

ARTICLE 35

Table of Contents

	<u>Paragraphs</u>
Text of Article 35	
Introductory Note	1 - 4
I. General Survey	5 - 9
II. Analytical Summary of Practice	10 - 85
A. In the Security Council	10 - 37
1. The question of the procedure of the Security Council giving effect to the provision that any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Council	10 - 25
a. Decision of 26 March 1946 in connexion with the Iranian question	15 - 16
b. Decision of 28 August 1946 in connexion with the Ukrainian complaint against Greece	17 - 19
c. Decision of 24 September 1946 in connexion with the statement of the representative of the USSR concerning Allied troops on non-enemy territory	20
d. Decision of 17 March 1948 in connexion with the Czechoslovak question	21 - 22
e. Decision of 14 April 1952 in connexion with the Tunisian question	23
f. Decision of 3 September 1953 in connexion with the question of Morocco	24 - 25
2. The question of submission by States not Members of the United Nations	26 - 30
3. The question of acceptance "in advance, for the purposes of the dispute," of the obligations of pacific settlement provided in the Charter	31 - 37
B. In the General Assembly	38 - 85
1. The question of the competence of the General Assembly arising from Article 35	46 - 55
a. Resolution 111 (II)	46 - 50
b. Resolution 196 (III)	51 - 55

Table of Contents
(continued)

	<u>Paragraphs</u>
2. The question of delegation to a subsidiary organ of responsibilities of the General Assembly arising from Article 35	56 - 85
a. In respect of "disputes" and "situations" submitted in accordance with Article 35	56 - 62
b. In respect of disputes submitted by non-member States	63 - 72
c. In respect of the limitation of Article 35 (3)	73 - 85
Annex. Tabulation of questions submitted to the Security Council (1946-1954)	

TEXT OF ARTICLE 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

INTRODUCTORY NOTE

1. The General Survey below contains a breakdown of the initial communications submitting disputes and situations to the Security Council. A tabulation of such questions is annexed.

2. In the Analytical Summary of Practice, three questions in respect of the Security Council are dealt with. Attention is drawn first to the procedure adopted by the Security Council to give effect to the right of bringing disputes or situations to the attention of the Council. Certain cases which illustrate the relation between the submission of disputes or situations under Article 35 and their inclusion in the agenda of the Security Council are cited. Two questions arising from an interpretation of Article 35 (2) are next dealt with; these are (a) the submission to the Council of disputes by States not Members of the United Nations in accordance with Article 35 (2), and (b) the acceptance by States of the obligations of pacific settlement.

3. It has not been found necessary to include matter in respect of General Assembly actions in the General Survey. In the submission of disputes or similar political questions to the General Assembly, Articles 10 and 14 have sometimes been cited; on some occasions such questions have been submitted on the basis of international agreements, while on other occasions they have been submitted without reference to any Article of the Charter or other international agreement. For this reason, it has been considered unenlightening to consider, in relation to Article 35, the normal procedure adopted by the General Assembly for the implementation of that Article, since this procedure is common to all questions submitted to the Assembly. Reference to Article 35 in the rules of procedure of the General Assembly is confined to the provision in rule 13 for the inclusion in the provisional agenda of regular sessions of items proposed under Article 35 (2) by non-member States; items proposed by Members under Article 35 (2) come under the category "All items proposed by any Member of the United Nations".

4. A special procedure for the implementation of Article 35 has, however, been provided by the General Assembly through the establishment of the Interim Committee. This procedure is dealt with in the Analytical Summary of Practice, together with the questions relating to the Charter which were raised by the proposal to establish the

Committee and which were the subject of debate at the second, third and fourth sessions of the General Assembly.

I. GENERAL SURVEY

5. Questions relating to the maintenance of international peace and security have been brought to the attention of the Security Council by Members in five instances as disputes and in sixteen as situations under Article 35 (1), and by States not Members of the United Nations in three instances as disputes under Article 35 (2). A tabulation of these questions is attached as an annex.

6. Of the five questions submitted by Members as disputes, the initial communication of submission has in one instance referred to Article 35 (1), in two instances to Article 35, and in another to Articles 35 and 37. In one instance, while the question was submitted as a dispute, the initial communication invoked Article 34. All these questions were included in the agenda.

7. Of the sixteen questions submitted by Members as situations, the letters of submission have in eight instances referred to Article 35 (1), in two to Article 35, in one to Articles 34 and 35 (1), in two to Articles 34 and 35, and in one to Articles 34, 35 and 39. In one instance, while the initial communication did not specify Article 35, the representative of the Member submitting the complaint, declared in his statement before the Council that Article 35 was the formal basis of the submission to the Council. In another instance, no reference was made to Article 35, either in the letter of submission or in the statement before the Council. Three of the sixteen questions submitted as situations were not included in the agenda.

8. In respect of the three questions submitted as disputes by States not Members of the United Nations, the letters of submission referred to Article 35 (2) and accepted the obligations contained therein. Of these questions, one was included in the agenda, another was not placed on the provisional agenda, and the third was not included in the agenda.

9. In one instance, a complaint submitted by a non-member State was included as a sub-item of a composite agenda item already under consideration by the Council. In another instance, when a complaint was submitted by a Member on behalf of a non-member State, a discussion ensued on whether the Council had satisfied itself that there had been compliance with Article 35 (2).

II. ANALYTICAL SUMMARY OF PRACTICE

A. In the Security Council

1. *The question of the procedure of the Security Council giving effect to the provision that any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Council*

10. With regard to the submission of disputes and situations to the Security Council, Article 35 has been implemented by rules 1 to 9 of the provisional rules of procedure of the Council. By rule 3, the President is obligated to call a meeting of the Security Council if a dispute or situation is brought to the attention of the

Council under Article 35. ^{1/} No distinction is drawn between regular meetings of the Council and meetings called in accordance with this provision.

11. The communication whereby the dispute or situation is brought to the attention of the Council is first circulated to representatives on the Council in accordance with rule 6 of the provisional rules of procedure, and is then included in the provisional agenda for a meeting of the Council. Rule 8 specifies that the provisional agenda shall be communicated to representatives on the Security Council at least three days before the meeting. This requirement may, however, be waived in "urgent circumstances", in which event the provisional agenda may be communicated simultaneously with the notice of the meeting. Since the adoption of the agenda is, under rule 9, the first item of the provisional agenda for each meeting, each communication submitted under Article 35 first comes before the Security Council at this stage.

12. Upon the inclusion of a dispute or situation in the agenda of a meeting, the question becomes a matter of which the Security Council is seized; in respect of such matters the Secretary-General is required to circulate weekly to the Council a summary statement of the stage reached in their consideration. Rule 37 of the provisional rules of procedure provides for an invitation to a Member bringing a matter to the attention of the Council in accordance with Article 35 (1) to participate without vote in the discussion of the question submitted. ^{2/} Once a question has been included in the agenda, subsequent communications may be submitted to the Council which, as appropriate, may be attached as documentation to the main item.

13. Though inclusion in the agenda of a specific meeting is the procedure whereby the Council becomes seized of a dispute or situation, the constitutional significance of the act of adoption of the agenda has been assessed in varying terms on different occasions by representatives on the Council. The attitude of the Council regarding the relationship between submission of a dispute or situation under Article 35 and inclusion in the agenda must be discerned from the proceedings in each case as it arises. On certain occasions, the view has been expressed that inclusion in the agenda of disputes or situations submitted by Members of the United Nations under Article 35 should be an act of routine whereby the Council gives effect to the right of submission conferred on Members by Article 35. This view has been accompanied by the contention that the inclusion of a question in the agenda does not constitute a pronouncement regarding the competence of the Council to deal with it. It has also been stated that the inclusion of a question in the agenda should be subject to certain conditions, such as compliance with considerations of form, the existence of a prima facie case, or the judgement of the Council regarding its competence in the matter. The instances cited exemplify the degree to which the significance of the decision of the Council to include an item in the agenda is contingent on the circumstances of the particular case.

^{1/} By rule 3 of the provisional rules of procedure recommended by the Preparatory Commission and in force from 17 January to 9 April 1946, provision was made for the calling by the President of an "extraordinary meeting" in the event of his receiving from any Member of the United Nations a communication drawing the attention of the Council to a dispute under Article 35 (1) of the Charter. (Report of the Preparatory Commission of the United Nations, PC/20, 23 Dec. 1945, chap. II, p. 25.) The Committee of Experts reported that no clear distinction could be drawn between "regular meetings" and "extraordinary meetings"; in consequence the reference to "extraordinary meetings" was deleted and replaced by the present provision of rule 3 (S/29, p. 2).

^{2/} On the question of invitations to Member States which have brought a matter to the attention of the Security Council in accordance with Article 35 (1), see also in this Repertory under Article 31.

14. From the procedure of the Council in the matter of adoption of the agenda, it follows that an appraisal in terms of the practice of the Council of "dispute" and "situation" within the context of Article 35 would need to be based upon an examination of the scope of the successive questions included in the agenda consequent upon their submission under Article 35. As in other matters of competence, the view has been expressed by the representatives on the Council that the question whether the item submitted constituted a "dispute" or a "situation" within the meaning of Article 35 should be considered by the Council only after inclusion in the agenda. And this view has been supported by the consideration that the decision whether a dispute or situation fell within the scope of Chapter VI should be taken after an opportunity had been afforded to the parties submitting the complaint to make a statement.

a. DECISION OF 26 MARCH 1946 IN CONNEXION WITH THE IRANIAN QUESTION

15. At the 25th meeting of the Security Council on 26 March 1946, the provisional agenda included the letter 3/ dated 18 March 1946 from the representative of Iran bringing to the attention of the Security Council, under Article 35 (1), a dispute between Iran and the USSR. Objection was raised to the inclusion of the matter in the agenda on the grounds that the situation was not likely to lead to the violation of international peace and security. It was also maintained that negotiations had been undertaken between the USSR and Iran, in accordance with the resolution 4/ of the Security Council of 30 January 1946, and that an understanding had been reached.

16. One member of the Council observed that the adoption of the agenda would enable the Government of Iran to present the facts of the dispute which, in the opinion of that Government, constituted a threat to international peace, and that the Security Council could not deny to any Member of the United Nations such an opportunity requested in accordance with the provisions of the Charter. 5/

Decision

At the 26th meeting on 26 March 1946, the Security Council decided 6/ to include the question in the agenda by 9 votes to 2.

b. DECISION OF 28 AUGUST 1946 IN CONNEXION WITH THE
UKRAINIAN COMPLAINT AGAINST GREECE

17. At the 54th meeting on 28 August 1946, the Security Council had before it a communication 7/ from the Ukrainian SSR dated 24 August 1946, bringing to the attention of the Council, under Article 35 (1), the situation in the Balkans.

18. Objection was raised to the inclusion of the communication in the agenda on the grounds that it consisted of a series of unsubstantiated accusations. It was maintained that the Council must, before including an item in the agenda, satisfy itself of the existence of prima facie evidence that the matter of the complaint was a serious and genuine difficulty, for the inclusion of an item in the agenda of the Council was by no means an empty formality. It was suggested that the representative of the Ukrainian SSR should be asked to recast and to amplify his communication.

3/ S C, 1st yr., 1st Series, Suppl. No. 2, p. 43, S/15.

4/ S C, 1st yr., 1st Series, No. 1, 5th mtg., p. 70.

5/ For texts of relevant statements, see S C, 1st yr., 1st Series, No. 2, 25th mtg.: Mexico, p. 19; Netherlands, pp. 18 and 19; Poland, pp. 17 and 18; USSR, pp. 12, 13 and 20; United Kingdom, pp. 14-16; United States, pp. 13 and 14.

6/ S C, 1st yr., 1st Series, No. 2, 26th mtg., p. 27.

7/ S C, 1st yr., 2nd Series, Suppl. No. 5, p. 149, S/137.

19. At the 59th meeting on 3 September 1946, the Security Council had before it a communication 8/ from the Ukrainian SSR dated 1 September 1946, contending that the right to substantiate its complaint derived from Article 35 and rule 37, and from the established practice of the Council. Another member expressed the view that the Council did not have the right to refuse to include a complaint in the agenda simply because that complaint did not meet certain requirements of form, or even because the charges made had not been substantiated. 9/

Decision

The Security Council decided 10/ to include the communication from the Ukrainian SSR in the agenda by 7 votes to 2, with 2 abstentions.

C. DECISION OF 24 SEPTEMBER 1946 IN CONNEXION WITH THE STATEMENT OF THE REPRESENTATIVE OF THE USSR CONCERNING ALLIED TROOPS ON NON-ENEMY TERRITORY

20. At the 71st and 72nd meetings on 23 and 24 September 1946, the Security Council had on its provisional agenda a statement by the representative of the USSR which concerned the presence of Allied troops on non-enemy territories and which proposed the collection of certain information relating thereto. The representative of the USSR contended that the question raised by him fell within the scope of Articles 34 and 35. Objection to the inclusion of the question in the agenda was raised on the grounds that the situation to which the representative of the USSR desired to draw the attention of the Council was too vague and generalized to constitute a situation within the meaning of Chapter VI of the Charter. It was also observed that the Council was required, under Article 24 (2), to exercise specific functions in regard to specific matters, that a situation of the kind described in Article 34 seemed to be a particular one and not a general world situation, and, that before the Council could decide as to the admission of the item, it should get some fairly precise indication of the geographical area where that situation existed. On the other hand, it was maintained that that Article ought not to be understood as applying only to a very definite and specific situation concerning a given country, for an excessively narrow interpretation of the Charter in this regard would involve a dangerous limitation of the powers of the Security Council. 11/

8/ S C, 1st yr., 2nd Series, No. 7, 59th mtg., pp. 173-175, S/148.

9/ For texts of relevant statements, see S C, 1st yr., 2nd Series, No. 4, 54th mtg.: Netherlands, pp. 33 and 34; USSR, pp. 36-38; United Kingdom, pp. 35 and 36.

No. 7, 59th mtg.: Australia, pp. 195 and 196; France, p. 191; Mexico, p. 177; United States, pp. 175 and 176.

10/ S C, 1st yr., 2nd Series, No. 7, 59th mtg., p. 197.

11/ For texts of relevant statements, see S C, 1st yr., 2nd Series, No. 17, 71st mtg.: Australia, p. 426; Brazil, pp. 441 and 442; Netherlands, pp. 437 and 440; Poland, p. 429; USSR, pp. 437 and 438; United Kingdom, pp. 423-425; United States, pp. 427 and 428.

No. 18, 72nd mtg.: Australia, pp. 453 and 454; China, pp. 449 and 450; France, pp. 444-448; Mexico, pp. 448 and 449; Netherlands, p. 460; Poland, pp. 450 and 451; USSR, pp. 458 and 459; United States, p. 452.

Decision

At the 72nd meeting on 24 September 1946, the Security Council rejected 12/ the proposal submitted by the USSR. There were 2 votes in favour, 7 against and 2 abstentions. After the voting, one representative observed that his understanding was that the Council had voted, not on the proposal, but on its inclusion in the agenda.

d. DECISION OF 17 MARCH 1948 IN CONNEXION WITH THE
CZECHOSLOVAK QUESTION

21. At the 268th meeting on 17 March 1948, the Security Council had before it a letter 13/ from the representative of Chile dated 12 March 1948, bringing to the attention of the Council, under Article 35 (1), the situation in Czechoslovakia.

22. Objection was raised to the inclusion of the letter in the agenda on grounds of competence, and on the grounds that the allegations contained in the letter were unfounded and slanderous. In opposing this view, it was stated that the Council was not at liberty to refuse to include in the agenda an item duly submitted by a Member. It was also contended that the inclusion of the matter in the agenda did not prejudice a decision on the substance of the question nor a decision regarding the competence of the Council. Some members of the Council observed that one of the tasks of the Council was to establish whether the matter before it was within the domestic jurisdiction of Czechoslovakia. 14/

Decision

The Security Council decided 15/ to include the item in the agenda by 9 votes to 2.

e. DECISION OF 14 APRIL 1952 IN CONNEXION WITH THE TUNISIAN QUESTION

23. At the 574th to 576th meetings inclusive between 4 and 14 April 1952, the Security Council had before it requests 16/ by Afghanistan, Burma, Egypt, India, Indonesia, Iran, Iraq, Pakistan, the Philippines, Saudi Arabia and Yemen bringing to the attention of the Council, under Article 35, the situation in Tunisia which, in the opinions of those Governments, seriously endangered the maintenance of international peace and security and thereby fell within the scope of Article 34 of the Charter. Objection was raised to the inclusion of the matter in the agenda on the grounds that the agreement reached between the French Government and the Bey of Tunis had put the problem on the road to solution, and had removed anything that could be regarded as a dispute or situation within the competence of the Council. Some members of the Council, on the other hand, expressed the view that Article 35 empowered any Member of the United Nations to bring any dispute, or any situation which might lead to international friction, to the attention of the Security Council. Other representatives, however, stressed the limitations imposed upon the powers of the

12/ S C, 1st yr., 2nd Series, No. 18, 72nd mtg., p. 460.

13/ S C, 3rd yr., Suppl. for Jan., Feb. and March, p. 31, S/694.

14/ For texts of relevant statements, see S C, 3rd yr., Nos. 36-51, 268th mtg.: Belgium, p. 100; Colombia, pp. 95 and 96; France, pp. 98 and 99; Syria, p. 95; Ukrainian SSR, p. 96; USSR, pp. 90-93; United Kingdom, pp. 93 and 94; United States, pp. 99 and 100.

15/ S C, 3rd yr., Nos. 36-51, 268th mtg., pp. 101 and 102.

16/ S C, 7th yr., Suppl. for April, May and June, pp. 9-15, S/2574 to S/2584.

Council in this matter by Article 2 (7). It was also observed that an agreement could be reached through negotiation between the parties in accordance with the provisions of Article 33. 17/

Decision

At the 576th meeting on 14 April 1952, a draft resolution which would have included the item in the agenda and would have postponed its consideration for the time being, was not adopted. 18/ There were 5 votes in favour, 2 against and 4 abstentions.

f. DECISION OF 3 SEPTEMBER 1953 IN CONNEXION WITH THE QUESTION OF MOROCCO

24. At the 619th to 624th meetings inclusive between 26 August and 3 September 1953, the Security Council had on its provisional agenda a request 19/ submitted under Article 35 (1) by Afghanistan, Burma, Egypt, India, Indonesia, Iran, Iraq, Lebanon, Liberia, Pakistan, the Philippines, Saudi Arabia, Syria, Thailand and Yemen to investigate the international friction and the danger to international peace and security which had arisen in Morocco.

25. Objection was raised to the inclusion of the item in the agenda on the grounds that Article 2 (7) precluded consideration of matters falling essentially within the domestic jurisdiction of a State. Other members of the Council expressed the view that investigation was justified by the mere possibility that a threat to international peace existed, and that investigation meant not only inquiry on the spot but also examination by the Council. In order to ascertain whether the situation in Morocco was likely to endanger international peace and security, the Security Council was required to include the item in its agenda. Some representatives observed that Article 2 (7) could not be invoked to bar an investigation by the Security Council of the situation in Morocco, on the grounds that the Moroccan subjects were not French subjects and the territories of Morocco were not a part of France and that France did not have jurisdiction to legislate in respect of Morocco. 20/

Decision

At the 624th meeting on 3 September 1953, the Security Council rejected 21/ the inclusion of the item in the agenda. There were 5 votes in favour, 5 against and 1 abstention.

17/ For texts of relevant statements, see S C, 7th yr., 574th mtg.: Brazil, paras. 93-102; Chile, paras. 39-51; France, paras. 27, 34. 575th mtg.: China, paras. 21-34; Greece, paras. 36 and 41-43; Netherlands, paras. 58-64; Turkey, paras. 68-70; USSR, paras. 48-56; United Kingdom, paras. 6-12; United States, paras. 15-19.

18/ S C, 7th yr., 576th mtg., paras. 104 and 121.

19/ S C, 8th yr., Suppl. for July, Aug. and Sept., p. 51, S/3085.

20/ For texts of relevant statements, see S C, 8th yr., 619th mtg.: France, paras. 4-34; Lebanon, paras. 71-73, 99, 102 and 117-120; Pakistan, paras. 40-44 and 63; 620th mtg.: United Kingdom, paras. 16-26; United States, paras. 9-12; 621st mtg.: China, paras. 88-95; USSR, paras. 49-84; 622nd mtg.: Lebanon, paras. 13-30; Pakistan, paras. 49-73; 623rd mtg.: Chile, paras. 31-40; France, paras. 51-53; 624th mtg.: Denmark, para. 47; Pakistan, paras. 5 and 17.

21/ S C, 8th yr., 624th mtg., para. 45.

2. The question of submission by States not Members of the United Nations

26. Two questions have been submitted, under Article 35 (2), by States not Members of the United Nations: the question of relations between Siam and France, submitted by Siam in a communication 22/ dated 15 July 1946, and the Hyderabad question, submitted by Hyderabad in communications 23/ dated 21 August, 12 September and 13 September 1948. A third question, a complaint, 24/ has also been submitted by a non-member State, the Hashemite Kingdom of the Jordan, and was included as a sub-item in the composite item of the Palestine question at the 511th meeting of the Security Council.

27. In the discussion on the inclusion of the Hyderabad question in the agenda, the question was raised whether the juridical status of Hyderabad was such as to qualify Hyderabad for the exercise of the rights conferred by Article 35 (2). After the inclusion of the question in the agenda at the 357th meeting, the representative of the other party concerned contended before the Council that Hyderabad was not a State and that it was thus not competent to bring the question before the Council, since Article 35 (2) referred to States.

28. The one case of submission by a Member of the United Nations on behalf of a non-member State is dealt with under paragraph 35 below.

29. Certain questions have been brought before the Security Council by the People's Republic of China without reference to Article 35 (2); these were the agenda items entitled "Complaint of armed invasion of Taiwan (Formosa)", and "Complaint of bombing by air forces of the territory of China". The initial communications by the People's Republic of China, dated 24 August 25/ and 27 August 1950 26/ respectively, were first included in the provisional agenda of the Security Council of the 492nd and 493rd meetings, as were two letters 27/ from the representative of the Member of the United Nations immediately concerned by the above-mentioned complaints indicative of its assent to the consideration of these questions by the Council.

Decision of 16 September 1948 in connexion with the Hyderabad question

30. At the 357th meeting on 16 September 1948, the communication from the Government of Hyderabad constituted item 2 of the provisional agenda. The representative of China requested an adjournment to enable him to secure instructions from his Government on the adoption of the item, contending that the inclusion of a question in the agenda implied a certain view of the juridical status of the parties to the dispute. Another representative held the view that the Council should, before including the item in the agenda, obtain information from the other parties as to the status of Hyderabad. The

22/ S/106. See also S/72, communication from Siam dated 31 May 1946. By letters dated 28 November 1946 (S/199 and S/200), the representatives of France and Siam drew the attention of the Council to the Franco-Siamese Settlement Agreement of 17 November 1946 (S C, 1st yr., 2nd Series, Suppl. No. 9, annex 14 (S/199)). The representative of Siam was instructed by his Government to withdraw the complaint. The matter was not included in any provisional agenda.

23/ S C, 3rd yr., Suppl. for Sept., p. 5, S/986; pp. 6 and 7, S/998 and S/1000.

24/ S C, 5th yr., Suppl. for Sept.-Dec., pp. 63-69, S/1824.

25/ S C, 5th yr., No. 32, 490th mtg., p. 9, S/1715.

26/ S C, 5th yr., Suppl. for June, July and Aug., p. 144, S/1722.

27/ S C, 5th yr., No. 32, 490th mtg., p. 6, S/1716.

S C, 5th yr., Suppl. for June, July and Aug., p. 146, S/1727.

President (United Kingdom) put the agenda to the vote with the reservation that the adoption of the agenda would not in any way decide the question of the competence of the Council. 28/

Decision

The Council decided 29/ to include the item in the agenda by 8 votes to none, with 3 abstentions.

3. *The question of acceptance "in advance, for the purposes of the dispute," of the obligations of pacific settlement provided in the Charter*

31. Siam, in its note 30/ of 15 July 1946, submitting matters in dispute with France, and Hyderabad in its note 31/ of 21 August 1948, submitting its dispute with India, accepted the obligations of pacific settlement provided in the Charter.

32. In the course of the proceedings on the Palestine question, Israel submitted certain complaints 32/ against the Hashemite Kingdom of the Jordan, and Jordan submitted a complaint 33/ against Israel. After the adoption of the agenda at the 511th meeting of the Security Council on 16 October 1950, the representative of the Hashemite Kingdom of the Jordan was invited to the Council table. The President then informed the Council that an appropriate document had been filed by Jordan in conformity with Articles 32 and 35 (2), wherein that State had accepted the obligations of pacific settlement provided for in the Charter.

33. In connexion with the questions submitted by the People's Republic of China, no reference was made in the proceedings to the acceptance of the obligations of pacific settlement.

34. Discussion has arisen on the question of compliance with the provisions of Article 35 (2) only in connexion with the submission of a complaint on behalf of a non-member State; this case is dealt with below.

Inclusion in the agenda of items in connexion with the Palestine question at the 670th meeting

35. At its 665th to 670th meetings inclusive between 8 April and 4 May 1954, the Security Council had on its provisional agenda complaints submitted by Lebanon on behalf of the Hashemite Kingdom of the Jordan 34/ against Israel, and by Israel 35/ against Jordan. At the 670th meeting on 4 May 1954, after the complaints had been included in the agenda under the item of the Palestine question, the President (United Kingdom) invited the representatives of Israel and of Jordan to participate in the discussion.

28/ For texts of relevant statements, see S C, 3rd yr., No. 109; 357th mtg.: President (United Kingdom), p. 10; Argentina, p. 5; China, pp. 5, 6 and 7; France, p. 8; USSR, pp. 3, 4 and 9; United States, p. 4.

29/ S C, 3rd yr., No. 109, 357th mtg., p. 11.

30/ S/106.

31/ S C, 3rd yr., Suppl. for Sept., p. 5, S/986.

32/ S C, 5th yr., Suppl. for Sept.-Dec., p. 55, S/1794.

33/ Ibid., pp. 63-69, S/1824.

34/ S C, 9th yr., Suppl. for April, May and June, p. 1, S/3195.

35/ S C, 9th yr., Suppl. for Jan., Feb. and March, pp. 9-22, S/3180 and Add.1 and Add.2.

At the same meeting, the representative of Israel inquired 36/ whether, in inviting the representative of Jordan to the Council for the purpose of presenting a complaint against Israel, the Council had satisfied itself that there had been compliance with Article 35 (2). He observed that that paragraph laid down, as an indispensable condition for the admission of a complaint by a State not a Member of the United Nations, the acceptance of the obligations of pacific settlement provided in the Charter. He recalled, that, at the 511th meeting, the President, in inviting the representative of Jordan to come to the Council table to present his Government's complaint against Israel concerning the occupation of Naharayim, had declared that an appropriate document had been filed by the representative of Jordan wherein his Government had undertaken the obligations for pacific settlement. By letter 37/ dated 5 May 1954, the representative of Israel drew attention to his observations at the 670th meeting and sought assurance that the conditions laid down in Article 35 (2) had been fulfilled.

36. At the 671st meeting on 12 May 1954, the President (United Kingdom), before inviting the parties to the Council table, brought to the attention of the Council the question which had been raised by the representative of Israel. In presenting his observations concerning the precedents and legal argumentation which might arise in this connexion, the President observed that, in so far as he had been able to determine, the Security Council had not previously dealt with a complaint brought to its attention by a Member State on behalf of a Government which was not a Member. He enumerated a number of cases wherein States not Members of the United Nations had either volunteered or had been invited to assume the obligations contained in Article 35 (2) because they had brought disputes to the attention of the Council or had been parties to disputes under consideration by the Council. Drawing the attention of the Council to the alternative interpretations of the application of the provisions of the Charter to the case under consideration, the President observed that, if the Council were to hold that Article 35 (1) applied, since the representative of Lebanon and not the representative of Jordan had brought the complaint to the attention of the Council, the Council might wish to consider whether or not conditions should be laid down for the participation of Jordan under Article 32. On the other hand, it could be argued that Article 35 (2) was applicable, since a complaint could hardly have been brought on behalf of a sovereign State, whether or not it was a Member of the United Nations, without the authority and consent of that State. This line of argument would lead to the conclusion that the particular complaint on the agenda was, in substance, a complaint by Jordan, and, therefore, that the Council should have regard to the provisions of Article 35 (2). 38/ Immediately upon the completion of the President's statement, a motion to adjourn was adopted. 39/

37. By letter 40/ dated 17 May 1954, the representative of Israel submitted certain observations of law concerning the status of items on the agenda and stated that, as long as the conditions laid down in Article 35 (2) had not been fulfilled, the complaint submitted by Lebanon on behalf of Jordan could not legally figure on the agenda of the Council. By letter 41/ dated 26 May 1954, the Ambassador of the Hashemite Kingdom of the Jordan to the United States notified the President of the Council that, upon instructions of his Government, he was not empowered to represent his Government before the Council or to take part in its discussion.

36/ S C, 9th yr., 670th mtg., paras. 145-152.

37/ S C, 9th yr., Suppl. for April, May and June, p. 9, S/3210.

38/ S C, 9th yr., 671st mtg., paras. 1-20.

39/ Ibid., paras. 20-23.

40/ S/3215.

41/ S/3219.

B. In the General Assembly

38. By resolution 111 (II), the General Assembly established an Interim Committee for the period between the conclusion of that session and the opening of the third session. This authorization was continued for a further year by resolution 196 (III). By resolution 295 (IV), the Interim Committee was re-established for an indefinite period.

39. The proposal to establish a special subsidiary organ designed to facilitate the discharge by the General Assembly of duties arising, inter alia, from Article 35 led to discussion regarding the delimitation of responsibilities between the General Assembly and the Security Council in matters relating to the maintenance of international peace and security, especially in connexion with Article 35 of the Charter. The discussion is here presented, together with the relevant extracts from the resolutions in question, under two broad headings: "The question of the competence of the General Assembly arising from Article 35", and "The question of delegation to a subsidiary organ of responsibilities of the General Assembly arising from Article 35".

40. To avoid repetitive reference to the proceedings of the three sessions at which the establishment or continuance of the Interim Committee was considered, a chronological summary is given at this stage. 42/

41. At its second session the General Assembly had before it a request 43/ submitted by the United States for the inclusion in the agenda of the item "Establishment of an interim committee of the General Assembly on peace and security". At its 91st plenary meeting on 23 September 1947, the Assembly allocated the item to the First Committee.

42. The First Committee began the consideration of the question at its 74th meeting on 14 October 1947, when the representative of the United States submitted a draft resolution 44/ which would establish an Interim Committee of the General Assembly. The First Committee, at its 78th meeting, decided to appoint a sub-committee to examine the draft resolution submitted by the United States, together with the amendments and alternative proposals offered, and to report to the Committee. The Sub-Committee adopted a draft resolution by 9 votes to none, with 4 abstentions. At the 97th meeting on 6 November 1947, the First Committee adopted, 45/ without change, by 43 votes to 6, with 6 abstentions, the draft resolution submitted by the Sub-Committee. At its 111th plenary meeting on 13 November 1947, the General Assembly adopted as resolution 111 (II), 46/ without change, the draft resolution submitted by the First Committee by 41 votes to 6, with 6 abstentions.

43. At its third session, the General Assembly had before it the report 47/ of the Interim Committee on the advisability of establishing a permanent committee of the General Assembly, submitted in pursuance of General Assembly resolution 111 (II). To the report was added as annex III a draft resolution which would recommend that the Interim Committee be established for a period to be determined by the General Assembly. At its 158th plenary meeting on 15 November 1948, the General Assembly referred the report to the Ad Hoc Political Committee.

42/ For a précis of G A resolutions 111 (II), 196 (III), and 295 (IV), see in this Repertory under Article 11.

43/ G A (II), General Com., p. 36, annex I b (A/BUR/85).

44/ G A (II), 1st Com., pp. 609 and 610, annex 17 a (A/C.1/196).

45/ G A (II), 1st Com., 97th mtg., p. 335.

46/ G A (II), Plen., vol. II, 111th mtg., p. 822.

47/ G A (III), Suppl. No. 10, A/606, p. 37.

44. At its 5th meeting on 20 November 1948, the Ad Hoc Political Committee, by 44 votes to 6, with 1 abstention, adopted, 48/ after amendment, the draft resolution submitted by the Interim Committee. At its 169th plenary meeting on 3 December 1948, the General Assembly adopted 49/ as resolution 196 (III) the draft resolution submitted by the Ad Hoc Political Committee, providing for the re-establishment of the Interim Committee for another year, by 40 votes to 6, with 1 abstention.

45. At its fourth session, the General Assembly had before it the report 50/ of the Interim Committee submitted in pursuance of General Assembly resolution 196 (III). To the report was added, as annex III, a draft resolution which would recommend the establishment of the Interim Committee for an indefinite period. At its 224th plenary meeting on 22 September 1949, the General Assembly referred 51/ the report to the Ad Hoc Political Committee. At its 20th meeting on 19 October 1949, the Ad Hoc Political Committee adopted 52/ the draft resolution submitted by the Interim Committee by a roll-call vote of 41 to 6, with 6 abstentions. At its 250th plenary meeting on 21 November 1949, the General Assembly adopted 53/ as resolution 295 (IV) the draft resolution submitted by the Ad Hoc Political Committee by 45 votes to 5, with 4 abstentions.

*1. The question of the competence of the General Assembly
arising from Article 35*

a. RESOLUTION 111 (II)

46. The preamble of the draft resolution 54/ submitted by the representative of the United States at the 74th meeting of the First Committee on 14 October 1947, read in part as follows:

"The General Assembly,

"Conscious of the responsibilities specifically conferred upon it by the Charter in relation to the maintenance of international peace and security (Article 11), the promotion of international co-operation in the political field (Article 13), peaceful adjustment of any matters likely to impair the general welfare and friendly relations among nations (Article 14);"

47. The representative of the United States, both in plenary meeting and in the First Committee, declared that the General Assembly had definite and continuing responsibility in the field of peace and security under Articles 11 and 14, and that the Assembly, under Article 35, was required to receive disputes or situations which Members had the choice of bringing before either the Security Council or the Assembly. On questions of international peace and security, the General Assembly had equal jurisdiction with the Security Council but with a difference of power. Member States which looked for compulsory action could submit their complaints to the Security Council. However, if

48/ G A (III/1), Ad Hoc Pol. Com., 5th mtg., p. 52.

49/ G A (III/1), Plen., 169th mtg., p. 682.

50/ G A (IV), Suppl. No. 11 (A/966).

51/ G A (IV), Plen., 224th mtg., para. 56.

52/ G A (IV), Ad Hoc Pol. Com., 20th mtg., para. 47.

53/ G A (IV), Plen., 250th mtg., para. 136.

54/ G A (II), 1st Com., pp. 609 and 610, annex 17 a (A/C.1/196).

they could not obtain such action in the Council, they were equally entitled to submit the matter to the General Assembly and invoke the moral authority of that body. 55/

48. Certain representatives, who opposed the draft resolution submitted by the United States, maintained that while States had, under Article 35, the choice of bringing disputes or situations on international peace and security to the attention of either the General Assembly or the Security Council, this choice was, in practice, influenced by the fact that the Council was in permanent session, so that the complaint could be submitted without delay, while the General Assembly convened only once a year or in special sessions. The establishment of the Interim Committee would upset this fundamental structure of the Organization and would, in violation of the Charter, render the work of the General Assembly permanent.

49. Other representatives, who supported the draft resolution submitted by the United States, expressed the view that, in respect of questions relating to the maintenance of international peace and security, the General Assembly and the Security Council, under Article 35 and under certain other Articles, had, to a certain extent, parallel and concurrent responsibilities. The representative of the United Kingdom maintained that, while the Assembly and the Council had separate jurisdictions on questions of peace and security, the authority of the Council in this connexion was not exclusive. At the 78th meeting of the First Committee, he submitted a draft resolution 56/ which, in the preamble relating to the responsibility conferred by the Charter upon the General Assembly, made specific reference to Article 35.

50. The text of the preamble was thereafter considered in the Sub-Committee, which had been established to examine the various proposals submitted in connexion with the agenda item (see paragraph 42 above). It was also discussed in the First Committee during consideration of the report of the Sub-Committee. As finally adopted by the General Assembly, the text of the first preambular paragraph of resolution 111 (II) read as follows:

"The General Assembly,

"Conscious of the responsibility specifically conferred upon it by the Charter in relation to matters concerning the maintenance of international peace and security (Articles 11 and 35), the promotion of international co-operation in the political field (Article 13) and the peaceful adjustment of any situations likely to impair the general welfare or friendly relations among nations (Article 14);" 57/

55/ For texts of relevant statements, see G A (II), Plen., vol. I, 82nd mtg.: United States, pp. 25 and 26; vol. II, 110th mtg.: United States, pp. 758-760.

G A (II), 1st Com., 74th mtg., United States, p. 130.
56/ G A (II), 1st Com., pp. 612 and 613, annex 17 d (A/C.1/215).

57/ For texts of relevant statements, see G A (II), Plen., vol. II; 110th mtg.: United Kingdom, p. 792; 111th mtg.: France, pp. 810 and 811; Poland, pp. 805 and 806. G A (II), 1st Com.: 74th mtg.: Australia, pp. 137-138; United States, pp. 129-132; 75th mtg.: Uruguay, pp. 139 and 140; 76th mtg.: India, p. 150; 77th mtg.: Brazil, p. 160; Philippines, p. 156; USSR, p. 161; United Kingdom, p. 158; 78th mtg.: Canada, p. 165; Mexico, pp. 166 and 167; Ukrainian SSR, p. 169; United States, p. 172; 95th mtg.: Australia, p. 316; India, p. 318; Poland, p. 319; 96th mtg.: United Kingdom, pp. 327 and 328.

B. RESOLUTION 196 (III)

51. The preamble of the draft resolution annexed to the report of the Interim Committee on the advisability of establishing a permanent committee of the General Assembly, submitted to the General Assembly at its third session read in part as follows:

"The General Assembly,

".

"Affirming that, for the effective performance of the duties specifically conferred upon the General Assembly by the Charter in relation to matters concerning the maintenance of international peace and security (Articles 11 and 35), ... it is necessary to continue the Interim Committee for the purpose of considering such matters further and reporting with its conclusions to the General Assembly;"

52. During the consideration of the draft text in the Ad Hoc Political Committee at its 2nd to 5th meetings inclusive, the nature of the responsibility conferred upon the General Assembly by Article 35 was discussed, and the views expressed in general debate paralleled closely those which had been expressed in the First Committee, during the previous session, on the question of the establishment of an Interim Committee. One of the representatives opposing the re-establishment of the Interim Committee stated, with reference to the choice of recourse to either the Security Council or to the General Assembly under Article 35, that the Article had been drafted and adopted in such a way that the Security Council was the only organ permanently in session entitled to deal with questions of international peace and security. Thus the establishment of the Interim Committee brought about a situation which the Charter had intended to avoid. 58/

53. At its 5th meeting on 20 November 1948, the Ad Hoc Political Committee adopted, 59/ without change, the second paragraph of the preamble of the draft resolution submitted by the Interim Committee, by 38 votes to 6, with 1 abstention.

54. The relevant part of the second paragraph of the preamble of the text adopted by the General Assembly as resolution 196 (III) read as follows:

"Affirming that, for the effective performance of the duties specifically conferred upon the General Assembly by the Charter in relation to matters concerning the maintenance of international peace and security (Articles 11 and 35), ... it is necessary to continue the Interim Committee for the purpose of considering such matters further and reporting with conclusions to the General Assembly;"

55. The relevant part of the second preambular paragraph of resolution 295 (IV), by which the Interim Committee was established for an indefinite period, was identical with the corresponding text of resolution 196 (III).

58/ G A (III/1), Ad Hoc Pol. Com., 4th mtg., pp. 37 and 38.

59/ Ibid., p. 43.

2. *The question of delegation to a subsidiary organ of responsibilities of the General Assembly arising from Article 35*

a. IN RESPECT OF "DISPUTES" AND "SITUATIONS" SUBMITTED
IN ACCORDANCE WITH ARTICLE 35

Resolution 111 (II)

56. The second paragraph of the draft resolution 60/ entitled "Establishment of an Interim Committee of the General Assembly", submitted by the United States at the 74th meeting of the First Committee on 14 October 1947 (see paragraph 42 above), read in part as follows:

"The General Assembly,

".....

"2. The interim committee shall assist the General Assembly by performing the following duties and functions:

(a). To consider, as it may determine, such situations as may come to its attention within the purview of Article 14, or such questions as are brought before the General Assembly by the Security Council pursuant to Article 11 (2), and to report thereon, with its recommendations to the General Assembly;"

57. Earlier, at the 82nd plenary meeting of the General Assembly on 17 September 1947, the representative of the United States had declared that the proposed Interim Committee, subject to the primary responsibility of the Security Council for the maintenance of peace and security, might consider situations and disputes impairing friendly relations among nations, pursuant to Articles 11 and 14, and report to the General Assembly or the Security Council 61/ thereon.

58. The opponents of the draft resolution submitted by the United States maintained, both in plenary meeting and in the First Committee, that the functions proposed for the Interim Committee would exceed even those of the General Assembly itself, and that the General Assembly could not legally delegate powers which were incompatible with the nature of a subsidiary organ as defined in the provisional rules of procedure. In their view, the functions proposed for the Interim Committee did not derive from Article 14, as had been claimed by the sponsor of the draft resolution, but from Article 34. While Article 14 referred only to "situations", it was contended that the use of the word "disputes" in the debate indicated that an attempt was being made to make the functions of the Interim Committee identical with those of the Security Council.

59. Those representatives who supported the draft resolution submitted by the United States maintained that Article 35 clearly gave the General Assembly jurisdiction over disputes and situations in the same manner as did Article 11 (2), and that the Interim Committee, as a subsidiary organ, could consider such matters. The representative of the United Kingdom submitted a draft resolution 62/ in the First Committee which set forth the functions of the Interim Committee as follows:

60/ G A (II), 1st Com., pp. 609 and 610, annex 17 a (A/C.1/196).

61/ G A (II), Plen., vol. I, 82nd mtg., pp. 25 and 26.

62/ See footnote 56 above.

"(b) To consider any dispute or any situation which may be placed on the Agenda of the next regular session of the General Assembly by any Member acting in virtue of Articles 11 (2), 14 or 35 of the Charter,".

60. The representative of Canada maintained that the Interim Committee should be given clearly defined responsibilities, with specific reference to Articles 14 and 35. At the 78th meeting of the First Committee, he offered an amendment 63/ to the draft resolution submitted by the United States which read in part as follows:

"To consider, as it may determine, such situations as may come to its attention within the purview of Article 14 or Article 35 of the Charter, or such questions as are brought before the General Assembly by the Security Council pursuant to Article 11 (2) and to report thereon, with its recommendations to the General Assembly;".

61. In the Sub-Committee, established by the First Committee to examine the various proposals which had been submitted in connexion with this agenda item (see paragraph 42 above), the question of "disputes" and "situations" was further considered in connexion with the authority of the Interim Committee to decide for itself which of the questions placed before the General Assembly under Articles 11, 14 and 35 it would select for consideration and report. A proposal was made to withhold from the Interim Committee the power to consider disputes, on the ground that the Security Council was empowered to take more effective measures in this connexion than the General Assembly. In opposition to this proposal it was argued that to deprive the Interim Committee of the right to deal with disputes would result in protracted discussions as to whether a question was to be regarded as a "dispute" or as a "situation". It was further pointed out that Members were entitled, under Article 35, to place a dispute before either the General Assembly or the Security Council, and that one of the purposes of establishing the Interim Committee was to give Members full opportunity to exercise their right to choose between the two organs. Another proposal to restrict the competence of the Interim Committee to disputes and situations which had been considered by the Security Council, but regarding which the Council had been unable to reach a decision, was rejected on the ground that it would tend to transform the Committee into a court of appeals from the Security Council, and that its adoption might bring it into conflict with Article 12. The Sub-Committee, after an exchange of views, decided by 8 votes to 3, with 2 abstentions, to make it clear that disputes as well as situations were included amongst the matters within the proposed competence of the Interim Committee. The draft resolution which the Sub-Committee recommended was adopted 64/ by the First Committee without change. 65/

63/ G A (II), 1st Com., p. 614, annex 17 f (A/C.1/217).

64/ G A (II), 1st Com., 97th mtg., p. 335.

65/ For texts of relevant statements, see G A (II), 1st Com., 74th mtg.: Australia, pp. 137 and 138; Bolivia, p. 132; USSR, pp. 134-136; 76th mtg.: India, p. 150; Poland, pp. 147 and 148; 77th mtg.: Mexico, pp. 166 and 167; Philippines, p. 156; United Kingdom, p. 158; USSR, p. 161; 78th mtg.: Canada, p. 165; Ukrainian SSR, pp. 168 and 169; 95th mtg.: United States, p. 315; 96th mtg.: United Kingdom, pp. 327 and 328.

62. In the text adopted by the General Assembly 66/ as resolution 111 (II), the duty of the Interim Committee was defined as follows under the relevant sub-paragraph:

"2. The Interim Committee, ... shall assist the General Assembly in the performance of its functions by discharging the following duties:

"......

"(b) To consider and report with its conclusions to the General Assembly on any dispute or any situation which, in virtue of Articles 11 (paragraph 2), 14 or 35 of the Charter, has been proposed for inclusion in the agenda of the General Assembly by any Member of the United Nations or brought before the General Assembly by the Security Council, provided the Committee previously determines the matter to be both important and requiring preliminary study."

For the text of paragraph 2 b in resolutions 196 (III) and 295 (IV), see paragraphs 71 and 72 below.

b. IN RESPECT OF DISPUTES SUBMITTED BY NON-MEMBER STATES

Resolution 111 (II)

63. The draft resolution 67/ submitted by the United States to the First Committee at the second session of the General Assembly set forth as one of the functions of the Interim Committee the consideration of "such situations as may come to its attention within the purview of Article 14", or "such questions as are brought before the General Assembly by the Security Council pursuant to Article 11 (2)".

64. Those representatives who opposed this draft resolution maintained that the Interim Committee would be empowered to receive new items for its agenda not only from the General Assembly but also from Members and even, on occasion, from non-member States.

65. The draft resolution 68/ submitted by the United Kingdom specified as one of the functions of the Interim Committee the consideration of "any dispute or any situation which may be placed on the Agenda of the next regular session of the General Assembly by any Member acting in virtue of Articles 11 (2), 14 or 35 of the Charter".

66. The Sub-Committee, established by the First Committee to examine the draft resolution submitted by the United States as well as amendments and alternative proposals (see paragraph 42 above), agreed that the agenda of the Interim Committee should not include items submitted to the General Assembly by States which were not Members of the United Nations. This decision was presumably taken on the ground that the judgement whether any such State had fulfilled the conditions of Article 35 (2) should be reserved for the General Assembly itself. Accordingly, the draft resolution recommended by the Sub-Committee authorized the Interim Committee to consider and

66/ For texts of relevant statements, see G A (II), Plen.; vol. I, 84th mtg.: USSR, pp. 91 and 92; 91st mtg.: United States, pp. 297 and 298; Yugoslavia, p. 293; vol. II, 110th mtg.: Australia, p. 784; USSR, pp. 767-769, 775 and 776; United Kingdom, p. 792; United States, pp. 758 and 759; 111th mtg.: France, pp. 810 and 811; Poland, pp. 805 and 806.

See footnote 54 above.

See footnote 56 above.

report on any dispute or any situation which, under Articles 11 (2), 14 or 35, had been proposed for inclusion in the agenda of the General Assembly "by any Member of the United Nations or brought before the General Assembly by the Security Council". 69/

67. For the text of the relevant sub-paragraph of resolution 111 (II), see paragraph 62 above.

Resolution 196 (III)

68. The draft resolution annexed to the report of the Interim Committee to the General Assembly at its third session provided in its paragraph 2 (b) that the Interim Committee should consider and report with conclusions to the General Assembly on the following matters:

"any dispute or any situation which, in virtue of Articles 11, (paragraph 2), 14 or 35 of the Charter, has been proposed for inclusion in the agenda of the General Assembly by any Member of the United Nations or brought before the General Assembly by the Security Council".

69. At the 4th meeting of the Ad Hoc Political Committee on 19 November 1948, the representative of Uruguay, referring to the above-quoted paragraph of the draft resolution recommended by the Interim Committee, stated that this provision placed non-member States in a disadvantageous position and that the Interim Committee should be empowered to deal with disputes to which non-Member States were parties. He submitted an amendment 70/ to paragraph 2 (b) of the text recommended by the Interim Committee which would add after the words "by any Member of the United Nations", the words "or by a non-member State under Articles 11 (paragraph 2) or 35".

70. Those representatives who opposed the establishment of the Interim Committee regarded the amendment submitted by Uruguay as an additional illegal step. They maintained that, while non-member States had the choice of submitting their disputes to either the Security Council or the General Assembly, those organs had first to determine whether the State had accepted in advance the obligations of pacific settlement. In their view, the proposed provision investing the Interim Committee with the same power of determination indicated that the Committee was designed to be a principal organ, in violation of the Charter. The representative of Uruguay, in support of his amendment, explained that the Interim Committee would at any rate be called upon to make the same determination whenever a non-member State applied for participation in the discussion as a party to a dispute brought before the Interim Committee by a Member State or by the Security Council under Articles 32 and 35 (2). 71/ At its 5th meeting on 20 November 1948, the Ad Hoc Political Committee adopted the amendment submitted by Uruguay by 25 votes to 11, with 5 abstentions. The entire draft resolution, as amended, was adopted 72/ by 44 votes to 6, with 1 abstention.

69/ For texts of relevant statements, see G A (II), Plen.; vol. I, 91st mtg.: United States, pp. 297 and 298; Yugoslavia, pp. 293 and 294; vol. II, 110th mtg.: Australia, p. 784; United States, p. 758. G A (II), 1st Com.; 74th mtg.: Australia, p. 137; Bolivia, p. 132; 76th mtg.: Poland, p. 148; 95th mtg.: Poland, p. 318. For a summary of proceedings in Sub-Committee 1 of the First Committee, see G A (II), 1st Com., pp. 614-621, annex 17 g (A/C.1/240).

70/ A/AC.24/2/Rev.1.

71/ For texts of relevant statements, see G A (III/1), Plen., 169th mtg.: Yugoslavia, pp. 680 and 681. G A (III/1), Ad Hoc Pol. Com., 4th mtg.: Uruguay, pp. 38 and 39; USSR, p. 40.

72/ G A (III/1), Ad Hoc Pol. Com., 5th mtg., p. 52.

71. The relevant part of sub-paragraph 2 (b) of the text adopted by the General Assembly as resolution 196 (III) defined the duty of the Interim Committee in the following terms:

"(b) To consider and report with conclusions to the General Assembly on any dispute or any situation which, in virtue of Articles 11 (paragraph 2), 14 or 35 of the Charter, has been proposed for inclusion in the agenda of the General Assembly by any Member of the United Nations, or by any non-member State under Articles 11 (paragraph 2) or 35, or has been brought before the General Assembly by the Security Council, provided the Committee previously determines the matter to be both important and requiring preliminary study".

72. The relevant part of sub-paragraph 2 (b) of resolution 295 (IV) was drafted in identical terms. 73/

C. IN RESPECT OF THE LIMITATION OF ARTICLE 35 (3)

Resolution 111 (II)

73. The third paragraph of the draft resolution submitted by the representative of the United States at the second session read in part as follows:

"3. In discharging its duties and functions, the Interim Committee shall at all times take cognizance of the responsibilities of the Security Council under the Charter for the maintenance of international peace and security,".

74. Beginning with the consideration of the agenda item in the General Committee, the question had been raised whether the Interim Committee would impinge upon the authority of the Security Council. The representative of the United States, in the General Assembly, observed that his proposal was designed to enable the Assembly to perform its legitimate functions under Articles 10, 11 and 14, and that it was not the intention that the Interim Committee usurp any of the functions of the Security Council.

75. Those representatives who opposed the proposal submitted by the United States maintained that the Charter had made a fundamental distinction between the competence of the Security Council and that of the Assembly, as reflected in Article 35 (3); a distinction which the proposal of the United States ignored in violation of the Charter. The most important part of Article 35, with reference to the maintenance of international peace and security, was paragraph 3, which provided that the proceedings of the General Assembly in that respect were subject to the provisions of Articles 11 and 12. In their view, the proposed Interim Committee was designed to supplant the Security Council and to constitute a new principal organ in violation of the Charter.

76. Supporters of the proposal maintained that the General Assembly was entitled to establish subsidiary organs for undertaking preparatory work, so long as it confined itself to the functions ascribed to it, within the limitations provided for in

73/ For texts of relevant statements in connexion with resolution 295 (IV), see G A (IV), Plen.; 250th mtg.: Poland, paras. 78-81; Turkey, paras. 62-76; USSR, paras. 106-108; United States, para. 55. G A (IV), Ad Hoc Pol. Com.; 17th mtg.: Pakistan, paras. 33 and 34; Poland, paras. 3, 5, 6 and 24; 18th mtg.: Belgium, paras. 2 and 3; Czechoslovakia, para. 34; Lebanon, para. 18; Ukrainian SSR, paras. 6, 7 and 10; USSR, paras. 46 and 48; 19th mtg.: France, paras. 63 and 64; Uruguay, para. 12; Yemen, para. 30.

Articles 11 and 12. At the 77th meeting of the First Committee on 17 October 1947, the representative of the United Kingdom submitted a draft resolution 74/, paragraph 3 of which read:

"The interim committee shall not discuss any matter which is on the agenda of the Security Council."

77. In the Sub-Committee established by the First Committee (see paragraph 42 above), the question of jurisdictional conflict between the Security Council and the Interim Committee was further discussed. Certain representatives, while agreeing with the general view that nothing should be done to establish a body competing with the Security Council, argued that the Committee should have full right to discuss any matter which it decided was not under active consideration by the Council. Objection was raised to the relevant paragraph in the draft resolution submitted by the United Kingdom on the grounds that a State might seek to suspend discussion within the Interim Committee by seizing the Security Council of the matter. An amendment submitted by Australia which would have precluded the Interim Committee from discussing any matter which, in its opinion, was under active consideration by the Security Council, was rejected because it was deemed inadvisable to authorize the Interim Committee to judge whether the Security Council was or was not actively exercising its function. Other proposals to delete or to modify the terms of the draft text were also rejected. 75/ The relevant paragraph of the final draft resolution, based on the texts submitted by the United Kingdom and the United States and adopted by the Sub-Committee by 6 votes to 2, with 3 abstentions, read as follows:

"3. In discharging its duties the interim committee shall at all times take into account the responsibilities of the Security Council under the Charter for the maintenance of international peace and security The interim committee shall not consider any matter of which the Security Council is seized."

This text appeared in paragraph 3 of resolution 111 (II).

Resolution 196 (III)

78. Paragraph 4 of the draft resolution recommended for adoption and annexed to the report submitted by the Interim Committee to the General Assembly at its third session was identical with paragraph 3 of resolution 111 (II).

74/ See footnote 56 above.

75/ For texts of relevant statements, see G A (II), Plen., vol. I, 82nd mtg.: United States, pp. 25 and 26; 84th mtg.: USSR, pp. 91 and 92; 91st mtg.: United States, pp. 297 and 298; vol. II, 110th mtg.: USSR, pp. 768, 769, 775 and 776; 111th mtg.: France, pp. 810 and 811; Poland, pp. 806 and 807. G A (II), General Com.; 38th mtg.: USSR, p. 18; United States, p. 19. G A (II), 1st Com.; 74th mtg.: Australia, pp. 137 and 138; Bolivia, p. 132; USSR, pp. 134-136; 76th mtg.: India, p. 150; Poland, pp. 147-149; 77th mtg.: Philippines, p. 156; USSR, p. 161; 78th mtg.: Canada, p. 165; Mexico, pp. 166 and 167; Ukrainian SSR, p. 169; United States, p. 172; 94th mtg.: Norway, p. 307; USSR, pp. 309 and 310; 95th mtg.: Australia, p. 316; China, p. 320; India, p. 317; USSR, p. 313; United States, p. 315; 96th mtg.: Norway, p. 325; USSR, p. 331; United Kingdom, pp. 327 and 328. For a summary of proceedings in Sub-Committee 1 of the First Committee, see G A (II), 1st Com., pp. 614-621, annex 17 g (A/C.1/240); see also A/AC.18/SC.4/3.

79. During the general debate in the Ad Hoc Political Committee, at its 2nd to 4th meetings inclusive, between 17 and 19 November 1948, and in plenary meetings of the General Assembly, the question was again raised whether the terms of reference of the Interim Committee impinged upon the authority of the Security Council, and the views expressed followed the lines of argument that had been advanced in the First Committee during the preceding session on the question of the establishment of an Interim Committee of the General Assembly.

80. Those who opposed re-establishment of the Interim Committee maintained that the Committee had already interfered in the affairs of the Security Council, and that, although the Committee had been unable to carry out all functions assigned to it, the illegality of its status remained unchanged.

81. Supporters of the draft resolution held that the necessary safeguards contained in the terms of reference of the Interim Committee, for the purpose of obviating a conflict between the respective jurisdictions of the Security Council and the Interim Committee, had been effective. The Committee, functioning within the limits established by resolution 111 (II) and within the limits of the Charter, had not interfered with the prerogatives of the Security Council.

82. At the 4th meeting of the Ad Hoc Political Committee on 19 November 1948, the representative of Uruguay, referring to paragraph 4 of the draft resolution, stated that the text, if interpreted literally, would prevent the Interim Committee from dealing with questions submitted to the General Assembly by the Security Council, of which the latter remained seized. He offered an amendment 76/ to the fourth paragraph of the draft resolution which would have added the following clause at the end of the paragraph:

"except when the Security Council, acting under Article 12, paragraph 1, of the Charter, has requested the General Assembly to make recommendations on such matters;"

The representative of Belgium voiced the belief that paragraph 4 of the Interim Committee draft resolution appeared to exclude from the competence of the Interim Committee any matter of which the Security Council was seized and stated that the Committee might deal with such questions if the Security Council, while remaining seized of them, submitted them to the General Assembly under either Articles 11 (2) or 12 (1). He offered an amendment 77/ to replace the last sentence of paragraph 4 with the following:

"The Interim Committee shall not consider any matter of which the Security Council is seized and which it has not submitted to the General Assembly,".

83. At its 5th meeting on 20 November 1948, the Ad Hoc Political Committee adopted the amendment submitted by Belgium, as modified at the suggestion of the representative of Denmark, by 16 votes to 10, with 23 abstentions. The Committee decided that the amendment offered by Uruguay should not be put to the vote as it was covered by the amendment already put forward by Belgium. Paragraph 4, as amended, was subsequently

76/ G A (III/1), Ad Hoc Pol. Com., Annexes, p. 2.
77/ Ibid., p. 3.

adopted by 37 votes to 6, with 6 abstentions. Finally the entire draft resolution, as amended, was adopted by 44 votes to 6, with 1 abstention. 78/

84. In the draft resolution, adopted by the General Assembly as resolution 196 (III), the text of paragraph 4 read as follows:

"In discharging its duties, the Interim Committee shall at all times take into account the responsibilities of the Security Council under the Charter for the maintenance of international peace and security... . The Interim Committee shall not consider any matter of which the Security Council is seized and which the latter has not submitted to the General Assembly;"

85. The above text was repeated in paragraph 4 of resolution 295 (IV). 79/

78/ G A (III), Ad Hoc Pol. Com., 5th mtg., p. 52, A/740.

For texts of relevant statements, see G A (III/1), Plen.; 168th mtg.:

Czechoslovakia, pp. 673 and 674; Poland, pp. 677-679; USSR, pp. 664-670;

United States, pp. 671 and 672; 169th mtg.: Yugoslavia, pp. 680 and 681.

G A (III/1), Ad Hoc Pol. Com.,; 2nd mtg.: Poland, pp. 9 and 10; Sweden, pp. 7 and

8; United Kingdom, p. 8; 3rd mtg.: Mexico, p. 26; Netherlands, p. 20; Norway,

p. 28; Ukrainian SSR, pp. 27 and 28; USSR, pp. 23 and 24; Yugoslavia, p. 21;

4th mtg.: Australia, p. 32; Belgium, p. 39; Byelorussian SSR, p. 31; France,

p. 33; Guatemala, pp. 34 and 35; Poland, pp. 37 and 38; Uruguay, pp. 38 and 39;

USSR, p. 40.

79/ For texts of relevant statements in connexion with G A resolution 295 (IV), see G A (IV), Plen.; 250th mtg.: USSR, paras. 112-114, 118 and 119.

G A (IV), Ad Hoc Pol. Com., 17th mtg.: Poland, paras. 17 and 23; 18th mtg.:

USSR, paras. 52, 53 and 56.

ANNEX

Tabulation of questions submitted to the Security Council (1946 - 1954)

A. Questions submitted by Members as disputes

<u>Question</u>	<u>Submitted by</u>	<u>Article invoked as basis for submission</u>	<u>Action taken</u>
1. Syrian and Lebanese question	Syria and Lebanon, 4 February 1946	34	Included in the agenda. S C, 1st yr., 1st Series, No. 1, 19th mtg., p. 271.
2. Iranian question (II)	Iran, 18 and 20 March 1946	35 (1)	Included in the agenda. S C, 1st yr., 1st Series, No. 2, 26th mtg., p. 27.
3. Corfu Channel question	United Kingdom, 10 January 1947	35	Included in the agenda. S C, 2nd yr., No. 6, 95th mtg., p. 117.
4. Egyptian question	Egypt, 8 July 1947	35 and 37	Included in the agenda. S C, 2nd yr., No. 59, 159th mtg., p. 1346.
5. India-Pakistan question	Pakistan, a/ 15 January 1948	35	Included in the agenda. S C, 3rd yr., Nos. 1-15, 226th mtg., p. 3.

B. Questions submitted by Members as situations

1. Iranian question (I)	Iran, 19 January 1946	35 (1)	Included in the agenda. S C, 1st yr., 1st Series, No. 1, 2nd mtg., p. 16.
2. Indonesian question (I)	Ukrainian SSR, 21 January 1946	35 (1)	Included in the agenda. S C, 1st yr., 1st Series, No. 1, 2nd mtg., p. 19.
3. Greek question	USSR, 21 January 1946	35	Included in the agenda. S C, 1st yr., 1st Series, No. 1, 2nd mtg., p. 19.

a/ See also complaint by India, dated 1 January 1948, submitted as a situation (under B, No. 9 below).

<u>Question</u>	<u>Submitted by</u>	<u>Article invoked as basis for submission</u>	<u>Action taken</u>
4. Spanish question	Poland, 8 and 9 April 1946	34 and 35	Included in the agenda. S C, 1st yr., 1st Series, No. 2, 32nd mtg., p. 122.
5. Ukrainian complaint against Greece	Ukrainian SSR, 24 August 1946	35 (1)	Included in the agenda. S C, 1st yr., 2nd Series, No. 7, 59th mtg., p. 197.
6. Presence of forces of Members of the United Nations on non-enemy territories	USSR, 29 August 1946	34 and 35	Proposal for inclusion in the agenda rejected. S C, 1st yr., 2nd Series, No. 18, 72nd mtg., p. 460.
7. Greek frontier incidents question	Greece, 3 December 1946	34 and 35 (1)	Included in the agenda. S C, 1st yr., 2nd Series, No. 24, 82nd mtg., p. 529.
8. Indonesian question (II)	India, 30 July 1947	35 (1)	Included in the agenda. S C, 2nd yr., No. 67, 171st mtg., p. 1617.
9. India-Pakistan question	India, b/ 1 January 1948	35	Included in the agenda. S C, 3rd yr., Nos. 1-15, 226th mtg., p. 3.
10. Czechoslovak question	Chile, 12 March 1948	35 (1)	Included in the agenda. S C, 3rd yr., Nos. 36-51, 268th mtg., p. 101.
11. Anglo-Iranian Oil Company case	United Kingdom, 29 September 1951	35 c/	Included in the agenda. S C, 6th yr., 559th mtg., para. 54.

b/ See under A, No. 5, above.

c/ At the 559th meeting, the representative of the United Kingdom stated that "the formal basis of the ... reference to the Council [was] ... Article 35".

<u>Question</u>	<u>Submitted by</u>	<u>Article invoked as basis for submission</u>	<u>Action taken</u>
12. Tunisian question	11 Members, 2 April 1952	35 (1)	Proposal for inclusion in the agenda rejected. S C, 7th yr., 576th mtg., para. 103.
13. Moroccan question	14 Members, 21 August 1953	35 (1)	Proposal for inclusion in the agenda rejected. S C, 8th yr., 624th mtg., para. 45.
14. Letter dated 29 May 1954 from the acting permanent representative of Thailand to the United Nations addressed to the President of the Security Council	Thailand, 29 May 1954	35 (1)	Included in the agenda. S C, 9th yr., 672nd mtg., para. 17.
15. Cablegram dated 19 June 1954 from the Minister of External Relations of Guatemala addressed to the President of the Security Council <u>d/</u>	Guatemala, 19 June 1954	34, 35 and 39	Included in the agenda. S C, 9th yr., 675th mtg., para. 1.
16. Letter dated 8 September 1954 from the representative of the United States addressed to the President of the Security Council	United States, 8 September 1954	---	Included in the agenda. S C, 9th yr., 679th mtg., para. 25.

d/ The question is included by reason of the reference to Article 35 in the cablegram. See in this Repertory, the study on Article 52, paras. 28, 32 and 36.

C. Questions submitted by States not Members as disputes

<u>Question</u>	<u>Submitted by</u>	<u>Article invoked as basis for submission</u>	<u>Action taken</u>
1. Question of relations between Siam and France	Siam, 15 July 1946	35 (2)	Not placed on the provisional agenda.
2. Hyderabad question	Hyderabad, 21 August, 12 and 13 September 1948	35 (2)	Included in the agenda. S C, 3rd yr., 357th mtg., No. 109, p. 11.
3. Tunisian question	Tunisia, 12 January 1952	35 (2)	See Section B, No. 12, above.