to express its conviction that the interests of the Hungarian people could be furthered only if there was neither foreign intervention nor external pressure from any quarter; and (iii) to request the Secretary-General to initiate efforts with both the Hungarian and the Soviet Governments through their representatives at New York, and to consider without delay the question of visiting Moscow, as well as Budapest, to assist in promoting a speedy solution with the co-operation of all concerned.

103. At the same meeting, the representative of India introduced another draft resolution 116/ jointly sponsored with Burma, Ceylon and Indonesia, under which the General Assembly would, in part, (a) deplore that no steps had been taken, in pursuance of the declaration of the Soviet Union of 30 October regarding Soviet troop withdrawals from Hungary, to meet the overwhelming demand of the Hungarian people in respect of such withdrawals, and that, in consequence, there had been further deterioration in the situation; (b) declare that the intervention of armed forces in Hungary had not only resulted in violence and bloodshed, but had aggravated the situation and prevented the approach to solution; that it should cease forthwith and that immediate arrangements should be made for the withdrawal of foreign forces so that peaceful conditions could be promoted in Hungary; (c) declare that recent events in Hungary had conclusively shown that force and violence provided no answer to the demands of a people; and (d) express its conviction that the interests of the Hungarian people, of the United Nations and of world co-operation would best be furthered by the cessation of existing foreign intervention and by the assurance that there would be no external intervention or pressures, armed or otherwise, from any quarter.

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115/ G A (XI), Annexes, vol. II, a.1. 67, p. 27, A/L.216.

116/ Ibid., p. 28, A/3437.

104. At the 616th plenary meeting, on 11 December 1956, the representative of Austria introduced a draft resolution 117/ under which the General Assembly would authorize the Secretary-General (a) to undertake immediately to achieve a constructive solution of the Hungarian problem, based on the principles of the Charter; (b) for this purpose, to enter into negotiations with Member States, as it seemed appropriate to him; and (c) to report to the General Assembly on the result of his efforts, if possible before the end of the first part of its eleventh session.

105. At the 618th plenary meeting, on 12 December 1956, the General Assembly had before it a second revision 118/ of the twenty-Power draft resolution, which incorporated one of the amendments proposed by Ceylon, India and Indonesia, and had a new operative paragraph requesting the Secretary-General to take any initiative he deemed helpful in relation to the Hungarian problem.

106. At the same meeting, after the amendments submitted by Ceylon, India and Indonesia had been voted upon and rejected, 119/ the General Assembly adopted 120/ the twenty-Power draft resolution by 55 votes to 8, with 13 abstentions.

107. Prior to the vote, the representative of Austria indicated 121/ that he would not press for a vote on his draft resolution. After the twenty-Power draft resolution had been adopted, the representative of India stated 122/ that the co-sponsors of the four-Power draft resolution would not press for a vote on their resolution.

108. At the 633rd plenary meeting, on 9 January 1957, the General Assembly had before it a report 123/ of the Secretary-General giving an account of the steps taken by him, and by a group of three persons whom he had appointed, for investigation and observation of the developments in Hungary. At the same meeting, the representative of Ireland submitted a draft resolution, jointly sponsored by twenty-four Member States. Under the revised form of the draft resolution 124/ the General Assembly would (a) establish a special committee composed of representatives of Australia, Ceylon, Denmark, Tunisia and Uruguay, to investigate, and to establish and maintain direct observation in Hungary and elsewhere, taking testimony, collecting evidence and receiving information, as appropriate, in order to report its findings to the General Assembly at its current session, and thereafter from time to time to prepare additional reports for the information of Member States and of the General Assembly if it was in session; (b) call upon the Soviet Union and Hungary to co-operate in every way with the committee and, in particular, to permit the committee and its staff to enter the territory of Hungary and to travel freely therein; (c) request all Member States to assist the committee in its task in any appropriate way, making available to it relevant information, including testimony and evidence, which Members might possess, and assisting it in securing such information; (d) invite the Secretary-General to render all appropriate assistance and facilities to the committee; (e) call upon all Member States to give effect promptly to General Assembly resolutions on the Hungarian problem; and (f) reaffirm its request that the Secretary-General should continue to take any initiative he deemed helpful in relation to the Hungarian problem.

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117/ G A (XI), Annexes, vol. II, a.i. 67, p. 28, A/3441.

118/ G A (XI), Annexes, vol. II, a.i. 67, p. 27, A/3436/Rev.2; see para. 102 above.

119/ G A (XI), Plen., vol. II, 618th mtg., paras. 208-210.

120/ Ibid., paras. 211 and 212. G A resolution 1131 (XI).

121/ Ibid., paras. 205 and 206.

122/ Ibid., para. 214.

123/ G A (XI), Annexes, vol. II, a.i. 67, p. 43, A/3485.

124/ Ibid., p. 44, A/3487/Rev.1.

109. At the 636th plenary meeting, on 10 January 1957, the General Assembly adopted 125/ by 59 votes to 8, with 10 abstentions, the revised draft resolution sponsored by twenty-four States.

110. At the 669th plenary meeting, on 10 September 1957, the General Assembly had before it the report 126/ of the Special Committee on the Problem of Hungary and a draft resolution 127/ sponsored jointly by thirty-seven Member States. Under this draft resolution, the General Assembly, after noting and endorsing the unanimous report of the Special Committee on the Problem of Hungary, would (a) condemn the acts confirmed by the investigation of the Committee, and the continued defiance by Hungary and the Soviet Union of the General Assembly resolutions; (b) consider that further efforts must be made to achieve the objectives of the United Nations in regard to Hungary; (c) call upon the Soviet Union and the authorities in Hungary to desist from repressive measures against the Hungarian people, to respect the liberty and political independence of Hungary, and the Hungarian people's enjoyment of fundamental human rights and freedoms, and to ensure the return to Hungary of those Hungarian citizens who had been deported to the Soviet Union; (d) request the President of the General Assembly at its eleventh session, H.R.H. Prince Wan Waithayakon, as the special representative of the General Assembly to take appropriate steps, in view of the findings of the Committee, to achieve the objectives of the pertinent resolutions of the General Assembly, to consult with the Committee and to report and make recommendations to the General Assembly; and (e) decide to place the Hungarian item on the provisional agenda of the twelfth session.

111. At the 674th plenary meeting, on 12 September 1957, the representative of Burma submitted three amendments 128/ to the operative part of the draft resolution sponsored by thirty-seven Powers, including an amendment to delete the reference to consultation by the special representative with the Special Committee on the Problem of Hungary.

112. At the 677th plenary meeting, on 13 September 1957, the three amendments submitted by Burma were rejected. 129/ The draft resolution sponsored by thirty-seven Powers was then adopted 130/ by 60 votes to 10, with 10 abstentions.

b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

113. During the discussion on the situation in Hungary at the eleventh session of the General Assembly, statements were made by several representatives asserting the authority and power of the General Assembly to request Hungary to authorize the presence of observers and the presence of the Secretary-General on Hungarian territory, in conformity with pertinent provisions of General Assembly resolutions. It was contended that since these provisions had been rejected by the Soviet Union and Hungary, the General Assembly, like the Security Council, was empowered to take certain measures to enforce sanctions. The General Assembly had the power to enforce sanctions by its recommendations, whereas the Security Council enforced them by means of its decisions. It could not be maintained that Chapter VII of the Charter was applicable only to the Security Council. When the powers of the Security Council were

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125/ G A (XI), Plen., vol. II, 636th mtg., para. 112. G A resolution 1132 (XI).  
126/ G A (XI), Suppl. No. 18 (A/3592).  
127/ G A (XI), Annexes, vol. III, a.i. 67 (con't.), A/3658 and Add.1.  
128/ G A (XI), Annexes, vol. III, a.i. 67 (con't.), A/L.223.  
129/ G A (XI), Plen., vol. III, 677th mtg., para. 299.  
130/ Ibid., para. 300. G A resolution 1133 (XI).

transferred to the General Assembly, the latter exercised them in another way - by recommendations, and with the moral force of recommendations - but the General Assembly could perform the functions set out in Chapter VII. The majority of General Assembly resolutions did not have the binding force of decisions of the Security Council, but when the General Assembly was exercising the powers of the Council under the "Uniting for peace" resolution, the powers established under Chapter VII were extended to the General Assembly. There was no legal reason why, in these circumstances, the General Assembly could not adopt a recommendation - not a decision - urging certain Member States to break off, reduce or curtail their diplomatic relations with other Member States or recommend the severance of economic relations.

114. The view was also expressed that, in creating the United Nations Emergency Force (UNEF), the General Assembly had made an important advance towards endowing its recommendations with authority. There were still further steps which the General Assembly could fitly take to assist compliance with its recommendations on Hungary; but should such further steps fail, the time would come when action taken by the General Assembly in establishing UNEF would provide both an example and a challenge to United Nations Members with regard to the situation in Hungary. The suggestion was made that defiance of the General Assembly by the Government of the Soviet Union should result in the adoption of a resolution by the General Assembly, containing a warning that the Soviet Union would incur the sanctions provided for in Articles 5 and 6 of the Charter. Whether the General Assembly could decide to suspend or expel the Soviet Union was debatable since, from the procedural point of view, the Security Council first had to recommend action, but it was wholly within the competence of the General Assembly to warn the Government of the Soviet Union that its action fell within the grounds for suspension or expulsion provided in the Charter. It was also suggested that provision should be made for the suspension, temporarily at least, of the representatives of Hungary.

115. At a later phase of the discussion, when the General Assembly was considering the establishment of a special committee to investigate, and to establish and maintain direct observation in Hungary and elsewhere, it was contended that although under the Charter the resolutions of the General Assembly could only be recommendations, the fundamental provisions of the Charter for which the resolutions urged respect had a mandatory character as obligations accepted by Member States when signing the Charter. It was also asserted that when, under the "Uniting for peace" resolution, the General Assembly adopted recommendations dealing with the maintenance of international peace - which were emergency measures taken because the Security Council was prevented from acting - these General Assembly recommendations could not remain unimplemented. It was the United Nations as a whole which was responsible for maintaining peace, and this function was exercised either through recommendations of the General Assembly or through decisions of the Security Council. The maintenance of peace was not the exclusive province of the Security Council. When the "Uniting for peace" resolution was adopted, the fact was clearly established that the relevant Articles of the Charter referred to the United Nations, and not merely to the Security Council. Consequently, when the Council was prevented from acting, and - under the "Uniting for peace" resolution - the General Assembly performed its functions in an emergency situation, the powers of the Security Council were temporarily transferred to the General Assembly. The General Assembly exercised these powers by recommendations, but such recommendations were then made under Chapter VII of the Charter. 131/

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131/ For texts of relevant statements, see G A (XI), Plen., 604th mtg.: Peru, para. 162; 605th mtg.: New Zealand, paras. 217 and 232; 614th mtg.: Cuba, paras. 7 and 8; 634th mtg.: Peru, paras. 30 and 36-45.

\*\* B. The question of the meaning and scope of the term  
"action" as used in Article 11 (2)

C. The question of the extent of the competence and powers of the  
General Assembly with regard to questions "on which action is necessary"

116. This question was the subject of substantive discussion during the first emergency special session and the eleventh session of the General Assembly in connexion with the adoption of its resolutions providing for the planning, establishment and organization of the United Nations Emergency Force (UNEF). <sup>132/</sup> The main constitutional issue which arose was whether the General Assembly was competent to set up an international armed force to maintain or restore international peace and security. It was contended that the purposes set out in General Assembly resolution 377 (V), "Uniting for peace", could not be achieved solely by General Assembly recommendations calling for a cease-fire and the withdrawal of forces; machinery also had to be established to facilitate the implementation of the General Assembly recommendations. Such machinery would constitute an international police force, which would not have military functions beyond the power of supervising compliance with the recommendations; it would be deployed with the consent of the Member States directly concerned. Objections to the competence of the General Assembly to establish an international armed force were made on the ground that under the Charter only the Security Council was empowered to set up an international armed force for the maintenance of international peace and security. The General Assembly therefore had no sound constitutional basis for adopting decisions on the United Nations Emergency Force; these were, in effect, measures which bypassed the Security Council.

117. The decisions of the General Assembly concerning the establishment and operation of UNEF gave rise to other relevant constitutional issues which are reviewed below. References are also made to the participation of the Secretary-General in formulating the scope of the functions and operations of the United Nations Emergency Force. <sup>133/</sup>

1. *Resolutions 998 (ES-I), 1000 (ES-I) and 1001 (ES-I); 1121 (XI), 1123 (XI), 1125 (XI) and 1126 (XI) [Cessation of military action in Egypt]*

118. The relevant proceedings are summarized in the present study in paragraphs 28 to 43 above, under section II A 1; and in paragraphs 58 to 71 under section II a 2.

b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

119. On the issue of the competence of the General Assembly, it was contended that the United Nations Emergency Force (UNEF) was being created in violation of the United Nations Charter, since under Chapter VII only the Security Council - not the General Assembly - was empowered to establish an international armed force and to take such action as it might deem necessary, including the use of such a force to maintain or restore international peace and security. It was also contended that the General Assembly resolution regarding the creation of the United Nations Emergency Force was inconsistent with the purposes for which the Charter envisaged the creation and use of an international force. These purposes were to help a State which was a victim of

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<sup>132/</sup> For a discussion of financial responsibilities related to UNEF, see this study in this Supplement under Article 17.

<sup>133/</sup> On this point, see also the present Supplement under Article 98.

aggression, to repel the aggression and to defend such a State against the aggressor. For these reasons, the establishment of a United Nations force was viewed as a measure which bypassed the Security Council, and was contrary to the Charter. A measure which was suggested, but not formally proposed, was the appointment by the General Assembly of a United Nations commission to supervise the carrying out of the recommendations of the first emergency special session.

120. In supporting the establishment of an international police force as adequate machinery, it was observed that General Assembly resolution 997 (ES-I), calling for an immediate cease-fire and the withdrawal of invading forces, was not sufficient to achieve the purposes for which the emergency special session had been convened. Such purposes were defined in the "Uniting for peace" resolution. Peace was far more than a cease-fire, although it had to include that essential factor. In addition to calling for a cease-fire and the withdrawal of armed forces, the General Assembly should also authorize the Secretary-General to make arrangements with Member States to set up a United Nations force - a truly international police force to keep the frontiers in the area at peace while a political settlement was being sought.

121. In the view of other representatives, the proposed machinery would facilitate and effect compliance with the General Assembly's recommendations to cease fire and to withdraw armed forces. It would also provide for supervision of such compliance through a United Nations body. It was emphasized that the emergency international force should not include contingents of any of the parties engaged in hostilities in the area; its functions should be performed in strict accordance with all the terms of resolution 997 (ES-I) and it would not, therefore, have a broader scope. Furthermore, the consent of a Member State had to be expressly obtained before the General Assembly decided to station forces on its territory.

122. In connexion with statements made both in the Security Council and in the General Assembly during its emergency special session, to the effect that an "international police action" was being carried out in Egypt by two Member States, it was maintained that the organ which could undertake police action was the Security Council; however, if it failed to act, the General Assembly itself could undertake police action by virtue of the "Uniting for peace" resolution.

123. With regard to the definition of the functions of the international force, the final report <sup>134/</sup> of the Secretary-General, submitted in pursuance of resolution 998 (ES-I), stated in part that it would be "in no way a military force temporarily controlling the territory in which it is stationed; nor, moreover, should the Force have military functions exceeding those necessary to secure peaceful conditions on the assumption that the parties to the conflict take all necessary steps for compliance with the recommendations of the General Assembly". It was observed, in comment on this part of the report, that the scope of the functions of the international emergency force could be extended later if circumstances so required. It was also stated that agreement had been reached in the General Assembly on the withdrawal of foreign troops from Egypt and on the dispatch of a United Nations force which would be responsible for measures to prevent the renewal of acts of war. The United Nations force should be so organized that it could take immediate action to deal with any situation that might arise in the future. On the other hand, the view was expressed that the possibility of using the international force for collective action under Chapter VII of the Charter was rather dangerous and would create serious apprehensions on the part of Governments which were planning to contribute to the force.

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<sup>134/</sup> G A (ES-I), Annexes, a.i. 5, p. 19, A/3302 and Add.1-16, para. 12.

124. In connexion with the duration of the assignment of the United Nations force, it was asserted that after foreign troops had been withdrawn from Egyptian territory there would be no need for a police force. The Egyptian Government had consented to the temporary presence of the United Nations international force in Egypt; however, the stationing of detachments of the international force along the demarcation line separating Egyptian and Israel forces, under the provisions of the Armistice Agreement of 1948, should not exceed the period considered necessary by Egypt. The force should not be considered a substitute for the occupation forces in Egypt, nor should the presence of the force be artificially linked with the administration or the clearance of the Suez Canal.

125. The view was expressed that an effective and organized United Nations force could be the beginning of something greater and more permanent, namely, the organization by the United Nations of peace through international action. It was therefore important that the force should be so constituted and so organized as to be able to fulfil the assignment it had been given, and thereby set a precedent for the future. If this experiment succeeded, the United Nations might carefully consider some means of having units of armed forces of the smaller countries made available for such supervisory duties at short notice, on the call of the United Nations. A permanent United Nations police force, ready for action anywhere at any time, could provide assurances that a cease-fire would be sustained, and that the United Nations forces would arrive in time.

126. The opinion was advanced that since controversial issues between Egypt and Israel had been outstanding for eight years and the final settlement of the Suez question might also take a long time, the tasks and functions of the United Nations force could not be altered to make it a force of occupation. The United Nations Emergency Force (UNEF) should occupy positions along the armistice line after the withdrawal of interventionist troops, and the time limits and conditions under which the international force would remain on Egyptian territory should be determined in agreement with the Government of Egypt.

127. It was contended, on the other hand, that UNEF was an instrument with which the General Assembly could create one of the prerequisites of a political settlement between the Arab States and Israel. Moreover, the decision that the tasks of UNEF had been completed should be a matter for determination by the United Nations, not by Egypt or any other country. The withdrawal of UNEF should therefore be effected only upon the decision of the General Assembly. It should also be decided that UNEF would remain in the area at least until the Suez and Aqaba issues had been settled, and some progress had been made towards an over-all settlement. The occupation of the Gaza Strip and the Gulf of Aqaba regions by UNEF after the withdrawal of Israel forces was likewise supported by other representatives.

128. In connexion with a suggestion in the report 135/ of the Secretary-General that further consideration might be given to the question of the extent to which UNEF might assume responsibilities which until then had been carried out by the United Nations Truce Supervision Organization (UNTSO), some representatives advanced the view that UNEF should be so deployed as to be in a position to prevent a recurrence of hostile activities and to act as a shield to separate the parties at sensitive points. It was also remarked that while UNTSO was not empowered to interpose itself between the forces of the two conflicting parties, UNEF would be effective for this purpose and, closely following the Israel armed forces, could be deployed in the area of the

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135/ G A (XI), Annexes, vol. II, a.i. 66, p. 43, A/3500 and Add.1, para. 11.

armistice demarcation line from the Mediterranean Sea to the Gulf of Aqaba, where it could ensure the cease-fire brought about by the United Nations and assume the supervisory duties of UNTSO. The view was also expressed that UNEF had been charged with far wider functions than merely supervision of the cessation of hostilities and the withdrawal of forces behind the armistice lines. Among other responsibilities, UNEF was empowered to ensure against resumption of hostilities in any form. This involved the prevention of incursions and raids on both sides of the armistice lines.

129. With regard to proposals 136/ by Israel to have UNEF occupy Egyptian territory in the area of the Gulf of Aqaba, and to keep these forces there for an indefinite period, it was contended that this would assign UNEF quite different functions from those provided for in General Assembly resolution 1000 (ES-I). Under this resolution, the United Nations forces, which had been set up without the consent of the Security Council, should not be troops exercising control over the territory in which they are stationed; they were not intended to take measures of coercion against a Member State. Statements by some representatives to the effect that UNEF should occupy Egyptian territory in the area of Gaza and on the coast of the Gulf of Aqaba, and that such occupation should be continued indefinitely, were regarded as attempts to violate the Charter and the purposes for which UNEF had been set up by the first emergency special session.

130. In this connexion, it was stated by another representative that if the functions of UNEF should be broadened or enlarged beyond their original purpose, his Government, which had contributed troops to UNEF, would have to reserve its right to reconsider its continued participation. In any case, such broadening of the functions of UNEF obviously required new decisions by the General Assembly.

131. In commenting on a report 137/ of the Secretary-General which included his views concerning the use of UNEF, one representative agreed with the statement by the

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136/ G A (XI), Annexes, vol. II, a.i. 66, p. 45, A/3511, para. 10.

137/ G A (XI), Annexes, vol. II, a.i. 66, p. 47, A/3512, para. 5. In his report, the Secretary-General had stated (para. 5):

"... it would seem that the following points are generally recognized as non-controversial in the determination of the limits within which the activities of the United Nations can be properly developed. Within their scope, positive United Nations measures in the present issue, rendered possible by full compliance with the General Assembly resolutions, can be and have to be developed, which would represent effective progress toward the creation of peaceful conditions in the region. (a) The United Nations cannot condone a change of the status juris resulting from military action contrary to the provisions of the Charter. The Organization must, therefore, maintain that the status juris existing prior to such military action be re-established by a withdrawal of troops, and by the relinquishment or nullification of rights asserted in territories covered by the military action and depending upon it. (b) The use of military force by the United Nations other than that under Chapter VII of the Charter requires the consent of the States in which the force is to operate. Moreover, such use must be undertaken and developed in a manner consistent with the principles mentioned under (a) above. It must, furthermore, be impartial, in the sense that it does not serve as a means to force settlement, in the interest of one party, of political conflicts or legal issues recognized as controversial. (c) United Nations actions must respect fully the rights of Member States recognized in the Charter, and international agreements not contrary to the aims of the Charter, which are concluded in exercise of those rights."

Secretary-General that the use of military force by the United Nations, except under Chapter VII of the Charter, required the consent of the States in which the force was to operate. Another representative also agreed that actions based on recommendations of the General Assembly, as contrasted with decisions of the Security Council under Chapter VII of the Charter, required the consent of the parties concerned for their implementation.

132. One representative disagreed with the broad general statement of the condition prerequisite to the use of force contained in the report of the Secretary-General (see the first sentence of paragraph 5 (b), quoted in foot-note 137). This meant that the functions and operations of the United Nations Emergency Force could be determined by the State concerned, entirely in its own interest, and in so doing it could render inoperative all efforts of UNEF to discharge its functions effectively. This principle did not result from any clear language of the Charter. The point, therefore, required clarification.

133. In replying to the request for clarification, the Secretary-General stated 138/ that the principle could not be challenged since only under Chapter VII could the United Nations - in this case the Security Council - take decisions which might infringe upon the sovereignty of Member States. In practice, however, the consent of the State obviously had to be qualified in such a way as to provide a reasonable basis for the operations of UNEF. Thus, Egypt had agreed, in an aide-mémoire, 139/ that when exercising its sovereign rights on any matter concerning the presence and functioning of UNEF, it would be guided by its acceptance in good faith of General Assembly resolution 1000 (ES-I).

134. Emphasis was laid on the temporary nature of UNEF. It was observed that it could not exercise its control to the detriment of a Member State. The United Nations Emergency Force had been set up for a specific purpose; when that purpose had been achieved, UNEF had to withdraw. Asserting the position of his Government, in whose territory UNEF was operating, the representative of Egypt declared that the consent of the Egyptian Government was an indispensable prerequisite to the entry, stationing and deployment of UNEF. The United Nations Emergency Force was in Egypt, not as a replacement for invading forces, not to resolve any question nor to solve any problems related to Palestine or the Suez Canal, not to infringe upon Egyptian sovereignty, but to give expression to the determination of the United Nations to put an end to an act of aggression against Egypt and to secure the withdrawal of Israel troops behind the armistice line.

135. In another view, the question of the powers and terms of reference of UNEF, and the attempts at unduly extending them, involved very important principles arising out of Chapter VII of the Charter and connected with the functioning of the Security Council. The only task of UNEF was to see that the aggression was vacated and that the attacking forces retreated. As soon as this aim was achieved, its reason for existence ceased. There were no grounds, therefore, for perpetuating the stationing of UNEF on the territory of a Member State, a State which had been the victim of a belligerent act.

136. In another opinion, the United Nations should ensure that further acts of hostility did not recur on Egyptian territory. If necessary, a kind of security zone could be established around Gaza by UNEF. This should be agreed upon, however within the procedures set forth in Chapter VI of the Charter; if this proved

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138/ G A (XI), Plen., vol. II, 649th mtg., paras. 109-114.

139/ G A (XI), Annexes, vol. II, a.i. 66, p. 9, A/3375, annex.

impossible, the problem would have to be placed before the Security Council. Similarly, if the Egyptian Government should request the withdrawal of UNEF and the possibility of resumed hostilities remained, the matter would have to be submitted to the Security Council or to the General Assembly. Premature withdrawal of UNEF might involve the risk of hostilities which it was the duty of the United Nations to avoid.

137. In connexion with completing the withdrawal of forces and deploying UNEF along the armistice demarcation line between Egypt and Israel, it was remarked that UNEF had been given the new task of ensuring that the Armistice Agreement was scrupulously maintained. This view was opposed in a statement to the effect that to confer on UNEF the responsibility for functions of administration and the maintenance of order, which were not properly its functions, would mean bypassing the decisions of the General Assembly and violating the sovereign rights of Egypt. Thus, to leave UNEF on Egyptian territory as an occupation force could not be considered lawful. 140/

## 2. Resolutions 1004 (ES-II) and 1005 (ES-II) [Situation in Hungary]

### a. PRECIS OF PROCEEDINGS

138. The relevant proceedings are summarized in the present study in paragraphs 79 to 88 above, under section II A 3.

### b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

139. In connexion with the resolutions of the General Assembly calling for an investigation of the situation caused by foreign intervention in Hungary, for the withdrawal of forces of the Union of Soviet Socialist Republics from Hungary and for free elections to be held in Hungary under United Nations auspices, the question was raised during the second emergency special session of the General Assembly, whether appropriate United Nations machinery should be established to supervise compliance with these resolutions. A comparison was drawn between the situation in Hungary and that in Suez, and it was suggested that an international police force should similarly be established to facilitate the restoration of peace in Hungary. No concrete proposal, however, was submitted to this effect.

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140/ For texts of relevant statements, see G A (ES-I), Plen., 562nd mtg.: Canada, paras. 299 and 307; India, para. 252; Mexico, para. 316; USSR, para. 75; 563rd mtg.: Argentina, para. 327; Canada, paras. 105 and 108; Ceylon, para. 216; El Salvador, paras. 253-255; New Zealand, paras. 354; Philippines, para. 340; 565th mtg.: Canada, para. 93; Israel, para. 42; United States, para. 102; 566th mtg.: Bolivia, paras. 11-14; Ceylon, para. 37; Ecuador, para. 30; Indonesia, para. 117; Philippines, paras. 82-84; Uruguay, para. 74; 567th mtg.: El Salvador, paras. 184-186; Philippines, paras. 308-310; USSR, paras. 292-296; 572nd mtg.: India, para. 34; Israel, para. 18; G A (XI), Plen., vol. I, 589th mtg.: USSR, paras. 81 and 82; 592nd mtg.: Bulgaria, paras. 152, 164 and 168; Canada, paras. 63, 64 and 67; Poland, para. 76; USSR, paras. 29-35; 596th mtg.: India, para. 106; vol. II, 645th mtg.: Philippines, paras. 129-131; 646th mtg.: Canada, paras. 95 and 101; USSR, paras. 55, 65 and 66; 649th mtg.: Australia, paras. 76-81; Indonesia, para. 153; Romania, para. 204; 650th mtg.: Ukrainian SSR, para. 30; 651st mtg.: Bulgaria, para. 97; Egypt, paras. 153 and 154; 652nd mtg.: Poland, paras. 142 and 143; 667th mtg.: Colombia, paras. 74, 75 and 91; New Zealand, paras. 99 and 101; USSR, paras. 168, 169 and 179.

140. Discussion of a proposed recommendation by the General Assembly, that free elections should be held in Hungary under United Nations auspices, also gave rise to the question of the limitation of the competence and powers of the General Assembly concerning the type of action it could take with regard to matters relating to the maintenance of international peace and security.

i. Resolution 1004 (ES-II)

141. In connexion with the United States draft resolution which became resolution 1004 (ES-II), it was stated that perhaps its text did not go far enough, and that United Nations Forces might be sent to Hungary to separate the fighting forces from each other, and the invaders from the invaded. Another suggestion was that the General Assembly should establish a United Nations mission or United Nations supervising machinery of an appropriate kind to deal with the situation in Hungary; it was hoped that such action would be accepted by the Government of the Soviet Union. It was pointed out that the United Kingdom and France had supported a proposal for a United Nations force to take over the task of keeping the peace in the area of the Middle East in which fighting had been taking place; a similar United Nations mission should therefore be accepted by the Governments of Hungary and the Soviet Union. In opposition to the draft resolution it was contended that the situation in Hungary should not be discussed in the United Nations since it was a domestic affair of the Hungarian nation. 141/

Decision

By a roll-call vote of 50 votes in favour to 8 against, with 15 abstentions, the draft resolution submitted by the United States, as amended, became General Assembly resolution 1004 (ES-II).

ii. Resolution 1005 (ES-II)

142. General Assembly resolution 1005 (ES-II) considered that "free elections should be held in Hungary under United Nations auspices, as soon as law and order have been restored, to enable the people of Hungary to determine for themselves the form of government they wish to establish in their country".

143. During the discussion of the five-Power draft resolution - which, as amended, became resolution 1005 (ES-II) - the view was expressed that a United Nations commission should proceed to Hungary, and that it would be necessary to establish a United Nations police force to protect peace and order in that country. It was also stated that the United Nations could not refuse to do everything within its power to free the Hungarian people from foreign domination, even to setting up an international force to end the conflict and to supervise the withdrawal of Soviet troops. It was further maintained that United Nations machinery appropriate to the situation in Hungary was no less urgently required in that country than in the Middle East. Only the United Nations provided the impartial and disinterested authority needed to hold the ring and enable the Hungarian people to form the kind of free national government they desired, without fear of reprisal.

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141/ For texts of relevant statements, see G A (ES-II), Plen., 564th mtg.: Canada, paras. 137 and 138; Spain, para. 124; United Kingdom, para. 182; USSR, para. 113

144. In the discussion which preceded the adoption of the resolution, it was also contended that it was imperative for the General Assembly to provide for free elections in Hungary, and for the United Nations to help the Hungarian people reconstruct their free life. One representative thought that without the measures proposed in the five-Power draft resolution, particularly those relating to free elections, the sovereignty of Hungary would be only fictitious; these measures were essential for the free and sovereign existence of Hungary.

145. Views were expressed indicating reservations concerning the powers of the General Assembly to hold or supervise elections in the territory of a Member State without its request or consent. It was observed that the right of the Hungarian people to choose the form of government they desired was inherent in their country's sovereignty and its membership in the United Nations; the General Assembly could not deal with a Member State as if it were a colonial country whose people had no representation. It was impossible to support proposals which disregarded the sovereignty of States represented in the General Assembly. A sovereign Member of the United Nations, duly admitted, could not "be called upon to submit its elections and everything else to the United Nations without its agreement". When dealing with a country which was a sovereign Member of the United Nations, the General Assembly could not decide that the United Nations would hold an election in that country; the situation would be different if the General Assembly were not dealing with a country represented in the United Nations. The proposals concerning elections were opposed as introducing the dangerous principle of asking the United Nations to interfere with the sovereign rights of peoples. Moreover, elections must be held on the basis of a constitution; the United Nations could not decide that elections should be held pending the adoption of a constitution. The mere adoption of the draft resolution would not bring about free elections. Furthermore, this provision of the draft resolution anticipated the report of observers whom it was proposed to dispatch to Hungary - but only at the express wishes of its Government. It was further noted that the question whether elections should be held as soon as law and order had been restored was the concern of the Hungarian people; it was not for the United Nations to proffer suggestions. The people of Hungary alone should say whether they wanted United Nations assistance in holding their elections. Although the idea of free elections in Hungary was worthy of support, this matter must be the choice of the people of Hungary themselves. The validity of a provision for elections under United Nations auspices, it was also suggested, should be dependent on a request from the Hungarian Government to the United Nations.

146. In reply to the foregoing objections, one of the sponsors of the five-Power draft resolution declared that the first step to be taken before law and order could be restored was, of course, the withdrawal of the invading Soviet occupation troops. Elections should be held only when the people of Hungary were in a position to determine for themselves, through the United Nations, the form of government they wished. Action by the United Nations would not constitute interference for it would remedy the situation created by the interference of the Soviet Union.

147. After the vote had been taken, one representative explained that he could not agree to United Nations intervention to ensure that free elections were held in Hungary. Moreover, the United Nations would have neither the time nor the opportunity to implement such a provision. 142/

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142/ For texts of relevant statements, see G A (ES-II), Plen., 569th mtg.: India, paras. 153 and 164; Italy, paras. 115 and 116; Spain, paras. 33 and 35; 570th mtg.: France, para. 123; Union of South Africa, paras. 98 and 99; 571st mtg.: Burma, para. 156; Canada, para. 75; Cuba, paras. 175 and 176; Haiti, para. 254; India, paras. 118 and 212; Ceylon, paras. 147-150; Thailand, para. 221.

Decision

By a roll-call vote, the phrase "under United Nations auspices" was adopted by the General Assembly by 39 votes to 12, with 24 abstentions; 143/ and the entire second operative paragraph, in which the phrase was included, was adopted by a roll-call vote of 49 to 9 with 17 abstentions. 144/ The draft resolution as a whole was adopted as amended, by 48 votes to 11, with 16 abstentions. 145/

### 3. Resolution 1237 (ES-III) [*Complaints of Lebanon and Jordan*]

#### a. PRECIS OF PROCEEDINGS

148. By a note 146/ dated 7 August 1958, the Secretary-General transmitted to the General Assembly a resolution 147/ adopted by the Security Council at its 838th meeting, on 7 August 1958; in this resolution the Council decided to call an emergency special session of the General Assembly to deal with the agenda items on which the Security Council had been unable to take action at its 838th meeting, owing to lack of unanimity among its permanent members. These agenda items were the complaints contained in letters 148/ dated 22 May and 17 July 1958 and addressed to the President of the Security Council by the representatives of Lebanon and of Jordan, respectively. The note by the Secretary-General also stated that, acting under the provisions of rule 8 (b) of the rules of procedure of the General Assembly, he had, by telegram dated 7 August 1958, summoned the third emergency special session of the General Assembly to meet at Headquarters on 8 August 1958.

149. At its 732nd plenary meeting, on 8 August 1958, the General Assembly decided 149/ to include in the agenda of its third emergency special session the item entitled, "Questions considered by the Security Council at its 838th meeting on 7 August 1958". In accordance with rule 65 of its rules of procedure, the General Assembly considered the item only at plenary meetings.

150. During the consideration of the item at the 732nd to 746th plenary meetings of the General Assembly, from 8 to 21 August 1958, the following draft resolutions and amendments were submitted:

(a) The representative of the Union of Soviet Socialist Republics submitted a draft resolution 150/ which would recommend that the Governments of the United States and the United Kingdom should withdraw their troops from Lebanon and Jordan without delay; and would instruct the Secretary-General to strengthen the United Nations Observation Group in Lebanon (UNOGIL) and to send an observation group to Jordan, to supervise the aforementioned withdrawal of troops and the situation along the frontiers of these countries.

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143/ G A (ES-II), Plen., 571st mtg.: para. 236.

144/ Ibid., para. 237.

145/ Ibid., para. 240.

146/ G A (ES-III), Annexes, a.i. 5, A/3866.

147/ S C, 13th yr., Suppl. for July-Sept., p. 126, S/4083.

148/ Ibid., Suppl. for April-June, p. 33, S/4007; ibid., Suppl. for July-Sept., p. 37, S/4053.

149/ G A (ES-II), Plen., 732nd mtg., para. 21.

150/ G A (ES-III), Annexes, a.i. 5, A/3870.

(b) The representatives of Canada, Colombia, Denmark, Liberia, Norway, Panama and Paraguay submitted a draft resolution 151/ which would note the declarations by the United States 152/ and the United Kingdom 153/ regarding the presence of their troops in Lebanon and Jordan, respectively, and their eventual withdrawal; reaffirm the obligation of all Member States to refrain from direct or indirect aggression; and request the Secretary-General to make practical arrangements, in consultation with the Governments concerned, to help in upholding the Purposes and Principles of the Charter in the current circumstances. This draft resolution would note that the Secretary-General had "studies in preparation, for consideration by the General Assembly at its thirteenth session, of the feasibility of establishing a stand-by United Nations peace force".

(c) The representatives of Iraq, Jordan, Lebanon, Libya, Morocco, Saudi Arabia, Sudan, Tunisia, United Arab Republic and Yemen submitted a draft resolution 154/ which would note the Charter aim that States should practice tolerance and live together in peace with one another as good neighbours, as well as the aims of the Pact of the League of Arab States, and would call upon all Member States to act strictly in accordance with the principles of mutual respect for one another's territorial integrity and sovereignty, of non-aggression, of strict non-interference in one another's internal affairs, and of equal and mutual benefit, and to ensure that their conduct by word and deed should conform to these principles. The Secretary-General would be requested "to make forthwith, in consultation with the Governments concerned and in accordance with the Charter ... such practical arrangements as would adequately help in upholding the purposes and principles of the Charter in relation to Lebanon and Jordan in the present circumstances, and thereby facilitate the early withdrawal of the foreign troops from the two countries", and "to report ... as appropriate, the first such report to be made not later than 30 September 1958". This draft resolution made no reference to the previous studies of the Secretary-General on the question of the establishment of a stand-by United Nations force.

151. At its 746th plenary meeting, on 21 August 1958, the General Assembly unanimously adopted 155/ the draft resolution submitted by the ten Arab States. The sponsors of the other two draft resolutions did not press 156/ for a vote on their proposals.

#### b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

152. At the third emergency special session of the General Assembly, one question which was the subject of considerable discussion, and which may be said to bear upon the competence and powers of the General Assembly with respect to the maintenance of international peace and security, was the suggestion for the establishment of a stand-by United Nations peace force. It should be pointed out, however, that the discussion was confined to the preliminary question of whether or not such a force was desirable. On the one hand, it was observed that the creation of a peace force would ensure prompt action by the United Nations in a situation involving external acts or threats to the independence of a Member State. On the other hand, it was

151/ Ibid., p. 2, A/3878.

152/ G A (ES-III), Annexes, a.i. 5, p. 2, A/3877.

153/ Ibid., p. 2, A/3876.

154/ Ibid., p. 3, A/3893/Rev.1; G A resolution 1237 (ES-III).

155/ G A (ES-III), Plen., 746th mtg., para. 161. G A resolution 1237 (ES-III); reports prepared under this resolution were issued as A/3934 (mimeographed) of 29 September 1958, and A/4056 (mimeographed) of 10 December 1958.

156/ G A (ES-III), Plen., 746th mtg., paras. 20, 58 and 161.

contended that the exercise by the United Nations of police powers in the territory of a Member State would be incompatible with the principles of the United Nations Charter, which prohibited both the use of force in general and interference in the internal affairs of a Member State in particular. Throughout the discussion, reference was made to the competence of the United Nations as a whole without specifying the competence of the General Assembly or the Security Council in regard to the suggested peace force. The arguments for and against the suggestion are set forth below.

153. One representative contended that the countries of the Middle East should be freed from armed pressure and infiltration from beyond national frontiers, and that when such interference threatened they should be able to get prompt and effective action from the United Nations to help safeguard their independence. This required that adequate machinery should be available to make the United Nations presence manifest in a troubled area. The need for a stand-by United Nations peace force had been demonstrated by recent events in Lebanon and Jordan, and was clearly a matter for urgent and positive action. Another representative, in supporting the creation of a permanent United Nations force, noted difficulties in ensuring that speedy action would be taken in an emergency which involved the independence of Member States; a stand-by United Nations peace force would be an additional safeguard for smaller countries to be used speedily, following agreements with the United Nations.

154. It was also suggested that the United Nations should establish a Middle East commission, charged by the General Assembly with the task of investigating, verifying and reporting to the United Nations all external acts of threats of interference or subversion, whether direct or indirect, against the countries of the area. The investigations of the commission would be supplemented by a United Nations police force which could be called upon at need to control threatened borders. Thus, vigilance by the commission, backed by action as required from the United Nations police force, could reduce tension and improve relationships between the Governments of the countries concerned.

155. A suggestion was made by one representative that the General Assembly, at the third emergency special session, should decide in principle to establish a stand-by United Nations force which could be sent to any country, anywhere in the world, at the request of the Government of that country, whenever it considered itself threatened by outside force. To be effective, a United Nations force had to be available speedily; it was obviously better to have such a force in readiness than to try to create it after an act of aggression. For this purpose, he suggested that the Secretary-General should have the authority in an emergency - possibly subject to later review by the Security Council or the General Assembly - to send such a United Nations force to any country that requested it. He also expressed the hope that the Secretary-General would make recommendations on this question in a report the latter was preparing for submission to the General Assembly at its thirteenth session. 157/

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157/ In submitting his report (G A (XIII), Annexes, a.i. 65, p. 8, A/3943), the Secretary-General made a statement at the 100th meeting of the Special Political Committee, on 5 November 1958, concluding that the political issues involved had to be resolved if and when the United Nations faced a concrete situation in which Members wished to decide on a field operation by the United Nations of the kind considered in the report. He thought that would also be the best time for considering the principles that should apply in a particular case and, in the circumstances, there was no need for the General Assembly to take action at the time. The Special Political Committee decided not to discuss the matter at that time (G A (XIII), Spec. Pol. Com., 100th mtg., para. 8).

156. In opposing the suggestion that a stand-by United Nations peace force should be established, several representatives contended that the endeavour to set up stand-by United Nations forces could not be pursued without violating the principles of the Charter. It was maintained that the suggested permanent United Nations forces would involve a definite risk of turning the United Nations into a police force. This would be contrary to the principle proclaimed in the Charter that the United Nations should seek the settlement of international disputes by peaceful negotiation, and not by the use of force. In another view, if the United Nations should seek to exercise any form of police power within the jurisdiction of a State, it would constitute an interference totally incompatible with the United Nations Charter. Apart from the provisions of Chapter VII of the Charter, the whole spirit of the Charter precluded the use of force, as well as threat of force or display of force. There was therefore no basis whatsoever for statements invoking the Charter or the spirit of the Charter in defence of using armed force or of making a display of force in a situation such as that prevailing in the Middle East. It was asserted that the establishment of a United Nations peace force would not only be of no help in reducing international tensions but, on the contrary, would be harmful and dangerous to the cause of peace, and to the United Nations itself. Another view was that a United Nations body could not exercise Powers or functions other than those which were essential to the purposes of the United Nations Charter, and to those purposes alone.

157. On the other hand, the opinion was expressed that although it did not then appear possible to set up a collective force of the United Nations so organized as to be employed on the decision of the Security Council, the creation of a stand-by force for peaceful and non-combative purposes, such as securing or implementing an agreement already arrived at through discussions in the General Assembly, would greatly strengthen the hope and confidence of small nations in the United Nations as an instrument for securing their rights and freedom. Simply because the status of relations between the great Powers did not seem to favour the creation at that particular time of the collective force envisaged by the Charter, there was no reason why some concrete steps could not and should not be taken in that direction after the publication of studies by the Secretary-General on the desirability of a stand-by United Nations peace force. 158/

D. The question of the force of a determination by the General Assembly of the obligation of Member States under Article 2 (4) of the Charter

158. This question was the subject of extensive constitutional discussion during the General Assembly proceedings at the first and the second emergency special sessions, concerning the Suez Canal question and the situation in Hungary, respectively, and during the regular sessions at which these agenda items were further considered. The

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158/ For texts of relevant statements, see G A (ES-III), Plen.: 733rd mtg.: United States, para. 28; 734th mtg.: United Kingdom, paras. 17 and 18; 735th mtg.: Australia, paras. 69, 70 and 78; 736th mtg.: Turkey, para. 42; 737th mtg.: Bulgaria, para. 59; New Zealand, para. 16; 738th mtg.: India, paras. 120, 121, 128 and 129; Jordan, para. 8; 739th mtg.: Albania, para. 89; Italy, para. 122; 740th mtg.: Burma, paras. 105 and 106; Pakistan, paras. 69 and 71; Yugoslavia, para. 127; 741st mtg.: Canada, paras. 51 and 52; Peru, para. 64; Ukrainian SSR, paras. 112-114; 742nd mtg.: Ethiopia, para. 78; Yemen, para. 44; 743rd mtg.: USSR, para. 129; 744th mtg.: Portugal, paras. 116 and 117; 745th mtg.: Nepal, para. 73; 746th mtg.: India, para. 99; Netherlands, para. 91.

basic contention of an overwhelming majority of Member States in the debates on these agenda items was that the provisions of General Assembly resolutions regarding the maintenance of international peace and security, adopted in pursuance of General Assembly resolution 377 (V), "Uniting for peace", had to be complied with. The obligatory nature of these resolutions resulted from the determination by the General Assembly that there had been a violation of a fundamental obligation of the Charter that all Member States should refrain in their international relations from resort to force in any manner inconsistent with the purposes of the United Nations. The decisive factor making these General Assembly resolutions obligatory on Members was therefore that the General Assembly actions were taken in implementation of a principle of the Charter accepted as binding by all Members, namely, Article 2 (4). 159/

159. The relevant constitutional discussion in connexion with each instance of the adoption of resolutions related to the agenda items mentioned above is reviewed below, under the appropriate resolutions.

1. *Resolutions 997 to 999 (ES-I), 1001 (ES-I) and 1002 (ES-I); 1120 (XI) and 1123 to 1125 (XI) [Cessation of military action in Egypt]*

a. PRECIS OF PROCEEDINGS

160. The relevant proceedings are summarized in the present study in paragraphs 28 to 43 above, under section II A 1; and in paragraphs 58 to 71, under section II A 2.

b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

i. Resolutions 997 to 999 (ES-I)

161. After the General Assembly had adopted resolution 997 (ES-I) of 2 November 1956, urging all parties involved in hostilities on Egyptian territory to agree to an immediate cease-fire and to withdraw all armed forces and requesting the Secretary-General to observe and report promptly on compliance with this resolution, the question arose of the authority of the General Assembly to require compliance with the recommendations which were being made in pursuance of the "Uniting for peace" resolution under which the General Assembly had convened in emergency special session.

162. In a report, 160/ submitted in pursuance of paragraph 5 of General Assembly resolution 997 (ES-I), the Secretary-General referred to the state of compliance with the cease-fire resolution. Egypt had agreed to comply on condition that the armed forces should desist from attacking its territory. France and the United Kingdom had stated that they would stop military action as soon as several conditions were fulfilled. These were: (a) Egypt and Israel should agree to accept a United Nations force to keep the peace; (b) such a force should be set up by the United Nations and maintained until an Arab-Israel peace settlement should be reached and until satisfactory arrangements should be made in regard to the Suez Canal; and (c) until a United Nations force should be established, both combatants should agree that limited detachments of Anglo-French troops would be stationed between them. 161/

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159/ See this Supplement under Article 2 (4) for other constitutional discussion having a bearing on this Charter provision.

160/ G A (ES-I), Annexes, a.i. 5, p. 3, A/3267.

161/ See identical communications addressed to the Secretary-General by France and the United Kingdom. G A (ES-I), Annexes, a.i. 5, p. 4, A/3268 and A/3269.

163. The question of compliance was discussed in the main in connexion with the position of the parties engaged in military operations against Egypt that the cease-fire and the withdrawal of forces should be made dependent on the fulfilment of certain conditions. In successive resolutions, the General Assembly maintained the stand that its requests for a cease-fire and for the prompt withdrawal of forces had to be fully and unconditionally implemented, regardless of measures which the General Assembly might adopt to secure and supervise the cessation of hostilities, such as setting up a United Nations force. The position of Israel on compliance with resolution 997 (ES-I) was stated in an aide-mémoire 162/ which announced Israel's agreement to an immediate cease-fire on condition that Egypt would likewise agree.

164. In the discussion that followed the Secretary-General's first report, it was emphasized by several representatives that General Assembly resolution 997 (ES-I) calling for an immediate and unconditional cease-fire could not be construed as a "recommendation", like a resolution of the General Assembly on any other matter, because it was a resolution taken to meet an immediate need, the restoration of peace. There had been a breach of the peace and an act of aggression that had to stop immediately. It was also contended that the competence and powers of the General Assembly when meeting in emergency special session under the "Uniting for peace" resolution, were comparable with those of the Security Council, which was in fact replaced by the General Assembly in the special circumstances related to the agenda item before it. The General Assembly could therefore take effective measures, including economic and other sanctions, if necessary, and even go so far as to dispatch forces to the troubled area to implement the cease-fire resolution.

165. The view was expressed that it was not admissible for France and the United Kingdom to require, as conditions prior to the cessation of their military action, the stationing of French and United Kingdom troops on Egyptian territory to separate the combatants. This would be a serious violation of Egypt's right of self-defence as defined in Article 51 of the Charter. The exercise of this right, which had precedence in accordance with the provisions of Article 51, had been rendered necessary by the aggression perpetrated against Egypt by France, Israel and the United Kingdom.

166. In submitting a proposal to establish an emergency United Nations force, one representative noted that the proposal had the added purpose of facilitating effective compliance with the cease-fire resolution on the part of those whose compliance was absolutely essential. The view was also expressed that the General Assembly would thus be creating machinery to compel compliance with the objectives of its resolution.

167. In connexion with his mandate under resolutions 997 (ES-I) and 999 (ES-I), to arrange with the parties concerned for implementing the cease-fire, the Secretary-General had reported 163/ "that the General Assembly did not accept the decision on the establishment of a United Nations force as a condition for the cease-fire". As regards the conditions laid down by France and the United Kingdom that detachments of Anglo-French troops should remain stationed between the combatants until an effective United Nations force should be constituted, the Secretary-General observed 164/ in the same report that "statements made prior to the adoption of the General Assembly resolution on the United Nations Force made it clear that it was a wide-spread view that none of the parties engaged in the present operations in the area should participate in the Force". He therefore assumed that the decision in question had

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162/ G A (ES-I), Annexes, a.i. 5, p. 9, A/3279.

163/ G A (ES-I), Annexes, a.i. 5, p. 11, A/3287, annex 2, para. 3.

164/ Ibid.

been taken "on the basis of an interpretation which if maintained would exclude such an arrangement [the stationing of Anglo-French troops] as a possible condition for a cease-fire".

168. A statement was made to the effect that the General Assembly, faced with non-compliance with its cease-fire resolution, should condemn the armed attack carried out upon Egypt by France, Israel and the United Kingdom as an act of aggression incompatible with the Purposes and Principles of the Charter, and should call again upon the three Powers to cease hostilities immediately and to withdraw their armed forces. The General Assembly should also consider other ways and means of helping to halt this aggression. The problem before the General Assembly was simply to secure a cease-fire, cessation of hostilities and the restoration of Egypt to the status quo ante. To achieve this, the General Assembly should adopt a draft resolution sponsored by nineteen Powers which would once again call upon the parties to comply with the provisions of resolution 997 (ES-I). The draft resolution submitted by Canada for the establishment of a United Nations emergency force would create machinery by which the three nations that had not complied with the cease-fire resolution could be compelled to do so. 165/

#### Decisions

At its 563rd plenary meeting, on 3 November 1956, the General Assembly adopted, 166/ by 57 votes to none, with 19 abstentions, the draft resolution submitted by Canada requesting the Secretary-General to submit a plan for setting up an emergency United Nations force. At the same meeting, the General Assembly adopted 167/ by 59 votes to 5, with 12 abstentions, the nineteen-Power draft resolution reaffirming its resolution 997 (ES-I) and once again calling upon the parties to comply with its provisions immediately.

#### ii. Resolution 1001 (ES-I) and 1002 (ES-I)

169. After it was announced that the cease-fire order had been accepted by all the parties concerned, it was emphasized that the General Assembly resolutions had to be fully implemented, and that the complete and prompt withdrawal of armed forces was necessary for that purpose. Furthermore, it was argued, a cease-fire which ignored the fundamental aspects of halting troop movements and withdrawing armed forces would be doomed to failure. The action of the General Assembly in dealing with the question should be based on these essential requirements. Implementation of these requirements should therefore precede the establishment and functioning of the United Nations force, whose presence in the area could not be made dependent on whether or not it would be competent to secure and supervise the attainment of the objectives set out in resolution 997 (ES-I).

170. In opposition to the latter view, it was contended that the withdrawal of the armed forces which had invaded Egyptian territory should be related to the readiness of an effective and suitably constituted United Nations force to establish itself in the area. Moreover, the reaffirmation by the General Assembly of its calls for withdrawal appeared to obstruct the operation of setting up an international emergency force.

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165/ For texts of relevant statements, see G A (ES-I), Plen., 563rd mtg.: Canada, para. 108; Ceylon, paras. 212 and 215; Indonesia, para. 234; Jordan, para. 228; Syria, paras. 81 and 82; USSR, paras. 193 and 195.

166/ G A (ES-I), Plen., 563rd mtg., para. 285. G A resolution 998 (ES-I).

167/ Ibid., para. 286. G A resolution 999 (ES-I).

Priority should be given to the urgent need of establishing the international force and of facilitating its early movement into the area of hostilities. That force should be authorized to prevent a resumption of hostilities between Egypt and Israel and to secure the withdrawal of Israel forces. Use should also be made of French and United Kingdom technicians who could work under the command of a United Nations technical officer in the task of clearing obstructions in the Suez Canal.

171. Other representatives contended that the United Nations force should have limited functions, and should not be dispatched to the area in order to take over the tasks which the forces of France and the United Kingdom had set out to accomplish.

172. In the comment on a draft resolution jointly sponsored by nineteen Powers, which reaffirmed previous General Assembly resolution 997 (ES-I) calling for the immediate withdrawal of forces, it was stated that the question whether the forces of France and the United Kingdom would remain on Egyptian territory could not be contingent upon some other element. The parties which had committed aggression could not lay down conditions under which they were willing to withdraw. The United Nations had requested them to withdraw as part of the termination of their aggression. Any other position would amount to justification of the invasion of Egyptian territory.

173. In another view, the word "immediately" in relation to the withdrawal of invading forces meant without delay, "promptly". It also meant that the troops of France, Israel and the United Kingdom had no legal or moral right to remain on Egyptian territory. The General Assembly resolution had rejected, in unmistakable terms, the explanation that action was a "police action". It was an unlawful invasion, a military operation against Egypt, and there was no reason why these countries should stipulate that they would remain until the emergency United Nations force should take over.

174. Though several representatives opposed the suggestion that any connexion existed between the withdrawal of forces from Egyptian soil and the arrival of the international emergency force, several others indicated that they interpreted the word "immediately" to mean promptly, or as quickly as possible, and that the withdrawal of forces was to be phased with the arrival of the emergency force. 168/

#### Decision

At its 567th plenary meeting, on 7 November 1956, the General Assembly adopted a seven-Power draft resolution 169/ concerning the organization and functioning of the United Nations Emergency Force (UNEF), and a nineteen-Power draft resolution 170/ calling once again upon France, Israel and the United Kingdom to withdraw all their forces from Egyptian territory immediately.

168/ For texts of relevant statements, see G A (ES-I), Plen., 566th mtg.: Ceylon, paras. 35-38; Indonesia, para. 116; Jordan, paras. 54 and 60; Sweden, paras. 66 and 67; United States, para. 39; 567th mtg.: Belgium, para. 302; Brazil, para. 275; Canada, para. 260; Cuba, para. 218; Ceylon, para. 250; Denmark, para. 248; Ethiopia, para. 109; France, paras. 128-130; India, paras. 148-153; Syria, para. 307; United Kingdom, paras. 102-104; United States, para. 305.

169/ G A (ES-I), Plen., 567th mtg., para. 262-269. G A resolution 1001 (ES-I).

170/ Ibid., para. 278. G A resolution 1002 (ES-I).

iii. Resolution 1120 (XI)

175. At the eleventh session of the General Assembly, during the consideration of measures to secure the withdrawal of invading forces from Egyptian territory and to promote peaceful conditions in the Palestine area, the question was further discussed whether or not the withdrawal of the forces in compliance with the General Assembly resolutions could be made dependent on, or conditional to, certain specified requisites. It was stated by some representatives that the withdrawal of armed forces in compliance with the basic provisions of resolutions adopted by the General Assembly at its first emergency special session would take place as soon as the United Nations Emergency Force (UNEF) should become effective and competent to discharge its functions. The relevant General Assembly resolutions were understood to have provided for withdrawal phased with the arrival and the functioning of UNEF. In regard to the clearance of the Suez Canal, it was maintained that such a task should be accomplished without delay. Since the withdrawal of forces had begun, it appeared reasonable that the clearance of the Suez Canal should also begin.

176. On the other hand, some representatives contended that the General Assembly resolutions clearly provided that the withdrawal of armed forces from Egyptian territory should be immediate, unconditional and complete. When the first cease-fire and withdrawal resolution was adopted, the General Assembly had not yet contemplated nor discussed the question of establishing UNEF. The withdrawal was, therefore, intended to be immediate - not dependent upon any other consideration, nor subject to negotiation. So long as the invading forces were not completely withdrawn, the situation in the whole area would have serious consequences and would endanger world peace. Further observations on the conditions for withdrawal were to the effect that UNEF could not be construed as a substitute for the occupation forces, nor could UNEF detachments be stationed in certain areas of occupied Egyptian territory in order to guarantee freedom of navigation on the Suez Canal. Work on clearing the Canal should begin immediately after the withdrawal of non-Egyptian forces from the Canal zone.

177. The view was expressed that the time had come for the United Nations decisions to be obeyed and applied, to see that its resolutions were complied with and were regarded as not mere declarations. In order to safeguard the prestige of the United Nations, the two permanent members of the Security Council - France and the United Kingdom, whose forces had invaded Egypt - should see that the resolutions of the General Assembly were carried out immediately. On the other hand, the fact that representatives of these two great Powers had made commitments to accept the United Nations decisions on the cease-fire and withdrawal of troops was a highly significant precedent for the future of international relations.

178. In this connexion, it was noted that though the withdrawal of troops had been promised by France and the United Kingdom, and arrangements were being made for partial withdrawals, complete withdrawal of troops had not been effected despite the length of time which had elapsed since the adoption of the relevant resolutions of the General Assembly. Furthermore, conditions for withdrawal were being set which had not been agreed to by the United Nations, nor could they be agreed to under the terms of the Charter. Indeed, the Charter did not empower the United Nations to create an army to occupy a country or to take over the administration of its territory. The Charter did give the United Nations the power to establish an army to drive out an aggressor, but that measure had not been taken in the current case.

179. It was further stated that the United Nations, in establishing UNEF, had never meant to exercise any functions except those of supervising the cease-fire and the withdrawal of occupation forces. This fact ruled out any peace conditions advanced by Israel for the withdrawal of its forces. Such withdrawal had to be immediate;

there were no provisions in the General Assembly resolutions for withdrawal by stages, or "phased" withdrawals. To argue otherwise was tantamount to admitting that the General Assembly had abdicated its authority and had handed over the task of maintaining law and order to the forces of aggression.

180. In connexion with a twenty-Power revised draft resolution noting with regret that only partial withdrawals had been effected by Anglo-French troops and that no Israel forces had been withdrawn, and reiterating previous calls for compliance with General Assembly resolution 997 (ES-I) and 1002 (ES-I), an amendment was submitted by Belgium whereby the General Assembly would state that France, Israel and the United Kingdom should expedite the application of these resolutions in the spirit in which they were adopted, particularly with regard to the functions vested in the United Nations forces. In the opinion of the representative of Belgium, the draft resolution calling for withdrawal should take account of all the factors involved in the situation. It should therefore make reference to the establishment of UNEF, which was the most striking feature of the General Assembly's action since the cease-fire became effective. He stated that the amendment he proposed made the text of the resolution more clearly in accord with the facts.

181. The amendment by Belgium was opposed by a number of representatives on the ground that the withdrawal of forces should be immediate and unconditional, and that the link which the invading Powers had created between the General Assembly resolutions calling for withdrawal and those dealing with the establishment and functioning of UNEF was inadmissible. In the view of these representatives, aggression continued so long as withdrawal was not completed. To suggest that the withdrawal of the invading forces was dependent upon the judgement of the Governments of France and the United Kingdom as to the competence of UNEF was to seek to usurp the powers of the General Assembly, since the competence of UNEF was entirely a matter for the United Nations to judge. 171/

#### Decision

At its 594th meeting, on 24 November 1956, the General Assembly rejected 172/ the Belgian amendment by 37 votes to 23 with 18 abstentions. At the same meeting, the General Assembly adopted 173/ the twenty-Power revised draft resolution, by 63 votes to 5, with 10 abstentions.

#### iv. Resolution 1123 (XI)

182. At a later stage of the discussion, after the complete withdrawal of French and United Kingdom forces had been effected, several representatives reiterated the view that the mandate of the General Assembly was quite clear, and that under its resolutions 997 (ES-I), 999 (ES-I), 1002 (ES-I) and 1120 (XI), adopted in November 1956, an immediate, unconditional and complete withdrawal of all Israel troops behind the armistice demarcation lines had been demanded by the General Assembly. In this connexion, other representatives raised the question whether, in the light of the circumstances of the Palestine situation prior to the movement of Israel troops into Egyptian-controlled territory, the General Assembly should seek to enforce the order to

171/ For texts of relevant statements, see G A (XI), Plen., vol. I, 591st mtg.: Syria, paras. 107, 108 and 113; United Kingdom, paras. 96, 97 and 100; 592nd mtg.: Iraq, para. 100; Pakistan, para. 85; 593rd mtg.: Tunisia, para. 85; 594th mtg.: Belgium, paras. 9, 30 and 31; El Salvador, para. 72; India, paras. 129, 130 and 136; Syria, para. 90; 595th mtg.: Lebanon, paras. 86-89.

172/ G A (XI), Plen., 594th mtg., para. 148.

173/ Ibid., para. 157. G A resolution 1120 (XI).

withdraw without providing for appropriate undertakings to promote peaceful conditions in the Palestine area. Thus, the aim of the United Nations should be to bring hostilities to an end, but at the same time to create conditions which would make possible the settlement of the problems existing in the areas where the hostilities had occurred.

183. It was maintained that the slow pace at which the withdrawal of Israel forces was being carried out resulted from the lack of sufficient guarantees, in the view of the Israel Government, as to its future security in the Gaza Strip and the Sharm el-Sheikh area. After the United Nations Emergency Force had taken positions along the full length of the Egyptian-Israel armistice line, the possibility of military incursion by either side would be greatly diminished, if not totally prevented. Suggestions were also made to the effect that UNEF might be entrusted with the task of guaranteeing the "innocent passage" of ships through the Gulf of Aqaba and the Suez Canal.

184. In opposition to these views, it was stated that the United Nations was not an administering Power, and that it had never been entrusted with the administration of a territory. The United Nations Emergency Force should be so deployed as to be in a position to prevent a recurrence of hostile activities along the armistice lines. But no matter how effectively UNEF discharged its responsibilities and regardless of where it was deployed, the maintenance of the cease-fire would in the end depend upon full observance by both parties of the Egyptian-Israel armistice agreement. On the other hand, it was stated that if the functions of UNEF should be broadened or enlarged beyond its original purpose, new decisions by the General Assembly would need to be adopted.

185. In connexion with a draft resolution sponsored by twenty-five Powers, which would note with regret and concern Israel's failure to carry out the provisions of the General Assembly resolution calling for complete withdrawal and other measures and would request the Secretary-General to continue his efforts to secure the complete withdrawal by Israel from Egyptian territory, the opinion was repeatedly expressed that the demands of Israel that certain conditions should be attached to the withdrawal of its troops were in obvious contradiction to the letter and spirit of all the relevant General Assembly resolutions and were incompatible with the principles which had guided United Nations policy throughout the Middle East crisis. In delaying the withdrawal of its forces, Israel had injected irrelevant considerations into the main issue which concerned the General Assembly - the issue of the withdrawal of Israel troops behind the armistice lines. The settlement of the long-standing Arab-Israel dispute could not be discussed in connexion with the draft resolution aimed at complete Israel withdrawal, and was beyond its compass.

186. Several representatives referred to a report 174/ of the Secretary-General on compliance with General Assembly resolutions calling for the withdrawal of troops and other measures. In the report, the Secretary-General had stated that "withdrawal is a preliminary and essential phase in a development through which a stable basis may be laid for peaceful conditions in the area". He had added that when the General Assembly, in its various resolutions, had given high priority to the cease-fire and the withdrawal, "the position of the Assembly reflected both basic principles of the Charter and essential political considerations". In the view of one representative, the draft resolution sponsored by twenty-five Powers would focus on the immediate problem. He agreed with the Secretary-General in considering withdrawal as a preliminary phase; compliance with the resolutions would enable the General Assembly

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174/ G A (XI), Annexes, vol. II, a.i. 66, p. 42, A/3500 and Add.1, paras. 13, 15 and 17.

to turn to the many constructive tasks which must be completed if conditions in the area were to improve.

187. A contention was made that the basic General Assembly resolution, 997 (ES-I), was of a general nature; in addition to providing for a cease-fire and the withdrawal of troops, it contained other provisions which had also been deemed essential to the re-establishment of lasting peace in the Middle East. The resolution should be considered as a whole, and though none of its provisions were, from a legal point of view, dependent on the others, the harmony and effectiveness of the whole would be destroyed if some of the provisions were granted a priority which the General Assembly had not given them. The duty of the General Assembly was, therefore, to ensure full compliance with the recommendations which it had made.

188. It was asserted, on the other hand, that the General Assembly had meant Israel's withdrawal to be immediate, unconditional and complete. The wording of the General Assembly resolutions did not, explicitly or by implication, reveal any intention on the part of the General Assembly of conditioning the withdrawal the invading forces upon this or that event. This fact had been brought out clearly by the Secretary-General in his report, 175/ which stated:

"Thus, in the same operative paragraph in which the request was made for a withdrawal of forces behind the armistice lines, the parties were urged 'to desist from raids across the armistice lines into neighbouring territory and to observe scrupulously the provisions of the armistice agreements'. The three points in this operative paragraph, while existing simultaneously within the terms of the paragraph, were not linked together conditionally."

It was therefore quite obvious to him that neither the General Assembly nor the Secretary-General had had the slightest intention of making the withdrawal of Israel forces contingent upon other questions mentioned in the resolution calling for withdrawal. 176/

#### Decision

At its 642nd plenary meeting, on 19 January 1957, the General Assembly adopted 177/ the draft resolution sponsored by twenty-five Powers, by 74 votes to 2, with 2 abstentions.

#### v. Resolutions 1124 (XI) and 1125 (XI)

189. In pursuance of General Assembly resolution 1123 (XI), of 19 January 1957, the Secretary-General submitted a report, as requested by that resolution, within five

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175/ G A (XI), Annexes, vol. II, a.i. 66, p. 42, A/3500 and Add.1, para. 6.

176/ For texts of relevant statements, see G A (XI), Plen., 638th mtg.: Australia, paras. 29, 33, 44 and 72-74; Brazil, paras. 87 and 95-97; Ceylon, paras. 17 and 20; Colombia, paras. 176 and 179; Israel, para. 140; 639th mtg.: New Zealand, paras. 104 and 111; Syria, para. 45; USSR, para. 186; United States, paras. 32-35; 640th mtg.: Indonesia, para. 142; Yugoslavia, paras. 130 and 131; 641st mtg.: China, para. 121; Pakistan, paras. 58 and 59; Poland, paras. 127 and 128; Saudi Arabia, para. 7; 642nd mtg.: Burma, para. 4; Egypt, para. 119; France, paras. 27 and 40; Lebanon, paras. 46 and 50; Netherlands, para. 6.

177/ G A (XI), Plen., vol. II, 642nd mtg., para. 123. G A resolution 1123 (XI).

days. In the report, 178/ after noting that "full compliance with the General Assembly resolutions" would make positive measures possible in the current issue, the Secretary-General stated:

"The United Nations cannot condone a change of the status juris resulting from military action contrary to the provisions of the Charter. The Organization must, therefore, maintain that the status juris existing prior to such military action be re-established by a withdrawal of troops, and by the relinquishment or nullification of rights asserted in territories covered by the military action and depending upon it."

190. In the comment on this part of the report, it was maintained that, as a preliminary to the examination of all outstanding issues concerning the Palestine question, Israel, in conformity with the relevant General Assembly resolution, should withdraw its forces without conditions and without demur. Support was expressed for the points contained in the report of the Secretary-General.

191. On the other hand, it was noted that many delegations, while advocating the withdrawal of troops, argued against restoring the conditions from which hostilities in Egypt had evolved. The situations prevailing in the Suez Canal, the Gulf of Aqaba and the Gaza Strip prior to the outbreak of hostilities had allegedly been illegal because of the state of belligerency maintained by Egypt. In these circumstances, the idea that the United Nations could not function for peace except on the basis of restoring the status quo required qualification; the United Nations should not restore illegal situation, even if it had reservations regarding the method whereby the illegalities had been removed.

192. In opposition to this view, it was contended that it was essential that the status quo before the outbreak of hostilities should be fully restored by the complete withdrawal of the forces occupying the invaded territory. Israel's obligation to withdraw had been imposed in conformity with an overriding principle of the Charter - the prohibition of the threat or the use of force in international disputes, which had to be settled solely by peaceful means - and in conformity with the further principle, which was a corollary of the first, that any aggression perpetrated by the invasion of the territory of one State by another must not be allowed to yield any advantages to the aggressor and invader. The application of these principles of international law admitted of no exception. No Member State was entitled to exact a price for its compliance with the elementary principle of the Charter that all Members should refrain from the use of force against the territorial integrity of any State or in any other manner inconsistent with the purposes of the United Nations.

193. It was also stated that though Israel should heed the call of the General Assembly and promptly complete the withdrawal of its forces, it was recognized that such a withdrawal would not assure tranquility in troubled areas where there were conflicting claims. To attain both these ends, two draft resolutions, jointly sponsored by seven Member States, were submitted.

194. In speaking for the adoption of these draft resolutions, one of its sponsors stressed his opinion that the only matter before the General Assembly, from the beginning of the first emergency special session, had been the issue of invasion and aggression, and not the resolving of the Arab-Israel question. The complete withdrawal of Israel behind the armistice demarcation line, as requested in the first draft resolution, was required before the United Nations could address itself to its

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178/ G A (XI), Annexes, vol. II, a.1. 66, p. 47, A/3512.

general purpose of conciliation in the maintenance of peace and the promotion of harmony. These aims were contained in the second draft resolution, which stated that the withdrawal by Israel should be followed by action to assure progress towards the creation of peaceful conditions in the area. The draft resolutions thus dealt with two separate matters, and the first draft resolution should not be regarded as conditional.

195. Objections were expressed to the circumstance that the General Assembly was dealing with these two separate matters concurrently. Though there were problems in Egyptian-Israel relations which remained to be solved, the theory that a relationship existed between their solution and the withdrawal of Israel forces could not be accepted. Moreover, the General Assembly should not allow pressure to be brought to bear for a vote on the second draft resolution immediately after the vote on the first. Consequently, a proposal was submitted to postpone the vote on the second draft resolution. 179/

#### Decision

At its 652nd plenary meeting, on 2 February 1957, the General Assembly, after rejecting 180/ the motion for postponement by 52 votes to 8, with 9 abstentions, adopted the first draft resolution by 74 votes to 2, with 2 abstentions, and then adopted the second draft resolution by 56 votes to none, with 22 abstentions. 181/

#### vi. Other proposals

196. In a report 182/ submitted to the General Assembly in pursuance of its resolutions 1124 (XI) and 1125 (XI) of 2 February 1957, the Secretary-General explained his attempts to secure the implementation of these two resolutions. Describing the considerations on which he based these efforts, the Secretary-General stated:

"The Charter has given to the Security Council means of enforcement and the right to take decisions with mandatory effect. No such authority is given to the General Assembly, which can only recommend action to Member Governments, which, in turn, may follow the recommendations or disregard them. This is also true of recommendations adopted by the General Assembly within the framework of the 'Uniting for peace' resolution [resolution 337 (V)]. However, under that resolution the General Assembly has certain rights otherwise reserved to the Security Council. Thus, it can, under that resolution, recommend collective measures. In this case, also, the recommendation has not compulsory force.

"It seems, in this context, appropriate to distinguish between recommendations which implement a Charter principle, which in itself is binding on Member States,

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179/ For texts of relevant statements, see G A (XI), Plen., vol. II, 644th mtg.: Ceylon, paras. 54 and 72; Jordan, para. 85; 645th mtg., paras. 18, 19, 21 and 22; Saudi Arabia, para. 178; 649th mtg.: Belgium, para. 138; Ecuador, paras. 170-172; Romania, para. 204; Indonesia, para. 148; 650th mtg.: United States, paras. 51, 56 and 57; 651st mtg.: India, paras. 106, 108 and 113; United States, paras. 147 and 150; 652nd mtg.: Canada, paras. 22 and 23; Poland, paras. 137 and 139; USSR, paras. 212-215.

180/ G A (XI), Plen., vol. II, 652nd mtg., para. 222.

181/ Ibid., paras. 223 and 224. G A resolution 1124 (XI) and 1125 (XI).

182/ G A (XI), Annexes, vol. II, a.i. 66, p. 57, A/3527, paras. 19 and 20.

and the recommendations, which, although adopted under the Charter, do not implement any such basic provision. A recommendation of the first kind would have behind it the force of the Charter, to which collective measures recommended by the General Assembly could add emphasis, without, however, changing the legal character of the recommendation. A decision on collective measures referring to a recommendation of the second kind, although likewise formally retaining its legal character, would mean that the recommendation is recognized by the General Assembly as being of such significance to the efforts of the United Nations as to assimilate it to a recommendation expressing an obligation established by the Charter. If, in some case, collective measures under the 'Uniting for peace' resolution were to be considered, these and other important questions of principle would require attention; this may also be said of the effect of such steps which, while supporting efforts to achieve peaceful solutions, may perhaps, on the other hand, be introducing new elements of conflict."

197. The view of the Secretary-General that the General Assembly resolutions on the Middle East crisis reflected the principles of the Charter was supported by several representatives. In connexion with a draft resolution 183/ jointly submitted by six Member States which would condemn Israel for its non-compliance with the General Assembly resolutions on withdrawal and would call upon all States to deny all military, economic or financial assistance to Israel, it was observed that the views of the Secretary-General expressed above had been overwhelmingly endorsed by the General Assembly, and had been neither challenged nor disputed. The function of the Secretary-General, as the chief officer of one of the principal organs of the United Nations, endowed with Charter powers for the maintenance of international peace and security, accorded his opinion such importance that it had to be given due consideration in passing judgement on matters involving peace and security. In support of the draft resolution, it was contended that it was imperative for the General Assembly to take this action in dealing with the situation caused by the aggression of Israel and the defiance of resolutions calling for unconditional withdrawal. It was also pointed out that the draft resolution did not involve sanctions against the aggressor as provided by the Charter. Member States and others were merely asked to discontinue offering aid and facilities to the aggressor.

198. On the other hand, it was stated that since sanctions would necessitate action by Member States and the United Nations itself, it would be preferable for the decision on the matter to be taken by the Security Council; under the Charter such a decision would be binding upon all States, whereas a decision of the General Assembly would merely be a recommendation.

199. After a statement by the representative of Israel concerning its complete and prompt withdrawal of forces in compliance with General Assembly resolution 1124 (XI), it was noted that there had never been any serious challenge to the explicit view of the General Assembly that the withdrawal of the invaders of Egyptian territory had to be unconditional.

200. Full compliance with General Assembly resolution 1124 (XI) was reported by the Secretary-General at the 668th meeting of the General Assembly, on 8 March 1957. In commenting on this report, it was stated that fulfilment of the task undertaken by the General Assembly demonstrated conclusively that settlements could not be achieved through the use of force and contrary to the principles of the United Nations.

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183/ G A (XI), Annexes, vol. II, a.i. 66, p. 62, A/3557.

The six-Power draft resolution mentioned above (paragraph 197) was not put to the vote. 184/

2. *Resolutions 1004 (ES-II) and 1005 (ES-II); 1127 (XI) and 1130 to 1133 (XI) [Situation in Hungary]*

a. PRECIS OF PROCEEDINGS

201. The relevant proceedings are summarized in the present study in paragraphs 79 to 88 above, under section II A 3; and in paragraphs 94 to 112, under section II A 4.

b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION 185/

1. Resolutions 1004 (ES-II) and 1005 (ES-II)

202. At the second emergency special session of the General Assembly, in connexion with the adoption of the above General Assembly resolutions calling for the cessation of attacks on Hungary, for the withdrawal of all of the troops of the Soviet Union from Hungarian territory without delay, for free elections to be held in Hungary under United Nations auspices and for facilities for entry of United Nations observers into Hungary, several representatives referred to violations of Article 2 (4) and other provisions of the Charter and expressed deep concern at the refusal of the Governments of Hungary and the Soviet Union to comply with these General Assembly recommendations, which had been adopted by the votes of an overwhelming majority. Suggestions were made as to steps which should be taken by the General Assembly and by the Governments of Member States to make these resolutions effective. It was stated that the General Assembly might consider the establishment of an international force to end the conflict in Hungary and to supervise the withdrawal of Soviet troops. It was also suggested that in case the General Assembly recommendations were not complied with, United Nations Member States should sever diplomatic relations with the Soviet Union, and the General Assembly should recommend non-recognition of the new Hungarian Government and should reject the credentials of the Hungarian delegation. Some representatives were in favour of having the General Assembly reiterate its requests and press through world public opinion to bring about compliance with its resolutions. Since a cease-fire and withdrawal of troops had been agreed to by the Governments engaged in military operations in the Middle East, it was suggested that similar undertakings should be made in respect of Hungary. Still others, though agreeing in principle with United Nations concern for the events in Hungary, objected to certain terms of the draft resolutions which, in their opinion, served no practical purpose. In one view, nothing could be accomplished without the co-operation of the Government of Hungary, and methods of conciliation and negotiation towards a peaceful solution of the Hungarian problem should therefore continue to be utilized.

203. In opposing the draft resolution, one representative stated that the proposed measures would not contribute to an early solution of the current difficulties in

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184/ For texts of relevant statements, see G A (XI), Plen., vol. II, 659th mtg.: Lebanon, para. 63; 660th mtg.: Jordan, paras. 26 and 27; Syria, para. 168; USSR, paras. 108 and 109; 661st mtg.: Iraq, para. 55; 664th mtg.: Indonesia, para. 65; 665th mtg.: India, paras. 35, 64 and 65; 666th mtg.: India, para. 73; Israel, para. 1; 668th mtg.: Yugoslavia, para. 247.

185/ In this connexion, see also para. 139 et seqq., above.

Hungary. Others categorically opposed consideration of the situation in Hungary on the grounds of Article 2 (7) of the Charter. 186/

#### Decisions

At its 564th meeting, on 4 November 1956, the General Assembly adopted a United States draft resolution, as amended, which became resolution 1004 (ES-II). 187/

At its 571st meeting, on 9 November 1956, the General Assembly adopted a five-Power draft resolution, as amended, which became resolution 1005 (ES-II). 188/

#### ii. Resolutions 1127 (XI) and 1130 to 1132 (XI)

204. In the course of the discussion on Hungary at the eleventh session of the General Assembly, it was repeatedly maintained that the recommendations of the United Nations included in General Assembly resolutions had to be complied with; they could not be disregarded by the Member States to which they were addressed, namely Hungary and the Soviet Union. It was considered inadmissible that there should be two categories of Members in the United Nations, those which complied with the resolutions adopted by the General Assembly and those which did not. It would be most dangerous for the United Nations if such a situation should be more or less implicitly accepted. Though there was no parallel between the events in Egypt and the situation in Hungary, it was of the greatest significance that other Member States had recently accepted the intervention of the United Nations in regard to certain action which they had taken in the Middle East. The Governments of Hungary and the Soviet Union should likewise co-operate with the United Nations and, as a first step, United Nations observers should be admitted into Hungary.

205. In connexion with an amendment 189/ introduced by the representative of El Salvador to include in a draft resolution 190/ submitted by Cuba a reference to Article 2 (4) of the Charter, it was stated that the interference of the Soviet Union in Hungary was a clear violation of the obligation for all Members, in their international relations, to refrain from the threat or the use of force against the territorial integrity or political independence of any State. It was also stated that the United Nations was competent to discuss the tragic events in Hungary, for although it could not intervene in the domestic affairs of States, it had an obligation to use all the means in its power to prevent any State from violating the political independence of another.

206. Another view was that the General Assembly, in fulfilling its responsibility with respect to Hungary, should express itself in a restrained fashion in order to

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186/ For texts of relevant statements, see G A (ES-II), Plen., 564th mtg.: Australia, paras. 32-34; Belgium, paras. 200 and 201; Canada, paras. 130 and 131; United Kingdom, paras. 182-186; 568th mtg.: Hungary, para. 3; Ireland, para. 88; Romania, para. 107; 569th mtg.: Costa Rica, paras. 120 and 124; El Salvador, paras. 64 and 65; Peru, paras. 129, 130 and 139; 570th mtg.: France, para. 123; 571st mtg.: Argentina, para. 90; Burma, paras. 153-155; Ceylon, paras. 147-150; Cuba, para. 167; Czechoslovakia, para. 52; Indonesia, paras. 103 and 105; Nepal, para. 94; New Zealand, para. 50; Yugoslavia, paras. 179 and 181.

187/ G A (ES-II), Plen., 564th mtg., para. 253.

188/ Ibid., 571st mtg., para. 240.

189/ G A (XI), Plen., 583rd mtg., paras. 59 and 60, A/L.211.

190/ G A (XI), Annexes, vol. II, a.i. 67, p. 6, A/3357/Rev.2.

obtain a settlement. The main objectives should be to secure, in terms of the decision of the General Assembly, permission for the introduction into Hungary of United Nations observers, and acceptance of the good offices of the Secretary-General. The request to the Hungarian Government to agree to an on-the-spot investigation could not be considered a claim to a right, but rather an appeal by the General Assembly. Such a procedure appeared to be the only possible means by which the United Nations could express its concern for the situation in Hungary.

207. It was observed, however, that the appeals for compliance with General Assembly resolutions had been ineffectual. The General Assembly, of course, could only make recommendations to the States concerned; it did not have power to make decisions which would be binding on States. Even though they were only recommendations, however, the Member States of the General Assembly expected that they would be complied with, not under the threat of coercive measures - which the General Assembly had no power to apply - but under the pressure of world public opinion, as expressed by an overwhelming majority of the General Assembly in its resolutions concerning the maintenance of international peace and security.

208. The opinion was expressed that non-compliance with a legal obligation called for legal sanctions. The obligations of Member States contained in the Charter were legal obligations by virtue of the fact that the Charter was a multilateral agreement. Thus, the General Assembly recommendations included in its resolutions with regard to Hungary provided what the Charter prescribed - avoidance of the use of force contrary to the principles of the Charter or against the independence and sovereignty of a State. The principle of non-intervention, which was implicitly or expressly stated in the Charter, imposed a legal obligation. The General Assembly recommendations on Hungary were legally binding, therefore, not only because the General Assembly had assumed the functions of the Security Council in defence of international peace, but mainly because such recommendations interpreted the application of certain Charter provisions in a specific instance. The General Assembly thus had a right to apply sanctions because of non-compliance with a legal obligation, in the particular case, because of the failure of the Soviet Union to observe basic provisions of the United Nations Charter. Such sanctions could be proposed by an overwhelming majority of United Nations Members. The view was also expressed that although under the Charter the resolutions of the General Assembly were only recommendations, the provisions for which they urged respect had a mandatory character.

209. It was further noted that the General Assembly had already adopted recommendations which were not based solely on Chapter VI of the Charter, since measures for the withdrawal of troops and for a cease-fire, which had been adopted in connexion with the Middle East situation, were in the category of provisional measures which fell under Chapter VII of the Charter. France, Israel and the United Kingdom had been called upon to institute a cease-fire and to withdraw their troops from Egypt. The pertinent resolutions had been interpreted by these Powers as legal as well as moral obligations and were being fulfilled by them, thus they honoured the pledge they gave when they signed the United Nations Charter. On the basis of this recent United Nations practice, the obligations imposed upon the Soviet Union by General Assembly resolutions on the situation in Hungary were also legal obligations because they were a restatement of the principles of the Charter, as clearly interpreted by the General Assembly.

210. It was maintained, on the other hand, that the events in Hungary were exclusively the internal affairs of Hungary. The United Nations therefore had no jurisdiction over them; accordingly the discussion of the matter by the General

Assembly constituted a grave infringement of the sovereignty of a Member State and contravened the principles laid down in the Charter. 191/

### Decisions

At the 587th meeting, the General Assembly adopted the draft resolution submitted by Cuba, as amended, which became resolution 1127 (XI). 192/

At the 608th meeting, the General Assembly adopted the fourteen-Power draft resolution, which became resolution 1130 (XI). 193/

At the 618th meeting, the General Assembly adopted the twenty-Power draft resolution, which became resolution 1131 (XI). 194/

At the 636th meeting, the General Assembly adopted the twenty-four-Power draft resolution, which became resolution 1132 (XI). 195/

### iii. Resolution 1133 (XI)

211. During the discussion of the report of the Special Committee on the Problem of Hungary, a joint draft resolution was considered which would reaffirm the condemnation of the policies of the Soviet Union regarding Hungary and would appoint a special representative to take such steps as he deemed appropriate to attain compliance with the resolutions of the General Assembly on Hungary. In introducing the proposal, the representative of the United States maintained that the intervention of the military forces of the Soviet Union in Hungary constituted a proper concern of the General Assembly. Certain findings of the Special Committee on the Problem of Hungary related to gross violations of Hungary's sovereignty. For the General Assembly to uphold the basic principles of the Charter, these actions had to be condemned. The General Assembly should therefore call upon the Soviet Union to conform to the Charter in the matter of Hungary.

212. Other representatives contended that the armed attack by the forces of the Soviet Union could not be justified by invoking the provisions of the Warsaw Treaty, which was a defensive arrangement against external aggression. Intervention in domestic affairs was expressly prohibited under the law constituted by the treaty relations between Hungary and the Soviet Union. Since these obligations clearly confirmed the provisions of Article 2 (4) of the Charter, the United Nations had the right to request, urge and recommend to the Soviet Union that it withdraw its troops and refrain from intervening in Hungarian politics.

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191/ For texts of relevant statements, see G A (XI), Plen., vol. I, 582nd mtg.: Cuba, paras. 10 and 22; Hungary, paras. 27 and 28; 583rd mtg.: Canada, paras. 99 and 102; El Salvador, paras. 59 and 60; 584th mtg.: Byelorussian SSR, para. 12; Haiti, para. 67; Netherlands, paras. 6 and 7; 585th mtg.: Burma, paras. 94 and 95; Venezuela, para. 140; 586th mtg.: Ceylon, paras. 88 and 90; India, para. 24; 604th mtg.: Belgium, paras. 91, 106 and 107; Denmark, para. 38; Peru, para. 162; 605th mtg.: Cuba, para. 53; 608th mtg.: Burma, para. 226; Dominican Republic, paras. 230 and 231; 615th mtg.: Colombia, paras. 31 and 32; *ibid.*, vol. II, 633rd mtg.: Belgium, paras. 126-128; USSR paras. 30, 73 and 74; 634th mtg.: Peru, paras. 39-45 and 47-49; 636th mtg.: France, para. 57.

192/ G A (XI), Plen., vol. I, 587th mtg., para. 59.

193/ *Ibid.*, 608th mtg., para. 182.

194/ G A (XI), Plen., vol. II, 618th mtg., para. 212.

195/ *Ibid.*, 636th mtg., para. 112.

213. It was also contended that the General Assembly resolutions had imposed a legal obligation upon the Soviet Union. When the General Assembly was confronted by aggression and assumed the functions of the Security Council in defence of peace, when the General Assembly invoked the Articles of the Charter in fulfilment of one of its resolutions and applied them in a specific case, then a resolution of the General Assembly had a dual character: a moral character deriving from the authority conferred upon it by the United Nations, and a binding legal character deriving from the principles of the Charter which it invoked.

214. In the opinion of one representative, the action of the United Nations was legitimate in the case of Hungary because of the use of violence and military force by the Government of one country against the people of another country, with a view to dominating them. The decisive factor creating an obligation on the part of the United Nations to intervene in consequence of Soviet actions in Hungary was the use of foreign military power against a people striving for freedom and independence, in order to reimpose and to prolong political domination over them. It was also emphasized that the General Assembly could not fail to condemn continued refusal to comply with its resolutions.

215. In connexion with the appeal to Article 2 (7) of the Charter by representatives who opposed consideration by the General Assembly of the problem of Hungary, it was held that the General Assembly resolutions regarding Hungary had been adopted in due legal form, and that domestic jurisdiction could not be invoked in dealing with a problem which concerned intervention by foreign troops in the territory of another country.

216. It was noted, on the other hand, that several representatives had recognized that the General Assembly could not enforce compliance with its resolutions. Since it was realized that a solution of the problem of Hungary could come only by agreement, the language of condemnation, such as that contained in the joint draft resolution, could only defeat the purposes of the General Assembly and should therefore be avoided. 196/

#### Decision

At the 677th meeting, the General Assembly adopted the draft resolution sponsored by thirty-seven Powers which became resolution 1133 (XI). 197/

### *3. Resolution 1312 (XIII) [Situation in Hungary]*

#### a. PRECIS OF PROCEEDINGS

217. At its 752nd plenary meeting, on 22 September 1958, the General Assembly decided, 198/ after discussion, to include in its agenda and to consider directly in plenary meeting the item entitled, "The situation in Hungary". The question was

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196/ For texts of relevant statements, see G A (XI), Plen., vol. III, 669th mtg.: United States, paras. 87, 94, 95 and 98; 670th mtg.: Hungary, para. 53; Philippines, para. 72; USSR, para. 181; 671st mtg.: Greece, paras. 118 and 119; Peru, paras. 91, 97, 100 and 101; 674th mtg.: Canada, para. 117; 675th mtg.: Uruguay, paras. 41 and 42; 677th mtg.: Indonesia, para. 35.  
197/ G A (XI), Plen., vol. III, 677th mtg., para. 300.  
198/ G A (XIII), Plen., 752nd mtg., para. 112.

considered by the General Assembly at its 784th to 787th meetings, on 11 and 12 December 1958.

218. At the 784th plenary meeting, on 11 December 1958, the representative of the United States introduced a draft resolution 199/ jointly sponsored by thirty-seven Powers. Under this draft resolution, the General Assembly, after having considered the supplementary report 200/ of the Special Committee on the Problem of Hungary, and the report 201/ of the Special Representative, H.R.H. Prince Wan Waithayakon, would (a) express its appreciation to the Special Representative for his efforts; (b) endorse the report of the Special Committee on the Problem of Hungary; (c) deplore the continued refusal of the Government of the Union of Soviet Socialist Republics and the régime in Hungary to co-operate with the Special Representative and the Committee in their efforts to achieve the objectives of the United Nations in accordance with the pertinent General Assembly resolutions; (d) deplore the continuing repression of human rights and of political freedom in Hungary; (e) denounce the execution of Mr. Nagy, General Maléter and other Hungarian patriots; (f) condemn the continued defiance of the resolutions of the General Assembly; (g) again call upon the Soviet Union and the authorities in Hungary to desist from repressive measures against the Hungarian people and to respect the liberty and political independence of Hungary; (h) declare that the United Nations would continue to be seized of the situation in Hungary because the Government of the Soviet Union and the authorities in Hungary were disregarding the pertinent General Assembly resolutions; (i) decide to appoint Sir Leslie Munro to represent the United Nations for the purpose of reporting to Member States or to the General Assembly on significant developments relating to the implementation of the General Assembly resolutions on Hungary; and (j) request the Secretary-General to afford him the necessary facilities.

219. At the 787th plenary meeting, on 12 December 1958, the General Assembly adopted 202/ the thirty-seven-Power draft resolution by 54 votes to 10, with 15 abstentions.

#### b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

220. At the thirteenth session of the General Assembly, further discussion of the situation in Hungary continued to centre on the issue of compliance with the relevant resolutions previously adopted by the General Assembly. In the view of several representatives, the General Assembly should openly condemn the continuing defiance of its authority, though they recognized that it lacked the means to enforce compliance with the resolutions. While continuing to be seized of the question, the General Assembly, in view of the fact that Hungary and the Soviet Union were disregarding its resolutions, should pursue its efforts and should appoint another special representative to report to Member States or to the General Assembly on significant developments relating to the implementation of its resolutions on the Hungarian question.

221. In opposition to this view, it was contended that under Articles 10, 11 and 14 of the Charter, the General Assembly was empowered to make recommendations; Article 10 specified that such recommendations were to deal with questions or matters within the

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199/ A/L.255 (mimeographed).

200/ G A (XIII), Annexes, a.i. 69, A/3849.

201/ G A (XII), Annexes, a.i. 63, A/3774. This report had been discussed at the closing of the twelfth session (G A (XII), Plen., 731st mtg., paras. 150-198).

202/ G A (XIII), Plen., 787th mtg., para. 119. G A resolution 1312 (XIII).

scope of the Charter. The discussion on Hungary was not a matter within the scope of the Charter. The subject of non-implementation of General Assembly resolutions was being raised only because of political considerations. For this reason, similar objections to the non-implementation of the General Assembly resolutions on Hungary had not been made in regard to the recommendations on humanitarian assistance to the Hungarian people.

222. It was maintained that, since General Assembly resolutions were recommendations, responsibility rested upon Member States to decide, after a resolution had been adopted by the General Assembly, whether, according to the Charter, the General Assembly was competent with regard to the subject matter and whether its recommendation was a correct means of implementing the provisions of the Charter. The resolutions in connexion with Hungary fell within the category of recommendations which did not need to be carried out because of the obligations of Member States under the Charter. Moreover, even if the General Assembly had been competent to deal with the Hungarian question, the resolutions themselves had gone beyond the authority vested in the General Assembly by the Charter. The resolutions were not, properly speaking, recommendations, but rather reflections of the political atmosphere of the cold war and not the spirit of the Charter. 203/

E. The question of the nature and limits of the power of investigation of the General Assembly in matters related to the maintenance of international peace and security

*Resolutions 1004 (ES-II), 1005 (ES-II), 1127 (XI), 1128 (XI) and 1130 to 1133 (XI) [Situation in Hungary]*

a. PRECIS OF PROCEEDINGS

223. The relevant proceedings are summarized in the present study in paragraphs 79 to 88 above, under section II A 3; and in paragraphs 94 to 112, under section II A 4.

b. SUMMARY OF RELEVANT CONSTITUTIONAL DISCUSSION

224. In resolution 1004 (ES-II), the first resolution which the General Assembly adopted on the situation in Hungary, it requested the Secretary-General to investigate the situation caused by foreign intervention in Hungary and to observe the situation directly through representatives named by him. It also called upon the Government of Hungary and the Government of the Union of Soviet Socialist Republics to permit observers designated by the Secretary-General to enter the territory of Hungary, to travel freely therein and to report their findings to the Secretary-General.

225. In connexion with later resolutions 204/ calling for compliance, it was maintained that both Governments were under obligation to afford the Secretary-General the necessary opportunity to carry out the investigation ordered by the General Assembly. It was considered impossible, however, to send observers into Hungary against its will; it was contended that the type of action under which any country might be compelled to admit international observers, regardless of its sovereign rights, would be an action falling under the security provisions of the Charter. Reviewed

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203/ For texts of relevant statements, see G A (XIII), Plen., 784th mtg.: United States, paras. 70-77 and 83; 785th mtg.: Czechoslovakia, paras. 119 and 120; Netherlands, paras. 112-117; 786th mtg.: Bulgaria, para. 151; Pakistan, paras. 69-74; Philippines, para. 33; Poland, paras. 182 and 183; 787th mtg.: Hungary, paras. 81-86 and 101.

204/ G A resolutions 1005 (ES-II) and 1127 (XI); see G A (ES-II), Plen., 569th mtg., para. 101.

below are this and other constitutional issues concerning the nature and limitations of the powers of the General Assembly to investigate the situation in Hungary.

i. Resolution 1128 (XI)

226. During the discussion of the steps taken by the Secretary-General under resolution 1004 (ES-II) to receive permission for United Nations observers to visit Hungary, one representative declared that the General Assembly should urge the Hungarian authorities and the Soviet Union to admit United Nations investigators. He recalled that the United Nations had undertaken an investigation on a previous occasion, following a complaint by Greece concerning border violations, and that the Government of the Soviet Union had then agreed to setting up a commission of investigation and had taken part in it. The representative of the Soviet Union, however, commented that the proposal to send observers to Hungary had already been rejected by the Hungarian Government, which quite properly regarded it as an attempt to interfere in the domestic affairs of Hungary.

227. In order to allay apprehension that the investigation was an intrusion, it was proposed to assure Hungary that the dispatch of United Nations observers involved no violation of its sovereignty. The representatives of Ceylon, India and Indonesia jointly introduced a draft resolution; in its first operative paragraph the General Assembly would urge Hungary to accede to the request made by the Secretary-General, relating to permission to observers designated by him to enter the territory, "without prejudice to its sovereignty". Commenting on a request to the Government of India by the Secretary-General for the nomination of persons to form part of the observer team to go to Hungary, the representative of India declared that "irrespective of legal aspects" it was not possible to accede to a request of that kind without authority from the territory to which the observers were to go. It was stated that the words "without prejudice to its sovereignty" contained in the joint draft resolution were essential for, irrespective of the character of a Government, the integrity and the inviolability of a State had to be respected.

228. In the view of the representative of Ceylon, the proposal was a request to the Hungarian Government to permit observers designated by the Secretary-General to enter the territory of Hungary to conduct on-the-spot investigations. This was not claimed as a right, because the General Assembly could not claim such a right. Hungary had certain sovereign rights which could not be disregarded. If, however, there were a refusal to accept the observers, there would be a presumption against Hungary, on the basis of which the General Assembly could proceed to make a determination. It was also held that action which was not limited by the necessity of respecting the sovereign rights of a country would be of a different kind and would come under the security provisions of the Charter. 205/

Decision

At the 587th meeting, the General Assembly adopted the three-Power joint draft resolution, which became resolution 1128 (XI). By a roll-call vote of 43 votes to 6, with 30 abstentions, it approved the words "without prejudice to its sovereignty" in its text, and by a roll-call vote of 57 votes to 8, with 14 abstentions, it adopted the draft resolution as a whole. 206/

205/ For texts of relevant statements, see G A (XI), Plen., vol. II, 583rd mtg.: Canada, paras. 99-101; United Kingdom, para. 157; 586th mtg.: Ceylon, paras. 88 and 89; India, paras. 42, 43 and 54; 587th mtg.: Hungary, para. 48; USSR, para. 74.

206/ G A (XI), Plen., vol. I, 587th mtg., paras. 63 and 64.

ii. Resolution 1130 (XI)

229. Another phase of the discussion centred on the provision contained in a fourteen-Power draft resolution - which became resolution 1130 (XI) - recommending that the Secretary-General should dispatch to Hungary "and other countries, as appropriate" observers named by him in pursuance of resolution 1004 (ES-II).

230. It was suggested that since the request of the General Assembly, that Hungarian authorities should afford the Secretary-General an opportunity to conduct an investigation was still obstructed, United Nations investigators should at least go to Austria and other countries in Europe where the evidence of eyewitnesses could be recorded for early presentation to the General Assembly, thus avoiding any delay or hesitation in pressing the inquiry on Hungary. It was stated, however, that arrangements for the dispatch of observers to "other countries, as appropriate" would mean that the consent of the Governments of such other countries would have to be obtained. On the other hand, all Member States were expected to co-operate in facilitating the task of United Nations observers in the Hungarian situation.

231. The position was also taken that though the decision to send observers into Hungary was sound, there should be no sanction for a roving expedition in all countries without definition of the countries to which the observers were to be sent or the purpose of their going. At the very least, the sanction of the General Assembly had to be obtained in a specific resolution. Moreover, it was necessary to obtain the express permission of the countries concerned beforehand. Sending observers into neighbouring countries was condemned as a practice which, if adopted in principle, could lead to such danger that no State would be free in its sovereignty. Such eavesdropping was not good international practice and could be a grave embarrassment to a country that was neutral, as some countries on the frontiers of Hungary were.

232. It was likewise stated that the steps taken by the General Assembly, in providing that observers should be sent to Hungary and that these observers should be given every facility for carrying out their task, was not even a decision to make a formal investigation. The General Assembly, however, possessed full authority to cross the borders of any Member State for the purpose of finding out whether or not crimes had been committed against international law and order. The General Assembly, confronted with a situation such as that obtaining in Hungary should take action in defence of international law and of the duties imposed by the United Nations Charter.

233. The proposed dispatch of observers to States bordering on Hungary, and the dispatch of observers into Hungary, were denounced by other representatives as flagrant intervention in the domestic affairs of Hungary and open incitement against moves to restore normal life in Hungary. 207/

234. In connexion with a statement by the Secretary-General on his conversations with the representative of Hungary concerning the date and other arrangements for his visit to Budapest, it was noted that the Secretary-General was not a servant of the General Assembly but rather a Charter organ of the United Nations, endowed with all

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207/ For texts of relevant statements, see G A (XI), Plen., vol. I, 584th mtg.: Australia, para. 161; 604th mtg.: Netherlands, para. 23; United States, para. 52; 605th mtg.: Ceylon, para. 164; New Zealand, para. 230; Romania, paras. 198 and 199; 606th mtg.: Norway, paras. 100 and 101; Ukrainian SSR, paras. 86 and 87; Yugoslavia, para. 124; 608th mtg.: Ceylon, paras. 239 and 240; India, para. 130; Nepal, para. 93; Uruguay, paras. 74-77.

the functions which the Charter provided for one of its principal organs. Every Member State therefore had a moral duty - not a legal, but a moral duty - to accept the presence of the Secretary-General in its territory at any time, unless there were reasons affecting his personal safety, in which case it was up to him to decide whether or not to take the risk involved. The function of the General Assembly was not merely to enable the Secretary-General to get into Hungary, but also to see that steps were taken to bring about a settlement and conciliation. The Secretary-General's visit would be of great assistance in that respect, and even the question of the entry of observers could be discussed at first hand by him with Hungarian and Soviet authorities.

235. A proposal was then made by the representative of India that the statement of the Secretary-General should be accepted by the General Assembly since it had been made to that General Assembly as a result of a mandate or a request by the latter.

236. In supporting the motion by India, another representative noted that with its adoption the Secretary-General would be going to Hungary not merely on his own authority, but with the full authority of the General Assembly. 208/

### Decisions

At the 608th meeting, the General Assembly adopted the fourteen-Power draft resolution. The words "and other countries as appropriate" were approved by 44 votes to 14, with 13 abstentions, and the draft resolution as a whole was adopted by 54 votes to 10, with 14 abstentions. 209/

At the same meeting, the motion of the representative of India to accept the statement of the Secretary-General was adopted by 54 votes to none, with 23 abstentions. 210/

237. The Secretary-General reported on 7 December 1956 211/ that, pursuant to the recommendation of the General Assembly requesting all Member Governments to co-operate by extending such assistance and providing such facilities as might be necessary for the effective discharge of the responsibilities of observers, he had addressed letters to the permanent representatives of Austria, Czechoslovakia, Romania and Yugoslavia with reference to the last two paragraphs of the General Assembly resolution of 4 December 1956, asking whether observers named by him would be permitted to enter the countries in question. Only the permanent representative of Austria replied 212/ that his Government would permit observers to enter, permission being "given as a consequence of Austria's United Nations membership and the provisions of Article 2, paragraph 5 of the Charter". The Governments of Czechoslovakia, 213/ Romania 214/ and Yugoslavia 215/ refused to grant permission on the ground, expressed or implied, that the dispatch of such observers to countries adjoining Hungary would not be in accordance with the provisions of the United Nations Charter.

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- 208/ For texts of relevant statements, see G A (XI), Plen., vol. I, 608th mtg.: India, paras. 107, 112, 115, 142, 145 and 207; Iraq, para. 196; Peru, paras. 199 and 200; United States, paras. 64 and 65; 609th mtg.: Indonesia, para. 9.
- 209/ G A (XI), Plen., vol. I, 608th mtg., para. 178 and 182. G A resolution 1130 (XI).
- 210/ Ibid., para. 213.
- 211/ G A (XI), Annexes, vol. II, a.1. 67, p. 24, A/3435.
- 212/ Ibid., p. 24, A/3435/Add.1.
- 213/ Ibid., p. 25, A/3435/Add.3.
- 214/ Ibid., p. 25, A/3435/Add.4.
- 215/ Ibid., p. 24, A/3435/Add.2.

iii. Resolution 1131 (XI)

238. At its 618th meeting, on 12 December 1956, the General Assembly adopted a twenty-Power joint draft resolution in which it noted with grave concern that there had not been a reply to the latest appeal of the General Assembly contained in resolution 1130 (XI) for the admission of United Nations observers to Hungary. The operative part of the draft resolution declared that the Government of the Union of Soviet Socialist Republics was violating the political independence of Hungary, condemned its violation of the Charter in depriving Hungary of its liberty and independence and the Hungarian people of the exercise of their fundamental rights, and called upon the Soviet Union to make immediate arrangements for the withdrawal, under United Nations observation, of its armed forces from Hungary.

239. During the discussion that preceded, amendments to the joint draft resolution were submitted by Ceylon, India and Indonesia, which would delete the condemnation and would request the Secretary-General to enter into direct negotiations with the Government of the Soviet Union to arrange to visit Moscow, as well as Budapest, in order to promote effective co-operation in bringing about a speedy solution of the Hungarian problem. It was stated that the duty enjoined by the Charter, of making the United Nations a centre for harmonizing conflicting interests, rested on the Secretary-General, as well as on the other principal organs of the United Nations. Emphasis was also placed on the mediatory role of the Secretary-General, between the United Nations, on one hand, and the Hungarian and Soviet Governments, on the other.

240. The twenty-Power joint draft resolution was described by one of its co-sponsors as prejudging none of the issues; what it condemned was violation of the principles of the Charter and non-compliance with the request that impartial observers should be allowed to go into Hungary.

241. In opposing the contention that the admission of observers to a country would be an infringement of the sovereignty of that country, it was maintained that the United Nations expected every Member State to discharge certain duties in connexion with the maintenance of international peace and order; one such duty was the admission of observers to help the United Nations determine the facts about a particular case. To admit observers for a legitimate purpose was, therefore, a voluntary act of a Government in discharging a right that was well within its powers. Thus, it did not involve the infringement of the sovereignty of the country.

242. With regard to the proposed request to the Secretary-General to visit Moscow as well as Budapest, to exercise his good offices towards the settlement of the Hungarian situation, it was contended that the Secretary-General had sufficient authority under the Charter to take any initiative he deemed helpful in relation to the Hungarian problem, and it was preferable not to specify quite so precisely what action should be taken by the Secretary-General in fulfilment of his general responsibility under the Charter. In opposing this view, one representative asserted that the Secretary-General could not take upon himself a task like that of achieving a solution of the Hungarian problem, which could only be settled by the Hungarian people themselves. 216/

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216/ For texts of relevant statements, see G A (XI), Plen., vol. I, 614th mtg.: India, paras. 61-64; Denmark, para. 134; 615th mtg.: Indonesia, para. 156; Pakistan, para. 127; 616th mtg.: Ceylon, paras. 134-136; 618th mtg.: Canada, para. 200; Poland, para. 204; United States, para. 136.

Decision

At the 618th meeting, the joint draft resolution - which became resolution 1131 (XI) - was adopted by a roll-call vote of 55 votes to 8, with 13 abstentions. The amendments by Ceylon, India and Indonesia had been rejected previously. 217/

iv. Resolution 1132 (XI)

243. In connexion with a joint draft resolution sponsored by twenty-four Powers, which would establish a special committee of representatives of five Member States, empowered to investigate and to report to the General Assembly on the problem of Hungary, it was stated that this proposal was intended to give effect to a suggestion contained in a report 218/ of the Secretary-General, that the General Assembly might appoint a committee to take over the activities of the group of investigators established by him, and follow up these activities under broader terms of reference. In the view of one representative this suggestion was an unusual step for the Secretary-General to take, since setting-up an investigating body on Hungary was an interference in the domestic affairs of a Member State.

244. It was contended, on the other hand, that the suggestion by the Secretary-General had been based on the preliminary investigation of the group appointed by him in compliance with a General Assembly resolution. The suggestion had been quite properly made and was within the responsibilities of the Secretary-General as head of an organ of the United Nations. The General Assembly should therefore take this useful action, and all Member States should co-operate in providing all the facilities required for conducting a proper investigation. It was evident that the United Nations could not compel the countries directly concerned to accept observers unless their Governments invited them to enter their territories. Since, however, the draft resolution requested Member States to assist the committee and addressed a particular appeal to Hungary and the Soviet Union to co-operate with the committee in every way, it could not be alleged that the question of the sovereignty of States had not been taken into account. It was also noted that the machinery was an essential part of the General Assembly's continuing responsibility in respect of events in Hungary.

245. With reference to a provision of the draft resolution by which the special committee to be established would take testimony and collect evidence in Hungary and elsewhere, it was contended that the testimony of refugees from Hungary did not constitute valid evidence, nor could such testimony be relied on. Collection of information about a situation existing in one Member State from refugees of that country was not warranted by the provisions of the Charter and was contrary to accepted practice in international relations. The view was also expressed that without the co-operation of the Governments of Hungary and the Soviet Union, which were directly concerned, it would be difficult, if not impossible, for a special committee to carry out its task constructively. The committee might, of course, be in a position to investigate and observe outside Hungary - for example, by getting information from Hungarian refugees - but whether or not such information was accurate, it would be considered biased and one-sided. The most important information for the United Nations

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217/ G A (XI), Plen., vol. II, 618th mtg.: paras. 208 and 210-212.

218/ G A (XI), Annexes, vol. II, a.i. 67, p. 43, A/3485, para. 8.

would be that obtained from the Hungarian Government and through observation on the spot on Hungarian territory. 219/

### Decision

At the 636th meeting, the joint draft resolution - which became resolution 1132 (XI) - was adopted by a roll-call vote of 59 votes to 8, with 10 abstentions. 220/

#### v. Resolution 1133 (XI)

246. In its interim report, 221/ the Special Committee appointed under resolution 1132 (XI) noted that its primary concern was "to ascertain the extent and the impact of foreign intervention, by the threat or use of armed force or other means, on the internal affairs and political independence of Hungary and the rights of the Hungarian people".

247. In formally submitting this report 222/ to the General Assembly, the representative of Australia stated that the Special Committee had been engaged in an inquiry into the exercise of armed force by the Union of Soviet Socialist Republics against the people of Hungary. The Special Committee had repeatedly expressed its interest in proceeding to Budapest to receive evidence, but had been refused access to Hungary on the ground that the Hungarian Government considered that the Special Committee was illegal and was engaged in inquiring into matters within the domestic jurisdiction of Hungary.

248. In the view of one representative, the Special Committee, in spite of handicaps resulting from lack of co-operation on the part of the Hungarian and Soviet Governments, had prepared a very thorough survey, carried out not in a polemical spirit but in a spirit of objective inquiry. Another representative supported the opinion of the Special Committee that the data which might have been presented by the Governments of Hungary and the Soviet Union would not have modified the main conclusions of the report beyond elaborating specific points contained therein.

249. It was contended, on the other hand, that the evidence which appeared in the report originated primarily from persons who had betrayed their country and had fled from Hungary and from justice, and they included a great number of unknown witnesses whose names were not published. The Special Committee had obtained a large part of its information from the agencies of a number of Powers, which bore the main responsibility for the counter-revolution in Hungary. There were not many cases in the history of the United Nations in which one of its bodies used a group of States for hostile propaganda against other Members of the United Nations so brazenly. The degree of the Special Committee's impartiality was clearly revealed by the statement in its report that the information which might have been contributed by the Hungarian and the Soviet Governments would not have modified its main conclusions. It was also maintained that,

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219/ For texts of relevant statements, see G A (XI), Plen., vol. II, 633rd mtg.: Ceylon, paras. 100 and 109; Ireland, para. 2; USSR, paras. 74-76; United States, paras. 25 and 26; 634th mtg.: Australia, para. 4; Peru, para. 54; Poland, para. 130; 635th mtg.: Bulgaria, para. 94; Netherlands, paras. 85-87; 636th mtg.: Canada, para. 94; Indonesia, paras. 108-110; Iraq, para. 41.

220/ G A (XI), Plen., vol. II, 636th mtg., para. 112.

221/ G A (XI), Annexes, vol. II, a.i. 67, p. 57, A/3546, para. 15.

222/ G A (XI), Suppl. No. 18 (A/3592).

since the Special Committee had been established in manifest violation of the provision of the Charter on non-intervention in the domestic affairs of States, the report was without validity, for the General Assembly could not invest the Special Committee with authority to investigate the internal situation of a Member State.

250. In support of the validity of the action of the General Assembly in setting up the Special Committee in the case of Hungary, it was held that this constituted a definite precedent. The General Assembly would be free, if not bound, to follow the same procedure in all future similar cases. The basis of legitimate General Assembly action in the Hungarian case was the use of violence and military force by the Government of one country against the people of another country, with the aim of dominating them. The decisive factor was neither the strength of the forces employed nor the crossing of a border.

251. A draft resolution sponsored by thirty-seven Powers was introduced during the discussion of the report of the Special Committee; this would summarize and endorse the findings of the Special Committee and would reaffirm the condemnation of Soviet actions and policies regarding Hungary. The proposal also introduced a new mechanism by appointing a special representative of the General Assembly who would make further efforts in pursuance of the General Assembly's objectives in respect of Hungary and would report and make recommendations to the General Assembly. The special representative would be instructed "to consult as appropriate with the Committee during the course of his endeavours".

252. Several representatives expressed the view that, confronted with the refusal by Hungary and the Soviet Union to heed its exhortations, the General Assembly could make a constructive approach to the solution of the Hungarian problem by entrusting to a special representative a mission with broad terms of reference to implement the General Assembly resolutions. The General Assembly could not enforce its resolutions, but it should endeavour to put into effect recommendations and measures for improving the Hungarian situation. To mark the General Assembly's concern in securing compliance with its earlier resolutions, its President, H.R.J. Prince Wan Waithayakon, would be appointed as its special representative under the proposal before the General Assembly.

253. In opposition to the proposal objections were raised on the ground of continued attempts at interference in the internal affairs of Hungary. It was considered that the circumstances in which the inquiry on Hungary had been conducted had inevitably resulted in its being of limited scope; this had made the investigation of the Hungarian situation largely unfruitful in terms of the objectives of the General Assembly. The General Assembly should seek the co-operation and assistance of the Governments of Hungary and the Soviet Union and should turn away from a course of condemnation. It was noted that the Special Committee had laboured under a handicap in preparing its report and, despite its efforts to carry on an objective investigation and to obtain the views of all parties concerned, had been unable to achieve this goal. The General Assembly's purpose of assisting the Hungarian people should be attained, not on the basis of condemnation, but as a result of negotiation and conciliation, by seeking through peaceful means to convince all parties that they should adhere to the principles of the Charter.

254. Objections were raised to the appointment of a special representative because he would be placed in the same situation as the Special Committee, which had not succeeded in obtaining the co-operation of the Governments directly concerned. Another view was that no useful purpose was served by the continued existence of the Special Committee since the joint draft resolution assigned broad functions to the special representative; to be fully effective, the special representative should operate independently. An amendment was therefore introduced to delete the words "to consult as appropriate with the Committee during the course of his endeavours". This amendment was opposed because

it might be considered as abolishing the Special Committee and repudiating its work. While the main burden of further action would rest with the special representative, nothing should be done to indicate that the General Assembly did not have full confidence in the Special Committee. 223/

### Decision

At the 677th meeting, the joint draft resolution - which became resolution 1133 (XI) - was adopted by 60 votes to 10, with 10 abstentions. The amendment had previously been rejected by 42 votes to 3, with 32 abstentions. 224/

## ANNEX I

### Tabulation of agenda items bearing upon Article 11

- \*\* A. Agenda items bearing upon the general principles of co-operation in the maintenance of international peace and security
- B. Agenda items bearing upon the principles governing disarmament and the regulation of armaments

<u>General Assembly session, number and title of the item</u>		<u>Resolution number</u>
(XI)	22 Regulation, limitation and balanced reduction of all armed forces and all armaments; conclusion of an international convention (treaty) on the reduction of armaments and the prohibition of atomic, hydrogen and other weapons of mass destruction: report of the Disarmament Commission	1011 (XI)
(XII)	24 Regulation, limitation and balanced reduction of all armed forces and all armaments; conclusion of an international convention (treaty) on the reduction of armaments and the prohibition of atomic, hydrogen and other weapons of mass destruction:	1148 (XII) 1149 (XII) 1150 (XII)
	(a) Report of the Disarmament Commission;	
	(b) Expansion of the membership of the Disarmament Commission and of its Sub-Committee;	

223/ For texts of relevant statements, see G A (XI), Plen., vol. III, 669th mtg.: Australia, paras. 9 and 10; Ireland, para. 107; 670th mtg.: Philippines, para. 80; USSR, paras. 156-158; 671st mtg.: Greece, paras. 116-118; Romania, para. 16; United Kingdom, paras. 65-67; 672nd mtg.: Netherlands, para. 80; New Zealand, paras. 154-156; 674th mtg.: Burma, para. 105; Canada, paras. 116 and 117; 675th mtg.: India, paras. 73, 74 and 78; Yugoslavia, paras. 83 and 84; 677th mtg.: Ceylon, paras. 79, 82 and 83; Indonesia, paras. 29, 35 and 37; United States, para. 241; Uruguay, para. 287.

224/ G A (XI), Plen., vol. III, 677th mtg., paras. 299 and 300.

<u>General Assembly session, number and title of the item</u>	<u>Resolution number</u>
(c) Collective action to inform and enlighten the peoples of the world as to the dangers of the armaments race, and particularly as to the destructive effects of modern weapons;	
(d) Discontinuance under international control of tests of atomic and hydrogen weapons	
(XIII) 64 Question of disarmament	1252 (XIII)
(XIII) 70 The discontinuance of atomic and hydrogen weapons tests	1252 (XIII)
(XIII) 72 The reduction of the military budgets of the Union of Soviet Socialist Republics, the United States of America, the United Kingdom of Great Britain and Northern Ireland and France by 10 to 15 per cent and the use of part of the savings so effected for assistance to the under-developed countries	1252 (XIII)
<b>** C. <u>Agenda items of a general political character, bearing, inter alia, upon the principles governing disarmament and the regulation of armaments</u></b>	
<b>D. <u>Agenda items bearing upon the maintenance of international peace and security</u></b>	

<u>General Assembly session, number and title of the item</u>	<u>Resolution number</u>
(ES-I) 5 Question considered by the Security Council at its 749th and 750th meetings, held on 30 October 1956	997 (ES-I) 998 (ES-I) 999 (ES-I) 1000 (ES-I) 1001 (ES-I) 1002 (ES-I) 1003 (ES-I)
(ES-II) 5 The situation in Hungary	1004 (ES-II) 1005 (ES-II) 1006 (ES-II) 1008 (ES-II)
(XI) 21 The Korean question:	1010 (XI)
(a) Report of the United Nations Commission for the Unification and Rehabilitation of Korea;	
(b) Problem of ex-prisoners of the Korean War: report of the Government of India	
(XI) 62 Question of Algeria	1012 (XI)

General Assembly session, number and title of the item	Resolution number
(XI) 66 Question considered by the first emergency special session of the General Assembly from 1 to 10 November 1956	1120 (XI) 1121 (XI) 1123 (XI) 1124 (XI) 1125 (XI) 1126 (XI)
(XI) 67 Question considered by the second emergency special session of the General Assembly from 4 to 10 November 1956	1127 (XI) 1128 (XI) 1130 (XI) 1131 (XI) 1132 (XI) 1133 (XI)
(XII) 23 The Korean question: report of the United Nations Commission for the Unification and Rehabilitation of Korea	1180 (XII)
(XII) 59 The question of Algeria	1184 (XII)
(XII) 63 The question of Hungary	No draft resolution submitted
(XII) 66 Declaration concerning the peaceful coexistence of States	1236 (XII)
(ES-III) 5 Questions considered by the Security Council at its 838th meeting on 7 August 1958	1237 (ES-III)
(XIII) 24 The Korean question: report of the United Nations Commission for the Unification and Rehabilitation of Korea	1264 (XIII)
(XIII) 63 Question of Algeria	None adopted
(XIII) 61 Measures aimed at the implementation and promotion of peaceful and neighbourly relations among States	1301 (XIII)

\*\* E. Agenda items bearing upon the maintenance of international peace and the general principles of co-operation in this field

ANNEX II

Tabulation of provisions of resolutions of the General Assembly bearing upon Article 11

A. Provisions bearing upon the general principles of co-operation in the maintenance of international peace

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1001 (ES-I)	64	0	12	Establishing an Advisory Committee composed of one representative from each of the following countries: Brazil, Canada, Ceylon, Colombia, India, Norway and Pakistan; and requesting this Committee, under the Chairmanship of the Secretary-General, to undertake the development of aspects of the planning for an emergency international United Nations Force and its operations not already dealt with by the General Assembly, which do not fall within the area of the direct responsibility of the Chief of the Command (para. 6).
1237 (ES-III), Questions considered by the Security Council at its 838th meeting on 7 August 1958	Unanimity			Welcoming the renewed assurances given by the Arab States to observe the provision of Article 8 of the Pact of the League of Arab States that each member state should respect the system of government established in the other member states and should regard them as exclusive concerns of these states, and that each should pledge to abstain from any action calculated to change established systems of government; calling upon all States Members of the United Nations to act strictly in accordance with the principles of mutual respect for each other's territorial integrity and sovereignty, of non-aggression, of strict non-interference in each other's internal affairs, and of equal and mutual benefit, and to ensure that their conduct by word and deed conformed to these principles (Section I).

26

a/ Paragraph references are to operative paragraphs.

Number and title of resolution

For      Vote  
Against    Abstentions

Précis of the provisions a/

1234 (XII). Peaceful and neighbourly relations among States

77      0      1

Considering the urgency and the importance of strengthening international peace and of developing peaceful and neighbourly relations among States irrespective of divergencies or the relative stages and nature of their political, economic and social development; recalling that among the fundamental objectives of the Charter were the maintenance of international peace and security and friendly co-operation among States; realizing the need to promote these objectives and to develop peaceful and tolerant relations among States in conformity with the Charter, based on mutual respect and benefit, non-aggression, respect for each other's sovereignty, equality and territorial integrity and non-intervention in one another's internal affairs, and to fulfil the purposes and principles of the Charter; recognizing the need to broaden international co-operation, to reduce tension and to settle differences and disputes among States by peaceful means (preamble, paras. 1-4); calling upon all States to make every effort to strengthen international peace and to develop friendly and co-operative relations and settle disputes by peaceful means as enjoined in the Charter and as set forth in this resolution (oper. para. 1).

1301 (XIII). Measures aimed at the implementation and promotion of peaceful and neighbourly relations among States

77      0      1

Reaffirming the purposes and principles of the United Nations; calling upon Member States to live together within the letter and spirit of the Charter; urging all Member States, while making full use of Article 33 of the Charter, to resort to the Organization for the peaceful solution of problems which interfered with friendly and neighbourly relations among States or threatened international peace; calling upon Member States to take effective steps toward the implementation of principles of peaceful and neighbourly relations;

a/ Paragraph references are to operative paragraphs.

Number and title of resolution

Vote  
For Against Abstentions

Précis of the provisions a/

recommending that all Member States should take practical measures and make arrangements in conjunction with and not inconsistent with the programmes of the United Nations and its specialized agencies to foster open, free and friendly co-operation and understanding in the fields of economy, culture, science, technology and communications; welcoming with satisfaction agreements between Member States which were working or would work, toward the attainment of the aim envisaged in the resolution.

B. Provisions bearing upon the principles governing disarmament and the regulation of armamentsNumber and title of resolution

Vote  
For Against Abstentions

Précis of the provisions a/

1011 (XI). Regulation, limitation and balanced reduction of all armed forces and all armaments; conclusion of an international convention (treaty) on the reduction of armaments and the prohibition of atomic, hydrogen and other weapons of mass destruction

Unanimity

Recommending that the Disarmament Commission and its Sub-Committee (a) give prompt attention to proposals submitted by Canada, Japan and Norway, France and United Kingdom; United States; Union of Soviet Socialist Republics; India; Yugoslavia; (b) give continued consideration to the plan of President Eisenhower and the plan of Prime Minister Bulganin (para. 2); requesting that the Disarmament Commission reconvene its Sub-Committee, and recommending that the Disarmament Commission request its Sub-Committee to prepare a progress report for consideration by the Commission (paras. 1 and 3); deciding to transmit to the Commission the records of the First Committee (para. 4); inviting the Disarmament Commission to consider the advisability of recommending that a special session of the General Assembly or a general disarmament conference be convened (para. 5).

a/ Paragraph references are to operative paragraphs.

Number and title of resolution

Vote  
For   Against   Abstentions

Précis of the provisions a/

1148 (XII). Regulation, limitation and balanced reduction of all armed forces and all armaments; conclusion of an international convention (treaty) on the reduction of armaments and the prohibition of atomic, hydrogen and other weapons of mass destruction	56	9	15	Urging the States concerned, and particularly those on the Sub-Committee of the Disarmament Commission, to give priority to reaching an agreement which, upon its entry into force, would provide for partial measures of disarmament (para. 1); inviting these same States to consider the possibility of devoting, out of the funds made available as a result of disarmament, additional resources to the improvement of living conditions throughout the world and especially in the less developed countries (para. 5); requesting the Disarmament Commission to reconvene its Sub-Committee and requesting the Sub-Committee to report to the Disarmament Commission on the progress achieved (paras. 2 and 6); requesting the Disarmament Commission to invite its Sub-Committee to establish a group or groups of technical experts to study inspection systems for disarmament measures and to report to it, and making recommendations as to the composition of any such technical group or groups (paras. 3 and 4).
1149 (XII). Collective action to inform and enlighten the peoples of the world as to the dangers of the armaments race, and particularly as to the destructive effects of modern weapons	71	9	1	Requesting the Disarmament Commission to make recommendations on the nature of the information to be disseminated (para. 1); requesting the Secretary-General to report to the Commission on the means available and to give the Disarmament Commission the required assistance (paras. 1 and 2); inviting the Member States to communicate to the Disarmament Commission or to the Secretary-General any views they might see fit to submit as to the scope and content of the proposed publicity campaign (para. 3).
1150 (XII). Enlargement of the membership of the Disarmament Commission	60	9	11	Deciding to enlarge the Disarmament Commission by the addition of fourteen Member States (para. 1); transmitting to the Disarmament Commission the records of the proceedings of the First Committee during the twelfth session of the General Assembly (para. 2).

a/ Paragraph references are to operative paragraphs.

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1252 A (XIII). Question of disarmament; the discontinuance of atomic and hydrogen weapons tests; the reduction of the military budgets of the Union of Soviet Socialist Republics, the United States of America, the United Kingdom of Great Britain and Northern Ireland and France by 10 to 15 per cent and the use of part of the savings so effected for assistance to the under-developed countries	49	9	22	Urging that in negotiations between the nuclear Powers the parties make every effort to reach early agreement on suspension of nuclear weapons tests under effective international control (para. 1); urging the parties involved in the negotiations not to undertake further testing of nuclear weapons while the negotiations are in progress (para. 2); calling attention to the importance and urgency of achieving the widest possible measure of agreement in the study of the technical aspects of measures against the possibility of surprise attack (para. 3); expressing determination to support initiatives likely to contribute to a balanced and effectively controlled world-wide system of disarmament (para. 4); inviting the conferences on nuclear weapons tests and on surprise attack to avail themselves of the assistance and services of the Secretary-General and requesting them to keep the United Nations informed (para. 5); inviting the Secretary-General, in consultation with the Governments concerned, to render appropriate advice and assistance to facilitate the solution of problems of disarmament (para. 6); requesting that the records of the meetings of the First Committee dealing with disarmament be transmitted by the Secretary-General to the participants in the conferences on nuclear weapons tests and on surprise attack (para. 7); reiterating to the States concerned the invitation, made in General Assembly resolution 1148 (XII), to devote, out of the funds made available as a result of disarmament, additional resources to the improvement of living conditions throughout the world and especially in the less developed countries (para. 8).

a/ Paragraph references are to operative paragraphs.

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1252 B (XIII). Same title as 1252 A (XIII) above	55	9	12	Expressing the hope that the conference on nuclear weapons tests, commencing 31 October 1958 at Geneva, would be successful and lead to an agreement acceptable to all (para. 1); requesting the parties concerned to report to the General Assembly on the outcome of their negotiations (para. 2); requesting the Secretary-General to render such assistance and provide such services as might be asked for by the conference (para. 3).
1252 C (XIII). Same title as 1252 A (XIII) above	75	0	2	Expressing the hope that the widest possible measure of agreement would result from the meeting of certain States to study the technical aspects of measures against the possibility of surprise attack (para. 1); requesting the States participating in the study to inform the United Nations of the progress achieved (para. 3); requesting the Secretary-General to render such assistance and provide such services as might be required by the conference (para. 2).
1252 D (XIII). Same title as 1252 A (XIII) above	75	0	3	Deciding that the Disarmament Commission should, for 1959 and on an <u>ad hoc</u> basis, be composed of all the Members of the United Nations (para. 1); transmitting to the Disarmament Commission documents, proposals and records of discussions relating to disarmament at the thirteenth session of the General Assembly (para. 2); requesting the Disarmament Commission to convene as appropriate and to submit to the Security Council and to the General Assembly, at a special session if necessary, constructive proposals and recommendations in the field of disarmament (para. 3); deciding that the first meeting of the Disarmament Commission should be convened by the Secretary-General after consultation with the Member States and that the Commission, having begun its activities under rule 162 of the

a/ Paragraph references are to operative paragraphs.

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
				rules of procedure of the General Assembly and taking that rule into account, should adopt its own rules of procedure (para. 4).

C. Provisions bearing upon the maintenance of international peace and security

1. Provisions recommending means for the settlement of questions relating to the maintenance of international peace and security

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
997 (ES-I)	64	5	6	Requesting the Secretary-General to observe and report promptly on compliance with the present resolution to the Security Council and to the General Assembly (para. 5).
998 (ES-I)	57	0	19	Requesting the Secretary-General to submit to it within forty-eight hours a plan for setting up, with the consent of the nations concerned, an emergency international United Nations Force to secure and supervise the cessation of hostilities in accordance with all the terms of the aforementioned resolution.
999 (ES-I)	59	5	12	Authorizing the Secretary-General immediately to arrange with the parties concerned for the implementation of the cease-fire and the halting of the movement of military forces and arms into the area, and requesting him to report compliance forthwith (para. 2); requesting the Secretary-General, with the assistance of the Chief of Staff and the members of the United Nations Truce Supervision Organization, to obtain compliance of the withdrawal of all forces behind the armistice lines (para. 3).

a/ Paragraph references are to operative paragraphs.

Number and title of resolution

Vote  
For   Against   Abstentions

Précis of the provisions a/

1004 (ES-II)

50      8      15

Requesting the Secretary-General to investigate the situation caused by foreign intervention in Hungary, to observe the situation directly through representatives named by him, and to report thereon to the General Assembly at the earliest moment, and as soon as possible to suggest methods to bring an end to the foreign intervention in Hungary in accordance with the principles of the Charter of the United Nations (para. 4).

1005 (ES-II)

48      11      16

Reaffirming its request to the Secretary-General to continue to investigate, through representatives named by him, the situation caused by foreign intervention in Hungary and to report at the earliest possible moment to the General Assembly (para. 3).

1010 A (XI). The Korean question

57      8      9

Urging that continuing efforts be made to achieve the United Nations objectives of an independent and democratic Korea, and full restoration of international peace and security, in accordance with the fundamental principles for unification set forth by the nations participating in the Korean Political Conference, held at Geneva in 1954, on behalf of the United Nations and reaffirmed by the General Assembly in resolutions 811 (IX) of 11 December 1954 and 910 (X) of 29 November 1955 (para. 2).

1237 (ES-III). Questions considered by the Security Council at its 838th meeting on 7 August 1958

Unanimity

Requesting the Secretary-General to make forthwith, in consultation with the Governments concerned and in accordance with the Charter, and having in mind section I of this resolution, such practical arrangements as would adequately help in upholding the Purposes and Principles of the Charter in relation to Lebanon and Jordan in the current circumstances, and thereby facilitate the early withdrawal of foreign troops from the two countries (section II).

a/ Paragraph references are to operative paragraphs.

2. Provisions recommending the taking of specific measures

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1133 (XI). Question considered by the second emergency special session of the General Assembly from 4 to 10 November 1956	60	10	10	Calling upon the Union of Soviet Socialist Republics and the current authorities in Hungary, in view of evidence contained in the report, to desist from repressive measures against the Hungarian people, to respect the liberty and political independence of Hungary and the Hungarian people's enjoyment of fundamental human rights and freedoms, and to ensure the return to Hungary of Hungarian citizens who have been deported to the Union of Soviet Socialist Republics (para. 8).
1180 (XII). The Korean question	54	9	16	Calling upon the communist authorities concerned to accept the established United Nations objectives in order to achieve a settlement in Korea based on the fundamental principles for unification set forth by the nations participating on behalf of the United Nations in the Korean Political Conference held at Geneva in 1954, and reaffirmed by the General Assembly (para. 3).
1264 (XIII). The Korean question	54	9	18	Urging these authorities to agree at an early date on the holding of genuinely free elections in accordance with the principles endorsed by the General Assembly (para. 3).

3. Provisions bearing upon the establishment of subsidiary organs or their functions

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1114 (XI). Appointment of the members of the Peace Observation Commission			Adopted <u>b/</u>	Deciding to reappoint, for the calendar years 1957 and 1958, the current members of the Peace Observation Commission (China, Czechoslovakia, France, Honduras, India, Iraq, Israel, New Zealand, Pakistan, Sweden, Union of Soviet Socialist Republics, United Kingdom, United States and Uruguay)

a/ Paragraph references are to operative paragraphs.

b/ The draft resolution was adopted without a vote (G.A. (XI), vol. II, 632nd mtg., para. 22).

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1132 (XI)	59	8	10	Establishing a Special Committee to investigate, and to establish and maintain direct observation in Hungary and elsewhere, taking testimony, collecting evidence and receiving information as appropriate, in order to report its findings to the General Assembly (para. 1)
1296 (XIII). Appointment of the members of the Peace Observation Commission		Adopted c/		Deciding to reappoint, for the calendar years 1959 and 1960, the current members of the Peace Observation Commission (China, Czechoslovakia, France, Honduras, India, Iraq, Israel, New Zealand, Pakistan, Sweden, Union of Soviet Socialist Republics, United Kingdom, United States and Uruguay).

4. Provisions requesting action by the President of the General Assembly

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1133 (XI). Question considered by the second emergency special session of the General Assembly from 4 to 10 November 1956	60	10	10	Requesting the President of the eleventh session of the General Assembly, H.R.H. Prince Wan Waithayakon, as the General Assembly's special representative on the Hungarian problem, to take such steps as he deemed appropriate, in view of the findings of the Committee, to achieve the objectives of the United Nations in accordance with General Assembly resolutions 1004 (ES-II), 1005 (ES-II), 1127 (XI), 1131 (XI) and 1132 (XI), to consult as appropriate with the Committee during the course of his endeavours, and to report and make recommendations as he might deem advisable to the General Assembly (para. 9).

a/ Paragraph references are to operative paragraphs.

c/ The draft resolution was adopted without objection and without a vote (G A (XIII), 782nd mtg., para. 111).

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1312 (XIII). The situation in Hungary	54	10	15	Deciding to appoint Sir Leslie Munro to represent the United Nations for the purpose of reporting to Member States or to the General Assembly on significant developments relating to the implementation of the General Assembly resolution on Hungary (para. 9).

5. Provisions bearing upon the future discharge of responsibilities concerning the maintenance of international peace and security

<u>Number and title of resolution</u>	<u>Vote</u>			<u>Précis of the provisions a/</u>
	<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
1180 (XII). The Korean question	54	9	16	Requesting the United Nations Commission for the Unification and Rehabilitation of Korea to continue its work in accordance with the relevant resolutions of the General Assembly (para. 4).

\*\* 6. Other provisions bearing upon the maintenance of international peace and security

a/ Paragraph references are to operative paragraphs.

ANNEX III

Tabulation of the decisions of the General Assembly with respect to disarmament and the regulation of armaments

<u>Agenda item</u>	<u>Proposal</u>	<u>Meeting and date</u>	<u>Vote</u>			<u>Result of vote</u>
			<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
ELEVENTH SESSION						
Regulation, limitation and balanced reduction of all armed forces and all armaments; conclusion of an international convention (treaty) on the reduction of armaments and the prohibition of atomic, hydrogen and other weapons of mass destruction: report of the Disarmament Commission	Draft resolution recommended by the First Committee (G A (XI), Annexes, a.i. 22, p. 8, A/3514, para. 16)	653rd, 14 Feb. 1957		Unanimity		Resolution 1011 (XI)
TWELFTH SESSION						
103 Regulation, limitation and balanced reduction of all armed forces and all armaments; conclusion of an international convention (treaty) on the reduction of armaments and the prohibition of atomic, hydrogen and other weapons of mass destruction:	Draft resolution I recommended by the First Committee (G A (XII), Annexes, a.i. 24, p. 13, A/3729 and Corr.1, para. 25)	716th 14 Nov. 1957	56	9	15	Resolution 1148 (XII)
(a) Report of the Disarmament Commission;	Draft resolution II recommended by the First Committee, (G A (XII), Annexes, a.i. 24, p. 13, A/3729 and Corr.1, para. 25)	716th 14 Nov. 1957	71	9	1	Resolution 1149 (XII)
(b) Expansion of the membership of the Disarmament Commission and of its Sub-Committee;	Draft resolution submitted by India (A/L.232 (mimeographed), same text as G A (XII), Annexes, a.i. 24, p. 11, A/C.1/L.176/Rev.4)	718th, 19 Nov. 1957	24	34	20	Rejected
(c) Collective action to inform and enlighten the peoples of the world as to the dangers of the armaments race, and particularly as to the destructive effects of modern weapons;	Draft resolution submitted by the Union of Soviet Socialist Republics (G A (XII), Annexes, a.i. 24, p. 17, A/L.230)	719th 19 Nov. 1957	9	46	24	Rejected
(d) Discontinuance under international control of tests of atomic and hydrogen weapons						

<u>Agenda item</u>	<u>Proposal</u>	<u>Meeting and date</u>	<u>Vote</u>			<u>Result of vote</u>
			<u>For</u>	<u>Against</u>	<u>Abstentions</u>	
	Amendment submitted by Albania to the draft resolution submitted by Canada, India, Japan, Paraguay, a/ Sweden and Yugoslavia (G A (XII), Annexes, a.i. 24, p. 18, A/L.236)	719th, 19 Nov. 1957	19	38	19	Rejected
	Draft resolution submitted by Canada, India, Japan, Paraguay, Sweden and Yugoslavia (A/L.231/Rev.1/Add.1 (mimeographed))	719th, 19 Nov. 1957	60	9	11	Resolution 1150 (XII)
THIRTEENTH SESSION						
Question of disarmament	Draft resolution recommended by the First Committee (G A (XIII), Annexes, a.i. 64, 70 and 72, p. 23, A/3974 and Add.1 and 2, para. 49):	779th, 4 Nov. 1958				
The discontinuance of atomic and hydrogen weapons tests						
The reduction of the military budgets of the Union of Soviet Socialist Republics, the United States of America, the United Kingdom of Great Britain and Northern Ireland and France by 10 to 15 per cent and the use of part of the savings so effected for assistance to the under-developed countries	Draft resolution A		49	9	22	Resolution 1252 A (XIII)
	Draft resolution B		55	9	12	Resolution 1252 B (XIII)
	Draft resolution C		75	0	2	Resolution 1252 C (XIII)
	Draft resolution D		75	0	3	Resolution 1252 D (XIII)

a/ Paraguay later joined the list of sponsors (G A (XII), Plen., 718th mtg., para. 49.

Agenda item

Proposal

Meeting  
and date

Vote  
For Against Abstentions

Result of vote

Draft resolution submitted by Afghanistan, Burma, Cambodia, Ceylon, Ethiopia, Ghana, India, Indonesia, Iraq, Morocco, Nepal, United Arab Republic, Yemen and Yugo- slavia (A/L.250, same text as G A (XIII), Annexes, a.i. 64, 70, 72, p. 20, A/C.1/ L.202/Rev.1 and Add.1 and 2)	779th, 4 Nov. 1958	27	41	13	Rejected
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