

Chapter VI

Relations with other United Nations organs

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Introductory note

This chapter, as in previous volumes, deals with relations of the Security Council with the other principal organs of the United Nations: the General Assembly (part I); the Economic and Social Council (part II); the International Court of Justice (part IV); and the Secretariat (part V). During the period under review, no material relating to the Trusteeship Council (part III) required treatment. This Chapter does not include any material relating to the Military Staff Committee, which had been placed in previous supplements. The functions of the Military Staff Committee in relation to the Security Council, to the extent that they are governed by Articles 45, 46 and 47 of the Charter are covered in chapter XI, part V of the present Supplement.

Part I

Relations with the General Assembly

Note

Part I concerns various aspects of the relationship between the Security Council and the General Assembly.

Section A deals with the election by the General Assembly of non-permanent members of the Council. Section B considers the practice of the General Assembly in making recommendations to the Council under Articles 10 and 11 of the Charter, and calling its attention under Article 11 (3) to situations which are likely to endanger international peace and security. Section C concerns the limitation imposed by Article 12 (1) on the authority of the General Assembly to make recommendations with respect to any dispute or situation while the Council is exercising the functions assigned to it by the Charter in respect of that dispute or situation. It also describes the procedure under Article 12 (2) by which the Secretary-General notifies the Assembly of matters relating to the maintenance of international peace and security which are being dealt with by the Council, and when the Council ceases to deal with such matters. Section D considers those instances in which a decision by the Council must be taken prior to that of the General Assembly, for example, the admission, suspension, or expulsion of members, the appointment of the Secretary-General, and the election of the judges of the International Criminal Tribunals for the former Yugoslavia and Rwanda, respectively. Section E refers to the annual and special reports submitted by the Council to the General Assembly. Section F concerns relations between the Council and certain subsidiary organs established by the General Assembly which have reported to or otherwise played a part in the work of the Council. Lastly, Section G deals with the Peacebuilding Commission, a subsidiary body, which was established by both the Council and the General Assembly.

A. Election by the General Assembly of non-permanent members of the Security Council

Article 23

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative.

Note

During the period under review, in accordance with Article 23 of the Charter, the General Assembly, at each regular session, elected five non-permanent members of the Security Council to replace those members whose terms of office were to expire on 31 December of the respective year. At the fifty-ninth, sixtieth and sixty-second sessions, the Assembly elected the five non-permanent members in the course of one plenary meeting. At the sixty-first session, the Assembly elected four non-permanent members during its 32nd plenary meeting and the fifth non-permanent member at its 49th plenary meeting. A tabulation of these elections is set out below.

<i>General Assembly session/decision no.</i>	<i>Plenary meeting and date of election</i>	<i>Members elected to two-year terms beginning January of the following year</i>
59/402	32 nd 15 October 2004	Argentina Denmark Greece Japan United Republic of Tanzania
60/403	29 th 10 October 2005	Congo Ghana Peru Qatar Slovakia
61/402	32 nd 16 October 2006	Belgium Indonesia Italy South Africa
61/402	49 th 7 November 2006	Panama
62/ 403	26 th 16 October 2007	Burkina Faso Costa Rica Croatia Libyan Arab Jamahiriya Viet Nam

B. Recommendations by the General Assembly to the Security Council in the form of resolutions under Articles 10 and 11 of the Charter

Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

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.*

Note

During the period under review, the General Assembly made a number of recommendations – in the form of resolutions – to the Security Council regarding the maintenance of international peace and security. Several of these recommendations were of a general nature, touching upon the “powers and functions” of the Council under the Charter, and/or upon “the general principles of co-operation in the maintenance of international peace and security”. As such, they may be seen to be illustrative of the recommendation-making powers of the General Assembly under Articles 10 and 11 (1) of the Charter, respectively. A tabulation of these recommendations is set out below.

In other instances, the General Assembly did not make recommendations to the Security Council with regard to specific questions relating to the maintenance of international peace and security, nor request action from the Council with regard to such questions, in accordance with Article 11 (2) of the Charter.

The General Assembly did not draw the attention of the Security Council to any situations under Article 11 (3).

Recommendations on matters relating to the Council's powers and functions, or with regard to the general principles of co-operation in the maintenance of international peace and security

<i>General Assembly resolution</i>	<i>Title of agenda item</i>	<i>Recommendation</i>
59/45 2 December 2004	Implementation of the provisions of the Charter of the United Nations related to the assistance to third States affected by the application of sanctions	Renews its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventive or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance.
59/213 20 December 2004	Cooperation between the United Nations and the African Union	Requests the United Nations system, while acknowledging its primary role in the promotion and maintenance of international peace and security, to intensify its assistance to the African Union, as appropriate, in strengthening the institutional and operational capacity of its Peace and Security Council.
61/296 17 September 2007		
59/313 12 September 2005	A strengthened and revitalized General Assembly	Decides, in the context of further strengthening the role and authority of the General Assembly as set out in the Charter of the United Nations. To invite the Security Council to submit periodically, in accordance with Article 24 of the Charter, special subject-oriented reports to the General Assembly for its consideration on issues of current international concern. To also invite the Security Council to update the General Assembly on a regular basis on the steps it has taken or is contemplating with respect to improving its reporting to the Assembly.
59/314 13 September 2005	Draft outcome document of the High-level Plenary	Encourages the Security Council to consider ways to strengthen its

	Meeting of the General Assembly of September 2005	monitoring and enforcement role in counter-terrorism, including by consolidating State reporting requirements, taking into account and respecting the different mandates of its counter-terrorism subsidiary bodies.
60/1 16 September 2005	2005 World Summit Outcome	<p>Calls upon the Security Council, with the support of the Secretary-General, to improve its monitoring of the implementation and effects of sanctions, to ensure that sanctions are implemented in an accountable manner, to review regularly the results of such monitoring and to develop a mechanism to address special economic problems arising from the application of sanctions in accordance with the Charter.</p> <p>Calls upon the Security Council, with the support of the Secretary-General, to ensure that fair and clear procedures exist for placing individuals and entities on sanctions lists and for removing them, as well as for granting humanitarian exemptions.</p> <p>Recommends that the Security Council continue to adapt its working methods so as to increase the involvement of States not members of the Council in its work, as appropriate, enhance its accountability to the membership and increase the transparency of its work.</p> <p>Requests the Security Council to consider the composition, mandate and working methods of the Military Staff Committee.</p>
60/286 8 September 2006	Revitalization of the General Assembly	<p>Urges the Presidents of the General Assembly, the Security Council and the Economic and Social Council to meet periodically to ensure increased cooperation and coordination of their work programmes in accordance with their respective responsibilities under the Charter; the President of the Assembly shall inform Member States about the outcome of those meetings on a regular basis.</p> <p>Invites the Security Council to further its initiatives to improve the quality of its annual report to the General Assembly, mandated by Article 24, paragraph 3, of</p>

the Charter, in order to provide the Assembly with a substantive and analytical report.

Invites the Security Council to update the General Assembly on a regular basis on the steps it has taken or is contemplating with respect to improving its reporting to the Assembly.

Also invites the Security Council to submit periodically, in accordance with Articles 15 and 24 of the Charter, special subject-oriented reports to the General Assembly for its consideration on issues of current international concern.

62/159
18 December 2007

Protection of human rights and fundamental freedoms while countering terrorism

Encourages the Security Council and its Counter-Terrorism Committee to strengthen the links and to continue to develop cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and other relevant special procedures and mechanisms of the Human Rights Council, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism.

C. Practice in relation to Article 12 of the Charter

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. *The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.*

Note

During the period under review, there was no discussion in the Security Council of the nature of the limitation placed by Article 12 (1) upon the authority of the General Assembly to make recommendations. Neither did the Council request that the General Assembly make a recommendation in respect of a dispute or situation in accordance with the exception provided for in Article 12 (1). The General Assembly did, however, adopt a resolution at its tenth emergency special session on “Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory”, which followed the earlier rejection by the Security Council of two draft resolutions on a parallel agenda item. Thus, in effect, the Security Council and the General Assembly considered and made decisions on the same agenda item (case 1).

In accordance with Article 12 (2), the Secretary-General continued to notify the General Assembly of “matters relative to the maintenance of international peace and security which are being dealt with by the Security Council” and of matters with which the Council has ceased to deal.¹ These notifications were based upon the “Summary statement of matters of which the Security Council is seized and of the stage reached in their consideration”, circulated each week to the members of the Security Council, in accordance with rule 11 of the provisional rules of procedure of the Council.² The items in the notifications were the same as those in the summary statements for the relevant

¹ See Notes by the Secretary-General entitled “Notification by the Secretary-General under Article 12, paragraph 2, of the Charter of the United Nations”: A/59/335 (23 September 2004); A/60/352 (13 September 2005); A/61/371 (13 September 2006); and A/62/300 (23 October 2007).

² Rule 11 reads as follows: “The Secretary-General shall communicate each week to the representatives on the Security Council a summary statement of matters of which the Security Council is seized and of the stage reached in their consideration”.

period, apart from those items not considered to be relating to the maintenance of international peace and security.

The matters being dealt with by the Security Council were divided in the notifications into two categories: (a) matters discussed during the period since the last notification; and (b) other matters of which the Council remained seized, but which it had not discussed at a formal meeting since the last notification. As a matter of practice, when the Council subsequently ceased to deal with a matter listed in a notification, the Secretary-General so informed the General Assembly through the circulation of an addendum to the relevant notification. However, no such addendum was issued during the period under review.

The consent of the Council, required by Article 12 (2), was obtained through the circulation by the Secretary-General to the members of the Council of copies of the draft notifications. The General Assembly formally took note of the various notifications.

Case 1

At the 5564th meeting of the Security Council, on 9 November 2006 in connection with the situation in the Middle East, including the Palestinian question, a permanent member of the Council exercised its negative vote on the text of a draft resolution.³ Following the Council's meeting, by a letter dated 14 November 2006 from the representative of Qatar, in which he requested, on behalf of the States members of the League of Arab States, the resumption of the tenth emergency special session;⁴ and by a letter dated 15 November 2006 from the representative of Cuba, in his capacity as the Chairman of the Coordinating Bureau of the Non-Aligned Movement, and by which he conveyed the support of the Non-Aligned Movement for the request for the resumption of the tenth emergency special session.⁵

At the Tenth Emergency Special Session of the General Assembly, on Illegal Israeli actions in occupied East Jerusalem and the rest of the Occupied Palestinian

³ S/2006/878.

⁴ A/ES-10/366.

⁵ A/ES-10/367.

Territory, convened on 17 November 2006 under the “uniting for peace” formula,⁶ several speakers regretted the failure of the Security Council to uphold its responsibilities due to the negative vote by a permanent member of the Council.⁷ The representative of Cuba, speaking on behalf of the Non-Aligned Movement, stated that by convening the meeting, the General Assembly was playing the role and exercising the authority inherent to it with regard to the issues relating to the maintenance of international peace and security, as set out in Articles 10, 11, 12, 13, 14 and 35 of the Charter of the United Nations.⁸ At the end of the session, the General Assembly adopted resolution A/RES/ES-10/16, which was similar in substance to the draft resolution vetoed in the Security Council, with identical provisions in several paragraphs.

D. Practice in relation to provisions of the Charter involving recommendations by the Security Council to the General Assembly

Note

On a number of matters, the Charter of the United Nations provides for joint decision-making by the Security Council and the General Assembly, but requires the decision by the Council to be taken first. This is the case, for instance, with respect to the admission, suspension, or expulsion of members (Articles 4, 5 and 6), the appointment of the Secretary-General (Article 97), and the conditions under which a State that is not a United Nations member may become a party to the Statute of the International Court of Justice (Article 93 (2)).⁹ In addition, the Statutes of the Tribunals¹⁰ established for

⁶ A/ES-10/PV.28.

⁷ *Ibid.*, pp. 2-6 (The Permanent Observer of Palestine); pp. 11-12 (Cuba, speaking on behalf of the Non-Aligned Movement); pp. 13-14 (Indonesia); pp. 16-17 (Malaysia); and pp. 19-21 (Pakistan). A/ES-10/PV.29, pp. 3-4 (Egypt); and p. 8 (Zimbabwe);

⁸ A/ES-10/PV.28., p. 11.

⁹ The Statute of the International Court of Justice provides for the Security Council to make recommendations to the General Assembly regarding the conditions under which a State, which is a party to the Statute but is not a Member of the United Nations, may participate in electing members of the Court, and in making amendments to the Statute (Articles 4 (3) and 69 of the Statute).

¹⁰ The official titles of the two Tribunals are as follows: (1) International Criminal Tribunal for the

Rwanda and the former Yugoslavia provide for the Security Council to submit a list of candidates to the General Assembly, from which the Assembly would elect the judges of the Tribunals (Article 12 of the Statute of the International Criminal Tribunal for the former Yugoslavia; Article 13 of the Statute of the International Criminal Tribunal for Rwanda).¹¹

This section considers briefly the Council's practice during the period under review in relation to the admission of members, the appointment of the Secretary-General, and the election of the judges of the International Criminal Tribunal for the former Yugoslavia and of the International Criminal Tribunal for Rwanda. No question arose concerning the conditions of accession to the Statute of the International Court of Justice.

1. Membership in the United Nations

The admission of a State to membership in the United Nations, and the suspension or expulsion of a Member State from the Organization, is effected by "the General Assembly upon the recommendation of the Security Council" (Articles 4 (2), 5 and 6 of the Charter). In accordance with rule 60 of its Provisional Rules of Procedure, the Council submits to the General Assembly, within specified time limits, its recommendations concerning each application for membership together with a record of its discussions of the application.

During the period under review, the Council recommended the admission of one

prosecution of persons responsible for genocide and other serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994; and (2) International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the former Yugoslavia since 1991.

¹¹ The procedure for the election of judges of the two Tribunals is set out in Article 13(2), (3) and (4) of the Statute of the International Tribunal for the former Yugoslavia and Article 12(2), (3), (4) and (5) of the Statute of the International Tribunal for Rwanda. In each case, in accordance with the Statute, the Secretary-General forwards to the President of the Security Council the nominations received. The Security Council then convenes a meeting, in accordance with the understanding reached in its prior consultations, and adopts a resolution establishing the list of candidates for judges. Subsequently, the President of the Security Council formally transmits, via letter, the text of the resolution to the President of the General Assembly. The Assembly then proceeds to elect the judges from the list contained in that resolution.

State to membership in the United Nations.¹² It made no negative recommendations which would have required submission of a special report to the General Assembly. The Council did not discuss or recommend the suspension or expulsion of any Member.

2. Appointment of the Secretary-General

Article 97

“The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.”

Rule 48

“...Any recommendation to the General Assembly regarding the appointment of the Secretary-General shall be discussed and decided at a private meeting.”

In accordance with rule 48 of the Provisional Rules of Procedure, the meetings of the Security Council to consider the question of a recommendation to the General Assembly regarding the appointment of the Secretary-General were held in private, and the Council voted by secret ballot. A communiqué circulated at the end of each meeting, in accordance with rule 55, indicated the stage reached in the consideration of the recommendation. During the period under review, the Council considered and unanimously adopted a recommendation of this nature (Case 2).

Case 2

At its 5547th meeting, held in private on 9 October 2006, the Security Council considered the question of the recommendation for the appointment of the Secretary-General of the United Nations. Resolution 1715 (2006), recommending that Mr. Ban Ki

¹² The Republic of Montenegro (A/60/902 and Resolution 1691 of 22 June 2006).

Moon be appointed Secretary-General of the United-Nations for a term of office from 1 January 2007 to 31 December 2011, was adopted by acclamation.¹³ The nomination took place several months before the expiration of the term in office of Secretary-General, Mr. Kofi Annan. By a letter dated 9 October 2006 addressed to the President of the General Assembly,¹⁴ the President of the Security Council transmitted the recommendation to the President of the General Assembly.¹⁵

3. Election of the judges of the International Criminal Tribunal for the former Yugoslavia and of the International Criminal Tribunal for Rwanda

Note

The procedure for the election of judges of the two Tribunals is set out in Articles 13 (2), (3) and (4) of the Statute of the International Criminal Tribunal for the former Yugoslavia and Articles 12 (2), (3), (4) and (5) of the Statute of the International Criminal Tribunal for Rwanda.¹⁶

In each case, in accordance with the Statute, the Secretary-General forwarded to the President of the Security Council the nominations received. The Security Council then convened a meeting, in accordance with the understanding reached in its prior consultations, and adopted a resolution establishing the list of candidates for judges. Subsequently, the President of the Security Council formally transmitted, via letter, the text of the resolution to the President of the General Assembly. The Assembly then proceeded to elect the judges from the list contained in that resolution (Cases 3 and 4).

¹³ Resolution 1715 (2006) was adopted by the Security Council at its 5547th (closed) meeting, on 9 October 2006. This was the fourth time a resolution regarding the appointment of the Secretary-General had been adopted by acclamation in the Security Council. For previous instances, see the fourteenth supplement.

¹⁴ A/61/501.

¹⁵ At its 31st plenary meeting, held on 31 October 2006, the General Assembly adopted resolution 61/3, by which it appointed Mr. Ban Ki Moon for a term of office.

¹⁶ For the text of the Statute of the International Tribunal for the former Yugoslavia, see S/25704, annex, which was adopted in Council resolution 827 (1993) of 25 May 1993. For the text of the Statute of the International Tribunal for Rwanda, see Council resolution 955 (1994) of 8 November 1994, annex.

Case 3

International Criminal Tribunal for the former Yugoslavia

At its 5057th meeting, on 14 October 2004, the Security Council adopted resolution 1567 (2004) whereby, in accordance with Article 13 bis, subparagraph 1 (d) of the Statute of the International Tribunal, established a list of 22 candidates, taking due account of the adequate representation of the principal legal systems of the world, from which the General Assembly could elect the eleven judges of the Tribunal. The list was formally conveyed to the President of the General Assembly by a letter dated 14 October 2004 from the President of the Security Council. By a letter of the same date,¹⁷ the President of the Security Council transmitted to the President of the General Assembly the text of resolution 1567 (2004). During the fifty-ninth session, at the 57th plenary meeting on 18 November 2004, in accordance with Article 13 (2) (d) of the Statute, the General Assembly elected fourteen judges for the Tribunal, that is, those candidates who received the absolute majority of the votes of States Members of the United Nations and of the non-member States maintaining permanent missions at United Nations Headquarters. In accordance with Article 13 (4) of the Statute, the judges were elected for a term of four years, beginning on 17 November 2005.

Case 4

International Criminal Tribunal for Rwanda

With the mandate of 11 permanent judges of the International Criminal Tribunal for Rwanda set to expire in May 2007, but with trials expected to continue well beyond that time, by identical letters dated 3 May 2006 addressed to the Presidents of both the General Assembly and the Security Council,¹⁸ the Secretary-General transmitted a letter

¹⁷A/59/437.

¹⁸A/60/878-S/2006/349

from Tribunal President Erik Møse requesting the extension of the term of office for those officials until the end of 2008, the expected deadline for the completion of all the Tribunal's proceedings. The letter noted that all "single-accused" trials in progress were due to be completed between May 2006 and May 2007. New trials would commence as soon as judges and courtroom space became available and would continue well beyond May 2007. However, the Statute of the Tribunal for Rwanda did not provide for extending the term of office of the permanent judges. In the absence of such a provision, the approval of the Security Council would be needed in order to extend the term of office of eleven permanent judges until 31 December 2008.

In response to the request by the Secretary-General and notwithstanding the provisions of Article 12 (bis) paragraph 1 (b) of the Statute of the International Tribunal for Rwanda, by resolution 1684 (2006) of 13 June 2006, the Security Council decided to extend the term of office of eleven permanent judges of the Tribunal until 31 December 2008.¹⁹ By a letter of the same date,²⁰ the President of the Security Council transmitted to the President of the General Assembly the text of resolution 1684 (2006).

E. Reports of the Security Council to the General Assembly

Article 24, paragraph 3

The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 15, paragraph 1

The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account

¹⁹ Resolution 1684 (2006), para.1.

²⁰ A/60/906-S/2006/437.

of the measures that the Security Council has decided upon or taken to maintain international peace and security.

Note

In accordance with Article 24 (3) of the Charter, the Security Council continued to submit annual reports to the General Assembly.²¹ Following an explanatory statement by the Secretariat, each report was adopted, without a vote, at a meeting of the Council.

At its 5769th meeting, on 25 October 2007, the Council adopted its draft annual report to the General Assembly for the period from 1 August 2006 to 31 July 2007. Prior to the adoption of the annual report, the representatives of Slovakia and China made a statement. The representative of Slovakia expressed the view that the Council needed to go further and concentrate more on the substance of the report and on key political messages about the important work of the Security Council.²² With regard to the question of how to further enhance the quality of the annual report in the future, the representative of China shared the views of the representative of Slovakia, and thought that this question should be one element for consideration during the preparation of next year's report of the Council. He noted that taking into account past practice and the actual work of each year, and drawing upon the Council's collective wisdom, the Council should be able to find a way to improve its work on the report.²³

During the period under review, a few communications made explicit references to Article 24 (3), in dealing with the issue of annual and special reports of the Security Council to the General Assembly.²⁴

²¹ Annual reports were adopted by the Security Council at the following public meetings: 59th report (covering the period 1 August 2003 to 31 July 2004), adopted at the 5044th meeting held on 28 September 2004; 60th report (covering the period 1 August 2004 to 31 July 2005), adopted at the 5262nd meeting held on 19 September 2005; 61st report (covering the period 1 August 2005 to 31 July 2006), adopted at the 5578th meeting held on 6 December 2006; 62nd report (covering the period 1 August 2006 to 31 July 2007), adopted at the 5769th meeting held on 25 October 2007; 63rd report (covering the period 1 August 2007 to 31 July 2008), adopted at the 6007th meeting held on 30 October 2008.

²² S/PV.5769, p. 2.

²³ Ibid., p. 3.

²⁴ See letter dated 1 August 2006 addressed to the Secretary-General from the representative of Malaysia (S/2006/718, p. 24); and letter dated 19 September 2006 addressed to the Secretary-General from the representative of Cuba (S/2006/780, pp. 29-30).

During the period covered by this Supplement, the Council did not submit any special reports to the General Assembly – under, for example, rule 60 (3) of the Council’s Provisional Rules of Procedure.²⁵

F. Relations with subsidiary organs established by the General Assembly

Note

Certain subsidiary organs established by the General Assembly have played a part in the work of the Security Council, either because they have been placed in a special relationship to the Council by resolution of the General Assembly, or because the Council has made use of their services or invited their officers to participate in its meetings.

During the period under review, there was no constitutional discussion bearing on the relations between such subsidiary organs and the Security Council. Those subsidiary organs still active included the following: Open-ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council; the Special Committee on Peacekeeping Operations; and the Committee on the Exercise of the Inalienable Rights of the Palestinian People.²⁶

All of these organs submitted reports and recommendations to the Security Council and/or the General Assembly. The tabulation at the end of this section gives an account of communications from the Committee on the Exercise of the Inalienable Rights of the Palestinian People to the Council.

During the period under consideration, no decision adopted by the Security Council contained references to the “Open-Ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and

²⁵ The rule provides that if the Security Council does not recommend an applicant State for membership or postpones the consideration of the application, it “shall submit a special report to the General Assembly with a complete record of the discussion”.

²⁶ The Committee on the Exercise of the Inalienable Rights of the Palestinian People is a subsidiary organ of the General Assembly.

Other Matters Related to the Security Council” or the “Committee on the Exercise of the Inalienable Rights of the Palestinian People”. However, references were made to the “Special Committee on Peacekeeping Operations” in four decisions of the Council (Case 5).

On several occasions, during the period under review, invitations to attend Security Council meetings were addressed to the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People (see table below).²⁷ All invitations were extended as a matter of course and without any discussion. The letters of request were read into the record of the meeting by the President of the Security Council and were generally not issued as official documents. During the period under consideration, the President of the Security Council attended meetings of two subsidiary organs of the General Assembly (Case 6).

Invitee	Agenda Item	Meeting	Date
Committee on the Exercise of the Inalienable Rights of the Palestinian People (Chairman/Acting Chairman)	The situation in the Middle East, including the Palestinian question	4929	23 March 2004
		4945	19 April 2004
		5049	4 October 2004
		5230	21 July 2005
		5230 (Resumption 1)	21 July 2005
		5404	30 March 2006
		5411	17 April 2006
		5481	30 June 2006
		5493	21 July 2006
		5493 (Resumption 1)	21 July 2006
		5564	9 November 2006
		5564 (Resumption 1)	9 November 2006
		5629 (Resumption 1)	13 February 2007

²⁷ The participation of the representatives of these organs in meetings of the Security Council is also detailed in Chapter 3 of the present Supplement.

Case 5

In a presidential statement dated 31 May 2005 in connection with the agenda item entitled “United Nations peacekeeping operations”,²⁸ and a presidential statement dated 27 October 2005 in connection with the agenda item entitled “Women and peace and security”,²⁹ the Council welcomed the comprehensive report on sexual exploitation and abuse by United Nations Peacekeeping Personnel (A/59/710), prepared by the Secretary-General’s Adviser on this issue and welcomed the report of the resumed session of the Special Committee on Peacekeeping (A/59/19/Add.1). It also urged the Secretary-General and troop-contributing countries to ensure that the recommendations of the Special Committee, which fell within their respective responsibilities, were implemented without delay.

By a presidential statement dated 26 October 2006 in connection with the agenda item entitled “Women and peace and security”, while reiterating its condemnation of all acts of sexual misconduct by all categories of personnel in United Nations Peacekeeping Missions, the Council urged the Secretary-General and troop-contributing countries to ensure the full implementation of the recommendations of the Special Committee on Peacekeeping Operations (A/60/19).³⁰

By resolution 1674 (2006) of 28 April 2006, in connection with the agenda item entitled “Protection of civilians in armed conflict”, the Security Council, while condemning all acts of sexual exploitation, abuse and trafficking of women and children by military, police and civilian personnel involved in United Nations operations and welcoming the efforts undertaken by United Nations agencies and peacekeeping operations to implement a zero-tolerance policy, requested the Secretary-General and personnel-contributing countries to continue to take all appropriate action necessary to combat those abuses by such personnel, including through the full implementation without delay of those measures adopted in the relevant General Assembly resolutions

²⁸ S/PRST/2005/21.

²⁹ S/PRST/2005/52.

³⁰ S/PRST/2006/42.

based upon the recommendations of the report of the Special Committee on Peacekeeping Operations. (A/59/19/Rev.1).³¹

Case 6

During the period under consideration, the President of the Security Council attended the meetings of two subsidiary organs of the General Assembly.

By a letter dated 9 August 2004 addressed to the President of the Security Council,³² the representative of Pakistan attached the assessment of its presidency during the month of May 2004. In the annex, the report noted that at the invitation of the President of the General Assembly, on 14 May, the President of the Council and three Council members (Brazil, France and Romania) participated in an interactive session of the Open-ended Working Group of the General Assembly on matters relating to Security Council reform.

On 29 November 2004, the President of the Security Council made a statement at a meeting of the Committee on the Exercise of Inalienable Rights of the Palestinian People, in observance of the International Day of Solidarity with the Palestinian People.³³ Conversely, the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People participated in several meetings of the Council³⁴.

³¹ Resolution 1674 (2006), para. 20.

³² S/2004/614.

³³ A/AC.183/PV.283. During the period under review, each year, the President of the Council participated in meetings of the Committee commemorating the International Day of Solidarity with the Palestinian People (A/AC.183/PV.290; A/AC.183/PV.298; A/AC.183/PV.306).

³⁴ The participation of the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People is detailed in Chapter 3 of the Supplement.

**Communications from subsidiary organs established by the General Assembly
Communications from the Committee on the Exercise of the Inalienable Rights of the
Palestinian People**

<i>Document Symbol</i>	<i>Date</i>	<i>Subject</i>
S/2004/203	12 March 2004	Letter dated 12 March 2004 from the Chairman, reiterating the Committee's objection to the deletion from the list of items of which the Security Council is seized of matters relating to the exercise of the inalienable rights of the Palestinian people, the question of Palestine and the situation in the Middle East.
S/2005/178	15 March 2005	Letter dated 15 March 2005 from the Chairman, reiterating the Committee's objection to the deletion from the list of items of which the Security Council is seized of matters relating to the exercise of the inalienable rights of the Palestinian people, the question of Palestine and the situation in the Middle East.
S/2005/262	20 April 2005	Letter dated 20 April 2005 from the Chairman expressing the Committee's concern at Israel's recent activities aimed at expanding its settlements in the Occupied Palestinian Territory.
S/2005/556	30 August 2005	Letter dated 30 August 2005 from the Chairman, expressing the Committee's concern at the decisions by the Israeli Government to expand and consolidate its settlements in the West Bank.
S/2006/208	30 March 2006	Letter dated 30 March 2006 from the Chairman reiterating the Committee's objection to the deletion from the list of items of which the Security Council is seized of matters relating to the exercise of the inalienable rights of the Palestinian people, the question of Palestine and the situation in the Middle East.
S/2007/305	22 May 2007	Letter dated 22 May 2007 from the Chairman reiterating the Committee's objection to the deletion from the list of items of which the Security Council is seized of matters relating to the exercise of the inalienable rights of the Palestinian people, the question of Palestine and the situation in the Middle East.

G. The Peacebuilding Commission

Note

During the period under review, in accordance with Articles 7, 22 and 29 of the Charter, the Peacebuilding Commission was established as a subsidiary body of the Security Council and the General Assembly, by resolutions concurrently adopted by both the organs on 20 December 2005.³⁵ The main purpose of the Peacebuilding Commission was to bring together all relevant actors to marshal resources and to advise on and propose integrated strategies for post-conflict peacebuilding and recovery.

The section below captures the decisions and deliberations of the Council that reflect on the Council's relations with the General Assembly and the Economic and Social Council within the context of the Peacebuilding Commission.

1. Decisions of the Council relating to the Peacebuilding Commission

By resolution 1645 (2006), reaffirming the respective responsibilities and functions of the organs of the United Nations as defined in the Charter and the need to enhance coordination among them, and acting concurrently with the General Assembly, the Security Council established the Peacebuilding Commission as an intergovernmental advisory body.³⁶ By the same resolution, the Council decided that the Commission would have a standing Organizational Committee, responsible for developing its own rules of procedure and working methods, comprising of, inter alia: (a) seven members of the Security Council, including permanent members, selected according to rules and procedures decided by the Council; (b) seven members of the Economic and Social Council, elected from regional groups according to rules and procedures decided by the Council; and (c) seven additional members elected according to rules and procedures

³⁵ Resolution 1645 (2006), para. 1 and A/RES/60/180, para.1, respectively.

³⁶ Resolution 1645 (2006), eight preambular para.

decided by the General Assembly.³⁷ The members of the Organizational Committee were to serve for renewable terms of two years. It further decided that the Organizational Committee would decide the agenda of the Commission based on requests for advice from the Security Council, the Secretary-General, and from the Economic and Social Council or the General Assembly with the consent of the concerned Member State on the verge of lapsing or relapsing into conflict and with which the Council was not seized in accordance with Article 12 of the Charter.³⁸ The Council underlined that the advice of the Commission to provide sustained attention as countries moved from transitional recovery towards development would be of particular relevance to the Economic and Social Council, bearing in mind its role as a principal body for issues of economic and social development.³⁹ Furthermore, in paragraph 15 of the resolution, the Council took note that the Commission would submit an annual report to the General Assembly and that the General Assembly would hold a debate to review the report.

By resolution 1646 (2005) of 20 December 2005, the Security Council decided that, pursuant to paragraph 4 (a) of resolution 1645 (2005), the Council's permanent members would be members of the Organizational Committee of the Peacebuilding Commission and that the Council would select annually two of its elected members to participate in that Committee.⁴⁰ Furthermore, it decided that the report mentioned in paragraph 15 of resolution 1645 (2005), should also be submitted to the Security Council for an annual debate.⁴¹

In a statement of the President dated 8 January 2007, the Security Council emphasized the importance of post-conflict peacebuilding to assist countries emerging from conflict in laying the foundation for sustainable peace and development and, in that context, welcomed the establishment of the Peacebuilding Commission which should play an important role to achieve the objective of improving United Nations capacity to coordinate with regional organizations, countries in the relevant regions, donors, troop

³⁷ Ibid., para. 4.

³⁸ Ibid., para. 12.

³⁹ Ibid., para. 17.

⁴⁰ Resolution 1646 (2005), para. 1.

⁴¹ Ibid., para. 2.

contributors and recipient countries and to perform peacebuilding activities, in particular from the start of peacekeeping operations through stabilization, reconstruction and development. The Council appreciated the progress made thus far in the initial work of the Commission on Burundi and Sierra Leone.⁴²

In several other instances relating to countries emerging from conflict, such as Burundi, Sierra Leone and Guinea-Bissau, the Council in its decisions welcomed the role of the Peacebuilding Commission,⁴³ encouraged the concerned government to continue its close engagement with the Peacebuilding Commission,⁴⁴ and took note of a request by a concerned government for its country to be placed on the agenda of the Peacebuilding Commission.⁴⁵

In other instances during its thematic debates, the Council specifically referred to the role of the Peacebuilding Commission in post-conflict countries, and underlined the importance of the Peacebuilding Commission to assist countries emerging from conflict.

⁴² S/PRST/2007/1.

⁴³ In connection with the situation in Burundi: By a statement of the President dated 30 May 2007, the Council welcomed the briefing by the Chair of the Organizational Committee of the Peacebuilding Commission on its activities relating to Burundi and, in that context, encouraged the Government of Burundi and BINUB to work closely with all stakeholders in order to devise a sound strategic framework to foster the commitment of the Government and all its partners to the priorities for consolidating peace in Burundi (S/PRST/2007/16). By resolution 1791 (2007) of 19 December 2007, the Security Council took note of the briefing of the Chairman of the Burundi configuration of the Peacebuilding Commission on 6 December 2007, welcomed the Peacebuilding Commission's close engagement on Burundi, including the finalization with the Burundian Government of the Strategic Framework for Peacebuilding and the adoption of the Monitoring and Tracking Mechanism, and looked forward to its implementation in the same spirit of partnership (sixth preambular para.).

⁴⁴ In connection with the situation in Sierra Leone: Taking note of the country-specific meetings of the Peacebuilding Commission held on 12 October and 13 December 2006, at which the Commission discussed four priority areas for peacebuilding efforts in Sierra Leone, by resolution 1734 (2006) of 22 December 2006, the Security Council encouraged the Government to continue its close engagement with the Peacebuilding Commission and international donors to continue to provide support to the Government. (seventh preambular para. and para.6). Emphasizing that the Government of Sierra Leone bore the primary responsibility for peacebuilding, security and long-term development in the country, by resolution 1793 (2007) of 31 December 2007, the Security Council encouraged the Government of Sierra Leone to continue its close engagement with the Peacebuilding Commission, including through the regular monitoring of progress in the implementation of the Sierra Leone Peacebuilding Cooperation Framework, and international donors to continue to provide support to the Government (para. 6).

⁴⁵ In connection with the situation in Guinea-Bissau: By a statement of the President dated 24 October 2007, the Council took note of the letter from the Prime Minister of Guinea-Bissau requesting his country be placed on the agenda of the Peacebuilding Commission and expressed its intent to consider the request as a matter of priority (S/PRST/2007/38).

The Security Council emphasized the important role that the Peacebuilding Commission could play in ensuring continuous international support to countries emerging from conflict. For example, in connection with the situation in the Great Lakes region, by resolution 1653 (2006) of 27 January 2006, the Security Council welcomed the establishment of the Peacebuilding Commission and underlined its potential importance to the work of the Security Council in that region.⁴⁶ In the following agenda items of the Council entitled: Strengthening international law: rule of law and maintenance of international peace and security⁴⁷; Peace consolidation in West Africa⁴⁸; Threats to international peace and security⁴⁹; Maintenance of international peace and security: role of the Security Council in supporting security sector reform⁵⁰; Cooperation between the United Nations and regional organizations in maintaining international peace and security⁵¹; Women and peace and security⁵²; The role of regional and subregional

⁴⁶ Resolution 1653 (2006), para.18.

⁴⁷ By a statement of the President dated 22 June 2006, the Council attached vital importance to promoting justice and the rule of law, including respect for human rights, as an indispensable element for lasting peace. In that regard, the Council considered enhancement of the rule of law activities as crucial in the peacebuilding strategies in post-conflict societies and emphasized the role of the Peacebuilding Commission (S/PRST/2006/28).

⁴⁸ By a statement of the President dated 9 August 2006, the Council underscored the importance and the role of the Peacebuilding Commission in assisting countries emerging from conflict to achieve sustainable peace and stability (S/PRST/2006/38).

⁴⁹ By a statement of the President dated 8 January 2007, the Council emphasized the importance of post-conflict peacebuilding to assist countries emerging from conflict in laying the foundation for sustainable peace and development. In that context, it welcomed the establishment of the Peacebuilding Commission that would play an important role to achieve the objective of improving United Nations capacity to coordinate with regional organizations, countries in the relevant regions, donors, troop contributors and recipient countries. Furthermore, the Council underlined the importance of close interaction between the two bodies and emphasized that it would regularly address the work of the Commission in its own discussions and would take into account the advice of the Peacebuilding Commission (S/PRST/2007/1).

⁵⁰ By a statement of the President dated 21 February 2007, the Council took note of the work already carried out by the Peacebuilding Commission concerning Burundi and Sierra Leone, and requested it to continue advising the Council on the issue of security sector reform in the framework of its activities related to these countries. Furthermore, the Security Council requested the Peacebuilding Commission to include consideration of security sector reform programmes in designing integrated peacebuilding strategies for its continued engagement with those countries, with a view to developing best practices regarding comprehensive, coherent, and nationally-owned security sector reform programmes (S/PRST/2007/3).

⁵¹ By a statement of the President dated 20 September 2006, the Council welcomed the intent of many regional and subregional organizations to be closely associated with the work of the Peacebuilding Commission and committed to facilitating their participation, as relevant, in the country-specific activities of the Commission (S/PRST/2006/39).

⁵² By a statement of the President dated 26 October 2006, the Council welcomed the role that the Peacebuilding Commission could play in mainstreaming gender perspectives into the peace consolidation process. In that context, the Council welcomed in particular the Chairman's summaries at its country-specific meetings on Sierra Leone and Burundi on 12 and 13 October 2006 (S/PRST/2006/42).

organizations in the maintenance of international peace and security⁵³; and Maintenance of international peace and security⁵⁴, the Council specifically referred to the role of the Peacebuilding Commission.

2. Discussion arising in connection with the Peacebuilding Commission

During the period under review, the Council met twice to discuss the agenda item entitled “Post-conflict Peacebuilding”. Several issues, notably, the composition and importance of effective interaction between the Peacebuilding Commission, the Security Council and other United Nations organs were stressed during the debates of the Council.

A. Questions regarding the composition of the Peacebuilding Commission

At its 5335th meeting, on 20 December 2005, speaking after the adoption of resolutions 1645 (2005) and 1646 (2005), the representative of Brazil stated that he firmly supported the Commission’s establishment to fill the institutional gap between action to keep peace and the activities required to consolidate and sustain peace. He further stated that his delegation had voted in favor of resolution 1645 (2006), in support of the aspirations of developing countries in post-conflict situations which would benefit from greater coordination and from the availability of resources in peacebuilding activities. He recognized that in accordance with the Charter, the primary responsibility for questions pertaining to international peace and security rested with the Security Council. However, he emphasized that when peacebuilding activities came into play, a greater role for the Economic and Social Council should have been provided for in the resolution, especially given the efforts towards a reformed and active Economic and Social Council. Furthermore, he noted that the new Commission should have been able to determine its own agenda and provide advice to any organ of the Organization, and it

⁵³ By a statement of the President dated 6 November 2007, the Council recognized the Peacebuilding Commission, in its area of competence, as a forum for coordination in the area of post-conflict between the United Nations system and regional and subregional organizations, in accordance with its resolution 1645 (2005) and General Assembly resolution 60/180 (S/PRST/2007/42).

⁵⁴ By a statement of the President dated 25 June 2007, the Council acknowledged the crucial role that the Peacebuilding Commission, together with other United Nations and non-United Nations actors, could play, in post-conflict situations, in assisting governments, upon their request, in ensuring that natural resources become an engine for sustainable development. (S/PRST/2007/22).

should not operate as a subsidiary body of the Security Council. He further stated that paragraph 4 of the resolution was aimed at correcting geographical imbalances, but the composition should be subjected to a rotation and no permanent membership should be established.⁵⁵ Supported by the representatives of Argentina and Algeria, the representative of Brazil objected to the inclusion of Council members in the composition of the Peacebuilding Commission and stated that his delegation had abstained in the voting of resolution 1646 (2005), because it departed from principles agreed upon concurrently by the General Assembly and the Security Council in resolution 1645 (2005) on the establishment of the Peacebuilding Commission.⁵⁶ The representative of Argentina echoed that his delegation could not support the inclusion of members of the Security Council in the composition of the Peacebuilding Commission.⁵⁷ The representative of Algeria noted that resolution 1646 (2005) was hardly in line with resolution 1645 (2006), especially as regards the representation of members of the Security Council in the Peacebuilding Commission.⁵⁸

B. Importance of an effective interaction between the Peacebuilding Commission, Security Council and other United Nations organs

At the 5627th meeting of the Council, on 31 January 2007, the President of the Economic and Social Council emphasized that there was a strong correlation between low levels of development and violent conflict. Therefore more focused efforts should be made to advance and oversee the implementation of mutually agreed goals, including the Millennium Development Goals, and that ECOSOC was ready to assist the Peacebuilding Commission in ensuring this. Furthermore, he indicated that there were many perspectives that ECOSOC could share with the Peacebuilding Commission. In this regard, he stated that through increased interaction and readiness to share relevant experience, ECOSOC could contribute to strengthening the value added by the Peacebuilding Commission. In that respect, the Economic and Social Council was ready

⁵⁵ S/PV.5335, p. 2.

⁵⁶ Ibid., p. 2 (Brazil), p. 3 (Argentina); and p. 3 (Algeria).

⁵⁷ Ibid., p. 3.

⁵⁸ Ibid., p. 3.

to share its lessons learned, especially given that the pioneering work of the Council's ad hoc advisory groups on countries emerging from conflict was, in a way, a forerunner to the Peacebuilding Commission.⁵⁹

The Chairman of the Peacebuilding Commission underlined that the Commission was the Council's body, and it would perform only in accordance with the means that the Council and the international community put at its disposal in order to meet the high expectations of the populations of countries emerging from conflict.⁶⁰

The Assistant Secretary-General of the Peacebuilding Support Office emphasized that the links between the Commission and the Security Council, the General Assembly and the Economic and Social Council were critical in order to address the critical and fragile period in the life of a country ravaged by conflict. In that context, the Peacebuilding Commission could fulfil its mandate to advise on and propose integrated strategies for peacebuilding and to identify critical elements of peacebuilding in the countries under its consideration, bringing them together under an integrated strategic approach.⁶¹

The representative of Ghana stated that, indeed, the Peacebuilding Commission offered a unique opportunity to test the efficacy of the growing preference for an integrated approach to United Nations missions and, probably, to point the way towards improved foreign aid management.⁶²

A few speakers highlighted the importance of effective interaction between the Peacebuilding Commission, the Security Council, and other organs of the United Nations. The representative of France emphasized that it was vital that flexible and effective interaction between the Commission and the Security Council be developed in practice. He hoped that the Council would regularly consider the work of the Peacebuilding Commission, and that the General Assembly and the Economic and Social Council would devote particular attention to the new body's work, as provided for in the resolutions that established the Commission. He stated that by making it possible to identify goals and priorities shared by all actors and to coordinate their activities in accordance with a

⁵⁹ S/PV.5627, pp. 3-4.

⁶⁰ Ibid., pp. 4-5.

⁶¹ Ibid., pp. 5-6.

⁶² Ibid., p. 25.

timetable for intervention that was robust but adapted to immediate priorities, the Peacebuilding Commission could become an essential instrument for setting countries emerging from crisis firmly on the path to peace and sustainable development.⁶³ The representative of China noted that the coordination among the General Assembly, the Security Council and the Economic and Social Council, according to their respective mandates, played an important role in peacebuilding. He stated that the relationship between them should be complementary rather than competitive and should enable them to capitalize on their respective comparative advantages.⁶⁴

At the same meeting, several delegations⁶⁵ supported the idea of arranging regular meetings between the Peacebuilding Commission Chairmen and the Presidents of the Council and other relevant organs. The representative of France said that, as the Peacebuilding Commission began to meet more regularly, the Council should seek to fully integrate in its work the results of the new body's efforts. He noted that the Council ought to be able to share in the added value that the Peacebuilding Commission should bring to its collective effort to promote peace and security.⁶⁶ The representative of the Russian Federation underlined that particular attention had to be given to enhancing cooperation between the Commission and the Security Council, and stressed that it was important to establish a timely exchange of information and show a clear division of labour.⁶⁷ After receiving reports from the Peacebuilding Commission, the representative of Japan suggested that the Council consider issuing its reaction in the form of a presidential statement or another form of statement to encourage further interaction in the process of formulating and implementing an integrated strategy.⁶⁸ The representative of the United Kingdom considered that the Council could establish an effective working relationship with the Peacebuilding Commission in three key areas, i.e. the Council could seek the Peacebuilding Commission's advice before a mandate renewal or the establishment of a new peacekeeping operation; the Council could receive such advice and act on it appropriately; and the Peacebuilding Commission could provide early

⁶³ Ibid., pp. 14-15.

⁶⁴ Ibid., p. 28.

⁶⁵ Ibid., p. 15 (France); p. 16 (Belgium); p. 31 (Germany); and S/PV.5627 (Resumption 1), and pp. 4-5 (Japan).

⁶⁶ S/PV.5627., p.15.

⁶⁷ Ibid., p.29.

⁶⁸ S/PV.5627 (Resumption 1), p. 5

warning of impending conflict or relapse.⁶⁹ The representative of Slovakia noted that this was an important and timely opportunity to explore ways and mechanisms for interaction between the Council and the Peacebuilding Commission in order to strengthen the synergy of efforts aimed at helping post-conflict countries to manage the difficult transition from war to peace. He shared the view that the Peacebuilding Commission should be used as a source of advice on peacebuilding strategies and mandates.⁷⁰

At its 5761st meeting, on 17 October 2007, the Council met to discuss the first report of the Peacebuilding Commission on its first session.⁷¹ As regards the development of working methods, the Chairman referred to the provisions of the Security Council and General Assembly resolutions dealing with the Peacebuilding Commission's rules of procedure. He noted that the Commission recognized the need to continue to develop its Provisional Rules of Procedures in light of the evolving practical work of the Commission. On its operational relationships with other bodies, he noted that the Commission still had to identify how best to engage with the Security Council, the General Assembly and the Economic and Social Council, and the most appropriate mechanisms for providing advice and follow up. As such, further consideration should be given as to how the Commission could enhance its cooperation with various other United Nations intergovernmental bodies. In that regard, periodic interaction between the Commission and the General Assembly, the Security Council and the Economic and Social Council would be useful. Such strengthened relations would also contribute to enhancing the visibility of the Commission's work and improving coordination among the bodies.⁷²

⁶⁹ S/PV.5627., pp. 21-23.

⁷⁰ Ibid., pp. 20 -21.

⁷¹ A/62/137-S/2007/458.

⁷² Ibid., paras. 42 and 48.

Part II

Relations with the Economic and Social Council

Practice in relation to Article 65 of the Charter

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Note

This part concerns the relationship between the Security Council and the Economic and Social Council (ECOSOC). Section A considers decisions of the Council which contain reference to either Article 65 of the United Nations Charter or ECOSOC. Section B considers deliberations (Cases 7-14) of the Council during the course of which the importance of closer ties between the two organs was stressed, particularly in the context of post-conflict peacebuilding.

A. Requests or references to the Economic and Social Council in decisions of the Security Council

During the period under consideration, the Security Council did not formally address a request for information or assistance to the Economic and Social Council (ECOSOC). In its decisions, however, the Council made one explicit reference to Article 65 of the United Nations Charter.⁷³ In several other decisions, in the context of different agenda items, the Council made reference to ECOSOC (see tables 1 and 2 below).

⁷³ Resolution 1625 (2005), para. 2.

Table 1. Resolutions containing references to ECOSOC

S/Doc	Situations	Relevant Provisions
S/RES/1576 (2004)	The question concerning Haiti	“ <i>Welcoming</i> the establishment of the Core Group on Haiti and the Ad Hoc Advisory Group on Haiti of the <u>Economic and Social Council</u> ,” (<i>preambular para.5</i>)
S/RES/1625 (2005)	Threats to international peace and security	“2. <i>Affirms</i> its determination to strengthen United Nations conflict prevention capacities by: (e) requesting, as necessary and appropriate information and assistance from the <u>Economic and Social Council</u> in accordance with <u>Article 65</u> of the United Nations Charter;” (<i>para.2</i>)
S/RES/1645 (2005)	Post-conflict peacebuilding	“12. <i>Decides</i> that the Organizational Committee shall, giving due consideration to maintaining a balance in addressing situations in countries in different regions in accordance with the main purposes of the Commission as stipulated above, establish the agenda of the Commission based on the following: (b) Requests for advice from the <u>Economic and Social Council</u> or the General Assembly with the consent of a concerned Member State in exceptional circumstances on the verge of lapsing or relapsing into conflict and with which the Security Council is not seized in accordance with Article 12 of the Charter;” (<i>para. 12</i>) “17. <i>Also underlines</i> that the advice of the Commission to provide sustained attention as countries move from transitional recovery towards development will be of particular relevance to the <u>Economic and Social Council</u> , bearing in mind its role as a principal body for coordination, policy review, policy dialogue and recommendations on issues of economic and social development;” (<i>para. 17</i>)

Table 2. Presidential statements containing references to ECOSOC

S/Doc	Situations	Relevant Provisions
S/PRST/2004/20	The situation in Guinea-Bissau	“The Security Council also commends the efforts by the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa of the Council, the Ad Hoc Advisory Group on Guinea-Bissau of the <u>Economic and Social Council</u> and the Group of Friends of Guinea-Bissau aimed at assisting the country to address both its short-term post-conflict crisis and longer-term development goals.” <i>(para.13)</i>
S/PRST/2004/40	Women and Peace and Security	“The Security Council recognizes that significant progress has been made in the implementation of resolution 1325 (2000) in certain areas of the United Nations peace and security work. The Council expresses its readiness to further promote the implementation of this resolution, and in particular through active cooperation with the <u>Economic and Social Council</u> and the General Assembly.” <i>(para. 10)</i>
S/PRST/2005/1	The question concerning Haiti	“The Security Council expresses its intention to organize a mission to Haiti before 1 June 2005, possibly in conjunction with a mission of the Ad Hoc Advisory Group on Haiti of the <u>Economic and Social Council</u> .” <i>(para. 9)</i>
S/PRST/2005/20	Post-conflict peacebuilding	“The Security Council underlines the fact that for countries emerging from conflict, significant international assistance for economic and social rehabilitation and reconstruction is indispensable. In this regard, the Council acknowledges the role the <u>Economic and Social Council</u> plays, including in sustainable development, and reiterates its willingness to improve cooperation with United Nations bodies and organs directly concerned with peacebuilding.” <i>(para. 6)</i>
S/PRST/2005/39	The situation in Guinea-Bissau	“The Council therefore welcomes the decision taken by the <u>Economic and Social Council</u> on 26 July 2005 to extend the mandate of the Ad Hoc Advisory Group on Guinea-Bissau, and commends the Advisory Group for its work.” <i>(para. 6)</i>

B. Constitutional discussion arising in connection with the Economic and Social Council

Note

The issue of the relations between the Security Council and ECOSOC arose frequently in Security Council debates, particularly in the context of post-conflict peacebuilding. Frequently emphasized was the idea of closer cooperation and collaboration between the Council and ECOSOC and other United Nations organs, particularly in addressing the challenges of peacebuilding in countries emerging from conflict, and in addressing the transition from post-conflict peacebuilding to development. The role of the Security Council and ECOSOC within the Peacebuilding Commission also re-established the relationship between the two bodies.⁷⁴

The work of the ECOSOC Ad Hoc Advisory Group on Guinea-Bissau and Haiti played an important role in the work of the Security Council Ad Hoc Working Group, as it linked both Councils to areas pertaining to peace and development. In its resolution 2004/59, ECOSOC commended the Ad Hoc Advisory Groups on African countries emerging from conflict for their work and made several recommendations to enhance their effectiveness, including more interaction between ECOSOC and the Security Council.

During the period under consideration, the interaction between the Security Council and ECOSOC increased significantly, notably with the participation of the President of ECOSOC in the meetings of the Security Council.

Invitee	Agenda Item	Meeting	Date
Ms. Marjatta Rasi, President of ECOSOC	The role of business in conflict prevention, peacekeeping and post-conflict peace-building	4943	15 April 2004

⁷⁴ For the mandate and composition of the PBC, please refer to Part I, Section G dealing with the Council's relation with the PBC. The Commission has a standing organizational committee which consists of 31 members. The Council selects seven members, including its permanent members. ECOSOC also selects seven members each to serve on the Committee, with such members being elected from regional groups.

	Complex crises and United Nations response	4980	28 May 2004
	Role of civil society in post-conflict peace-building	4993	22 June 2004
Mr. Dumisani Kumalo, Chairman of the Economic and Social Council Ad Hoc Advisory Group on Guinea-Bissau	Security Council mission	5005	16 July 2004
Mr. Ali Hachani, President of ECOSOC	The question concerning Haiti	5397	27 March 2006
Mr. Dalius Čekuolis, President of ECOSOC	Post-conflict peacebuilding	5627	31 January 2007
	The maintenance of international peace and security: role of the Security Council in supporting security sector reform	5632	20 February 2007
	Maintenance of international peace and security	5705	25 June 2007

During the period under review, there were two occasions when the Security Council and ECOSOC collaborated in their mission to the field. While the Security Council was undertaking a mission to West Africa from 22 to 28 June 2004, the mission was joined in Guinea-Bissau by the Chairman of the ECOSOC Ad Hoc Advisory Group on Guinea-Bissau on 27 and 28 June 2004.⁷⁵ Secondly, the Security Council mission to Haiti was held in conjunction with the mission of the ECOSOC Ad Hoc Advisory Group on Haiti from 13 to 16 April 2005.⁷⁶ The mission was mentioned in the presidential statement of 12 January 2005.⁷⁷

In several instances during the debates, speakers explicitly referred to Article 65 of the United Nations Charter, and encouraged that greater use be made of the

⁷⁵ See, S/2004/491 for the terms of reference of the Security Council mission to West Africa.

⁷⁶ See, S/2005/220 for the terms of reference of the Ad Hoc Advisory Group mission and S/2005/235 for the composition of the mission.

⁷⁷ S/PRST/2005/1.

provision.⁷⁸ This has been captured in the case studies that are depicted in the following pages.

The section below will highlight several case studies, each addressing a different issue before the Security Council, with a view to outlining the evolving relationship between the Security Council and ECOSOC. The case studies analyzed include the Council's involvement with ECOSOC in countries emerging from conflict, such as Guinea-Bissau (Case 7) and Haiti (Case 8). Particularly evident is the evolving practice of the Council to encourage ECOSOC involvement in thematic issues, such as Children and armed conflict (Case 9), Complex crises and United Nations response (Case 10), Maintenance of international peace and security (Case 11), Post-conflict peacebuilding (Case 12), Protection of civilians in armed conflict (Case 13), and Women and peace and security (Case 14).

Case 7

The situation in Guinea-Bissau

In the report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Peace-building Support Office in that country,⁷⁹ it was highlighted that in order to support the country in the implementation of the emergency economic management plan, a special multidonor Emergency Economic Management Fund for Guinea-Bissau, initiated by the ECOSOC Ad Hoc Advisory Group on Guinea-Bissau,⁸⁰ had been set up.⁸¹ Furthermore, the Secretary-General commended the work undertaken by the Ad Hoc Working Group on Conflict Prevention and

⁷⁸ S/PV.5294 (Brazil); S/PV.5129 (Argentina); S/PV.5156 (Brazil); S/PV.5705 (President of ECOSOC); S/PV.5735 (Indonesia); S/PV.4980 (Spain); S/PV.4903 (Brazil); S/PV.5041 (Brazil); and S/PV.5187 (Argentina).

⁷⁹ S/2004/456.

⁸⁰ Established by ECOSOC on 25 October 2002, E/2004/304.

⁸¹ S/2004/456., para. 21.

Resolution in Africa of the Security Council, the Ad Hoc Advisory Group on Guinea-Bissau of ECOSOC and the Group of Friends of Guinea-Bissau, and emphasized that their combined efforts had played a significant role in energizing the United Nations system to assist the country in addressing both its short-term post-conflict crisis and longer-term development goals. He stressed that the Emergency Economic Management Fund, established as a result of these efforts was a useful instrument in channeling financial assistance to the country.⁸²

At the 4992 meeting, on 18 June 2004, in connection with the situation in Guinea-Bissau, the President of the Security Council made a statement on behalf of the Council. In its statement, the Council commended the efforts by the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa of the Security Council, the Ad Hoc Advisory Group on Guinea-Bissau of ECOSOC and the Group of Friends of Guinea-Bissau aimed at assisting the country to address both its short-term post-conflict crisis and longer-term development goals.⁸³

By a letter dated 2 November 2004 addressed to the President of the Council,⁸⁴ the President of ECOSOC brought to the attention of the Council developments concerning the Ad Hoc Advisory Groups of ECOSOC on African countries emerging from conflict, and drew the Council's attention to the latest report concerning Guinea-Bissau (E/2004/10). He emphasized that the joint mission to Guinea-Bissau of the Council and the Ad Hoc Advisory Group in June 2004 was another step forward in the United Nations endeavour to address post-conflict situations in a comprehensive manner.

In his report on developments in Guinea-Bissau and on the activities of the United Nations Peacebuilding Support Office in that country, dated 15 December 2004,⁸⁵ the Secretary-General noted that the emergency economic management fund, which had been providing financing for critical social needs and for the minimum functioning of the State in priority sectors, had been depleted and would cease to be operational by the end of the year. He also welcomed the constructive efforts of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa of the Security Council, the ECOSOC Ad

⁸² Ibid., para. 31.

⁸³ S/PRST/2004/20.

⁸⁴ S/2004/898.

⁸⁵ S/2004/969.

Hoc Advisory Group on Guinea-Bissau and the Group of Friends of Guinea-Bissau and their active role in energizing Guinea-Bissau's partners to assist the country in addressing its short-term post-conflict and longer-term development objectives.

At its 5248th meeting, on 19 August 2005, in connection with the same agenda item, the President of the Council made a statement on behalf of the Council.⁸⁶ In its statement, the Council welcomed the decision taken by ECOSOC on 26 July 2005 to extend the mandate of the Ad Hoc Advisory Group on Guinea-Bissau, and commended the group for its work.

In the report of the Secretary-General on developments in Guinea-Bissau and on the activities of the United Nations Peacebuilding Support Office in that country, dated 16 March 2005, he also welcomed the extension of the mandate of the Ad Hoc Advisory Group on Guinea-Bissau and trusted that it would continue to play the constructive role it had played to date in supporting the country to address its pressing short and longer-term development goals and in the mobilization of international support for Guinea-Bissau.⁸⁷

Case 8

The question concerning Haiti

At its 5090th meeting, on 29 November 2004, the Security Council adopted resolution 1576 (2004) in which it underlined the fact that political reconciliation and economic reconstruction efforts remained key to the stability and security of Haiti, and welcomed the establishment of the Core Group on Haiti and the ECOSOC Ad Hoc Advisory Group on Haiti.⁸⁸

At its 5110th meeting, on 12 January 2005, the Council met to discuss the agenda item entitled "The question concerning Haiti". During the debate, the representative of Brazil asserted that the international community had to combine various immediate impact projects so as to restore the hope of the poor and unemployed, with the assistance

⁸⁶ S/PRST/2005/39.

⁸⁷ S/2005/174.

⁸⁸ Resolution 1576 (2004), preambular paragraphs 3 and 5.

of Haitian institutions, which could also facilitate the planning of a long-term strategy. The representative emphasized that he was convinced that, working jointly with the Security Council, ECOSOC and its Ad Hoc Advisory Group on Haiti would make an important contribution to those goals. He noted that his delegation had long been promoting, under Article 65 of the Charter, closer cooperation between ECOSOC and the Security Council, which would make the provision of assistance by donors and international institutions more transparent.⁸⁹ The representative of Romania stated that the proposed mission of the Security Council to Haiti, possibly in conjunction with a similar mission by the ECOSOC Ad Hoc Advisory Group on Haiti would be a step in the right direction towards making Haiti a stable, prosperous and democratic state.⁹⁰ Similarly, the representative of the Philippines also voiced his support for a mission in conjunction with the ECOSOC Ad Hoc Advisory Group on Haiti.⁹¹

On a separate note, the representatives of Greece,⁹² Benin,⁹³ Luxembourg,⁹⁴ Guatemala,⁹⁵ Uruguay⁹⁶ and El Salvador⁹⁷ welcomed the reactivation of the ECOSOC Ad Hoc Advisory Group on Haiti. The representative of Guatemala believed that the Ad Hoc Advisory Group on Haiti was a mechanism that had contributed to revitalizing the link between ECOSOC and the Security Council.⁹⁸ The representative of Uruguay asserted that the Advisory Group had to coordinate its work with the Core Group established by the Security Council in paragraph 5 of resolution 1542 (2004) in order to avoid any overlap.⁹⁹

At the close of the meeting, the President issued a statement on behalf of the Council,¹⁰⁰ which expressed its intention to organize a mission to Haiti before 1 June 2005, possibly in conjunction with a mission of the ECOSOC Ad Hoc Advisory Group on Haiti.

⁸⁹S/PV.5110, p. 9.

⁹⁰Ibid., p. 21.

⁹¹Ibid., p. 27.

⁹²Ibid., p. 22.

⁹³S/PV.5110 (Resumption 1), p. 6.

⁹⁴Ibid., p. 9.

⁹⁵Ibid., p. 10.

⁹⁶Ibid., p. 20.

⁹⁷Ibid., p. 23.

⁹⁸Ibid., p. 10.

⁹⁹Ibid., p. 20.

¹⁰⁰S/PRST/2005/1.

In a letter dated 31 March 2005 addressed to the Secretary-General,¹⁰¹ the President of the Council indicated that a mission would be sent to Haiti from 13 to 16 April 2005, in conjunction with the mission of the Ad Hoc Advisory Group on Haiti of ECOSOC. In an annex to the letter, the terms of reference were laid out which specified that the mission was to explore ways, in coordination with the ECOSOC Ad Hoc Advisory Group on Haiti, to assist the Transitional Government in the preparation and implementation of developmental projects in Haiti.

In the report of the Security Council mission to Haiti issued on 6 May 2005,¹⁰² the mission welcomed the opportunity to undertake its visit in conjunction with the Ad Hoc Advisory Group of ECOSOC, and looked forward to continuing its collaboration so that immediate and medium-term measures could provide the basis on which long-term development could occur.

At its 5178th meeting, on 13 May 2005, the Council met to discuss the agenda item entitled “Security Council Mission: Report of the Security Council mission to Haiti”. During the debate, the representative of Brazil emphasized that the Ad Hoc Advisory Group could play an important role in establishing, in conjunction with Haitian authorities, a long-term institution-building and development strategy.¹⁰³ The representative of Canada highlighted that ECOSOC would have an important contribution to make as the United Nations sought to play a positive role in the long, challenging work that laid ahead. He further indicated that the Ad Hoc Group’s report would make a series of concise recommendations for consideration by ECOSOC, MINUSTAH, the United Nations country team and the donor community. In that regard, it was recommended that ECOSOC focused on mechanisms for capacity-building support, played a role in promoting the socio-economic dimensions of the disarmament, demobilization and reintegration (DDR) program, developed a strong advocacy role on poverty and promoted a smooth transition from the United Nations integrated mission to sustained economic development once MINUSTAH’s mandate had been fulfilled. Moreover, the representative of Canada praised the simultaneous presence in Haiti by both the Council and ECOSOC, and said that this was a prototype of what had been

¹⁰¹ S/2005/220.

¹⁰² S/2005/302.

¹⁰³ S/PV.5178, p. 4.

recommended by the Secretary-General as the Peacebuilding Commission that was of high value.¹⁰⁴

The representative of Luxembourg, speaking on behalf of the European Union, emphasized that security and development were interlinked elements of a comprehensive solution to the crisis in Haiti, as illustrated by the fact that the Security Council mission took place in conjunction with that of the Ad Hoc Advisory Group on Haiti of ECOSOC, and that a long-term United Nations presence was required in Haiti with the need for improved coordination between MINUSTAH and the various development actors in Haiti.¹⁰⁵ The representative of Chile highlighted that the presence of the Ad Hoc Group and the Security Council missions in Haiti, the first such visit to the Latin American and Caribbean region, reaffirmed the United Nations' commitment to the process of Haiti's political stabilization and economic and social reconstruction. He further asserted that there could be no doubt that the United Nations presence in Haiti should be viewed as a fourth-generation peacekeeping operation whose goals were not limited merely to the suppression of violence. He stated that the collective task would be crowned with success when progress was made towards eradicating the causes of political instability and violence. In that context, he welcomed the integrated approach to Haiti by the Security Council and ECOSOC.¹⁰⁶

The representative of Guatemala stressed that the work carried out by the Council and ECOSOC in connection with post-conflict situations offered an opportunity for very productive action. He emphasized that the joint mission to Haiti and the ongoing support that the two Councils had been providing to each other with respect to Haiti in the fulfillment of their respective mandates, attested to the renewed climate of cooperation, and welcomed the development.¹⁰⁷ The representative of Peru believed that the simultaneous visit of the Ad Hoc Advisory Group on Haiti was very appropriate, as was the fact that some of its meetings in Haiti were carried out jointly with the Security Council mission, as this was a modality which was not often employed but enriched the understanding of the problems besetting countries such as Haiti. In addition to the

¹⁰⁴ Ibid., pp. 11-12.

¹⁰⁵ Ibid., p. 13.

¹⁰⁶ Ibid., pp. 13-15.

¹⁰⁷ Ibid., p. 15.

Security Council's task of maintaining peace and security, that approach enabled ECOSOC to promote the development agenda that would make it possible to rebuild such countries.¹⁰⁸

The representative of Spain emphasized that the two missions - of the Security Council and of ECOSOC, highlighted the complementarity of those organs when they addressed complex crises such as the one in Haiti.¹⁰⁹ The representative of Haiti underscored that the Council mission and the Ad Hoc Advisory Group attested to the United Nations family's great interest in the cause of the development of Haiti. He specifically thanked ECOSOC for its involvement in the long-term development process in Haiti, and outlined that the Ad Hoc Advisory Group was an eloquent testimony of ECOSOC's great interest in the economic future of his country.¹¹⁰ In closing, the President of the Council paid tribute to the members of the Security Council mission and the mission of ECOSOC for their contributions to the promotion of peace and stability in Haiti.¹¹¹

At its 5397th meeting, on 27 March 2006, the Council met to discuss the same agenda item. Noting the clear risk of destabilization and political violence in poor countries and the difficulty of maintaining stability when massive international assistance was lacking, the President of ECOSOC underlined the importance for the two Councils to work hand in hand to respond to the problems in Haiti.

Case 9

Children and armed conflict

In the report of the Secretary-General entitled "Children and armed conflict", dated 9 February 2005,¹¹² it was suggested that ECOSOC could periodically devote its

¹⁰⁸ Ibid., p. 17.

¹⁰⁹ Ibid., pp. 20-21.

¹¹⁰ Ibid., pp. 23-24.

¹¹¹ Ibid., p. 25.

¹¹² A/59/695-S/2005/72; submitted pursuant to Security Council resolution 1539 (2004), by which the Council requested the Secretary-General to submit a report on the implementation of that resolution and its resolutions 1379 (2001) and 1460 (2003), providing information on compliance and progress in ending the

high-level segment to a review of the subject of children and armed conflict, focusing particularly on the issue of monitoring and reporting.¹¹³

At its 5129th meeting, on 23 February 2005, the Council met to discuss the agenda item entitled “Children and armed conflict”. During the debate, the representative of Japan indicated that he shared the views expressed in the report of the Secretary-General on the issue, and indicated that the General Assembly, ECOSOC and the Council should come in, as appropriate, to consider actions according to their respective mandates.¹¹⁴ The representative of Brazil emphasized that the Council had to recognize the essential roles of and collaborate closely with other destinations for action such as the General Assembly and ECOSOC as they were equipped to respond to the social and economic dimensions of this complex issue.¹¹⁵ Finally, the representative of Argentina expressed understanding for the Council’s special responsibility for the protection of children in armed conflicts because of its close connection with the maintenance of international peace and security, but also asserted that there should be better coordination in addressing this subject between the Council and the General Assembly on one hand, and between the Council and ECOSOC on the other, in conformity with Article 65. He further asserted that, with regard to ECOSOC, the Council should explore the proposal of dedicating high-level sessions to the examination of the issue of children and armed conflicts.¹¹⁶

Case 10

Complex Crises and United Nations Response

At its 4980th meeting, on 28 May 2004, the Council met to discuss the agenda item entitled “Complex crises and United Nations response”. During the debate, the President of ECOSOC noted that complex crises necessitated collaborative responses in

recruitment and use of children in armed conflict by those countries mentioned in the Secretary-General’s 2003 report (A/58/546-S/2003/1053).

¹¹³ Ibid., para. 120.

¹¹⁴ S/PV.5129, p. 19.

¹¹⁵ Ibid., p. 26.

¹¹⁶ Ibid., p. 27.

which the various organs of the United Nations had a complementary role. She emphasized that the most important contribution of ECOSOC to the response by the United Nations to countries in crisis had been its involvement in African countries emerging from conflict. This involvement materialized with the creation of Ad Hoc Advisory Groups on Guinea-Bissau and on Burundi, whose mandate was to examine the humanitarian and economic needs of the countries in question. In that regard, she stated that the ECOSOC Ad Hoc Advisory Groups had fostered a coordinated approach to the situations in Guinea-Bissau and in Burundi within the United Nations system at large, which advocated and pushed for greater coherence in the work of the United Nations system. Furthermore, she indicated that to ensure coherence, those initiatives by ECOSOC had to be linked to the work of the Security Council. She was pleased that the respective bodies were interacting in a more frequent and coherent way, as illustrated by the reference to ECOSOC in the Security Council's presidential statements on issues of common concern.¹¹⁷

The representative of Spain also emphasized that increased interaction between the Council and other United Nations organs had become ever more necessary to provide a consistent and integrated response to the challenges inherent in complex crisis. In this regard, he underlined that ECOSOC was highly suited to performing such work, pursuant to Article 65. He also cited a specific example of increased interaction between the Council and ECOSOC in the participation of representatives from one of the ECOSOC Ad Hoc Advisory Groups in the Security Council's mission to West Africa in June of that year.¹¹⁸

The representative of China stated that the Security Council, given its primary responsibility of conflict prevention, had to formulate an integrated preventive strategy suited to the characteristics of complex crises. In addition, he recommended that the General Assembly, the ECOSOC and various United Nations agencies, on the basis of their comparative advantages, and acting within their respective competences, should develop synergy in their conflict prevention efforts. He emphasized that the United Nations should devote greater attention to development, strive to help developing

¹¹⁷ S/PV.4980, pp. 4-6.

¹¹⁸ *Ibid.*, p. 7.

countries eradicate poverty and develop their economies, and increase its involvement in post-conflict regional and national reconstruction. In that regard, ECOSOC could play an even greater role.¹¹⁹

The representative of Algeria expressed his belief that the gap in dealing with complex crises should be overcome by means of a bolder, more precise approach to detecting and preventing conflicts and by making development a dimension of complex United Nations operations, at the same integral level as the humanitarian and human rights dimensions. He stated that he had been inspired to make this assertion by the lucid analysis of the ECOSOC Ad Hoc Advisory Group on African countries emerging from conflict, which had spelled out the objective limits of the post-conflict involvement of the United Nations Development Group.¹²⁰ The representative of Philippines stated that the Ad Hoc Advisory Groups on Guinea-Bissau and Burundi were laudable efforts by ECOSOC. But the advisory role and the ad hoc nature of those working groups were not adequate. In this connection, he stated that there were concerns, for instance, about what to do after the mandate had lapsed and underlined the need for continuity and an institutional mechanism that would integrate security policy, economic development and institution building in those areas.¹²¹

The representative of Angola asserted that ECOSOC had been called upon to play an ever increasing role in the prevention of conflict, in the framework of an integrated approach recognized by the international community as valuable to achieve peace, security, respect for human rights and sustainable development. He stated that specific cases of the involvement of ECOSOC in Africa – in Guinea-Bissau and Burundi – were very good examples. He further noted that the critical role that ECOSOC played in addressing the root causes of conflict and its contribution to a comprehensive and multidisciplinary discussion on the prevention of armed conflicts in the regional context were recognized as valuable contributions to the prevention of armed conflict and to peace-building. In addition, the ad hoc working groups and advisory groups on countries

¹¹⁹ Ibid., p. 8.

¹²⁰ Ibid., p. 12.

¹²¹ Ibid., p. 15.

emerging from conflict had produced commendable work, and their recommendations were important contributions in conflict prevention and resolution.¹²²

Moreover, the representative of the United Kingdom suggested that a strengthened partnership between the Security Council, the General Assembly and ECOSOC on peace and security matters could address the full spread of threats more effectively, and emphasized that Article 65 could be utilized more. He further stated that the ECOSOC Ad Hoc Groups on Burundi and Guinea-Bissau were interesting developments to build on. He pointed out that those groups signaled an emerging role for ECOSOC to work with countries to build their conflict prevention and peace-building capacities and to raise awareness of potential needs among the wider United Nations membership.¹²³ Similarly, the representative of Germany stated that building on experiences with the Security Council's Ad Hoc Working Group on Conflict Prevention and Resolution in Africa and the ECOSOC Ad Hoc Advisory Groups on African countries emerging from conflict, and possible arrangements for more intensive cooperation between the Security Council and ECOSOC could be explored.¹²⁴ While suggesting a few recommendations aimed at improving the United Nations' response to complex crises as well as the effectiveness of peace-building programmes and activities, the representative of Romania suggested that the Security Council should further support United Nations organs and mechanisms in their security and development efforts. In that regard, it should convene a meeting to review the relationship between the Security Council and ECOSOC, drawing from the experience in Guinea-Bissau.¹²⁵

¹²² Ibid., p. 20.

¹²³ Ibid., p. 24.

¹²⁴ Ibid., p. 26.

¹²⁵ Ibid., p. 28.

Case 11

The Maintenance of International Peace and Security

During the period under review the Council met several times to discuss the broad issue of the maintenance of international peace and security in various specific contexts.

a. The responsibility of the Security Council in the maintenance of international peace and security: HIV/AIDS and international peacekeeping operations

At its 5228th meeting, on 18 July 2005, the Council met to discuss the agenda item entitled “The responsibility of the Security Council in the maintenance of international peace and security: HIV/AIDS and international peacekeeping operations”. During the debate, the representative of the Russian Federation emphasized that the General Assembly and ECOSOC, which, in keeping with their respective mandates, were charged with undertaking a comprehensive consideration of all aspects of the question of HIV/AIDS, had already done a great deal to craft an effective strategy to deal with the spread of the pandemic.¹²⁶ Similarly, the representative of the United Republic of Tanzania highlighted that resolution 1308 (2000) was a “trailblazing initiative” in generating international awareness and in promoting international action to combat HIV/AIDS beyond international peacekeeping personnel, and that it followed in the path of the defining leadership and roles of the General Assembly and ECOSOC in that regard.¹²⁷

b. Strengthening international law: rule of law and maintenance of international peace and security

At the resumption of its 5474th meeting, on 22 June 2006, the Council met to discuss the agenda item entitled “Strengthening international law: rule of law and

¹²⁶ S/PV.5228, p. 10.

¹²⁷ Ibid., p. 12.

maintenance of international peace and security”. During the debate, the representative of Egypt asserted that any enforcement mechanism applied by the Security Council should fully respect the principles of the sovereignty and political independence of States, and that any encroachment by the Council on the competence of the General Assembly or ECOSOC should cease.¹²⁸ Moreover, the representative of the Bolivarian Republic of Venezuela highlighted that Article 24 of the Charter did not necessarily provide the Council with the competency to address issues that corresponded to the functions and powers of the General Assembly or of ECOSOC.¹²⁹ In this regard, the representative of Nigeria underscored the need for close collaboration among the Council, General Assembly and ECOSOC in the crucial task of facilitating the restoration and consolidation of the rule of law in conflict and post-conflict society, and stressed, in particular, the importance of cooperation between the newly established Peacebuilding Commission, the Council, ECOSOC and relevant United Nations agencies and civil society entities in post-conflict reconstruction efforts.¹³⁰

c. The maintenance of international peace and security: role of the Security Council in supporting security sector reform

At its 5632nd meeting, on 20 February 2007, the Council met to discuss the agenda item entitled “The maintenance of international peace and security: role of the Security Council in supporting security sector reform”. During the debate, the President of ECOSOC stated that the traditional division between security issues, on the one hand, and development issues, on the other, was both artificial and unsustainable. He emphasized that this was the perspective under which the ECOSOC Ad Hoc Advisory Groups on Africa had operated. The President noted that within the context of the mandate to promote an integrated approach to relief, reconstruction and development and to encourage the mobilization of resources, both Advisory Groups – those on Guinea-Bissau and Burundi – had called for more attention to be paid to security sector reform as

¹²⁸ S/PV.5474 (Resumption1), p. 4.

¹²⁹ Ibid., p. 16.

¹³⁰ Ibid., p. 19.

a way of addressing one of the key structural causes of conflict in many fragile countries. He further noted that ECOSOC and the Ad Hoc Groups had always seen the military as key interlocutors for dialogue, and drew attention to ECOSOC resolution 2005/2 which welcomed the recommendation by the Security Council to establish a voluntary emergency fund, to be administered by UNDP, to support efforts related to the planning and implementation of military reform.¹³¹

The representative of Angola asserted that the debate in the General Assembly on the report of the United Nations Special Committee on Peacekeeping Operations and the experience of the ECOSOC Ad Hoc Working Groups on countries emerging from conflicts had also produced valuable ideas on the issue of security sector reform.¹³² The representative of China suggested that the United Nations could formulate a comprehensive approach to security sector reform by drawing on practices that had proved effective over years of United Nations peacekeeping operations, and asserted that the General Assembly, ECOSOC and relevant United Nations missions should be more involved, and coordination and communication between the United Nations and relevant regional organizations should be strengthened.¹³³ Furthermore, the representative of Indonesia emphasized that in order to develop viable security sector reform structures, the Council should consult with relevant organs, including ECOSOC.¹³⁴

At the resumption of the meeting, the representative of the Russian Federation stressed that supporting national efforts in security sector reform in countries emerging from crisis was an area of close constructive partnership and complementarity between the Security Council, the General Assembly and ECOSOC in order to achieve a common goal, and thus enhance the effectiveness of international work in the area of peacebuilding.¹³⁵ The representative of Egypt asserted that the debate on security sector reform had fallen into the grey area, which the Council attempted to exploit in order to strengthen its control of an issue that fell primarily within the prerogatives of the General Assembly and ECOSOC.¹³⁶ The representative of Honduras suggested that ECOSOC

¹³¹ S/PV.5632., p. 6.

¹³² Ibid., p. 7.

¹³³ Ibid., p. 9.

¹³⁴ Ibid., p. 20.

¹³⁵ S/PV.5632 (Resumption1), p. 2.

¹³⁶ Ibid., pp. 13-14.

should carry out its own debate to share ideas, with the aim of achieving consensus and a comprehensive strategy on security sector reform, in consultation with all organs of the system such as the Human Rights Council and the Peacebuilding Commission.¹³⁷ Finally, the representative of Sudan indicated that security sector reform should be the subject of an in-depth and transparent study, to be carried out by all Member States. Carrying out such a study should not prejudice the other principal organs of the United Nations with a stake in this matter: the General Assembly, ECOSOC, and other relevant bodies.¹³⁸

d. The Maintenance of international peace and security

At its 5705th meeting, on 25 June 2007, the Council met to discuss the agenda item entitled “Maintenance of international peace and security”. During the debate, the President of the General Assembly highlighted that, in post-conflict situations, the General Assembly, the Council and ECOSOC should collectively and clearly debate on how best to develop, through the Peacebuilding Commission, a development-oriented approach to foster the factors of stability and prosperity and to prevent the relapse of countries into conflict.¹³⁹ The President of ECOSOC asserted that, in line with Article 65 of the Charter, the Council and ECOSOC could consider, on an ad hoc basis, the establishment of a format to discuss development-oriented approaches to the use of natural resources. In this connection, such a forum could be useful for advancing their understanding of the link between natural resources and security.¹⁴⁰

The representative of Qatar stated that the topic of natural resources did not fall within the Council’s competence and mandate, rather that it laid at the heart of the competence and mandate of ECOSOC and the General Assembly. He stressed that dealing with the topic in the Council infringed on the prerogatives of both bodies and undermined the democratic principles of the United Nations, and therefore it would be more useful for States to discuss the issue of natural resources in the General Assembly

¹³⁷ Ibid., p. 16.

¹³⁸ Ibid., p. 25.

¹³⁹ S/PV.5705, p. 6.

¹⁴⁰ Ibid., p. 7.

and ECOSOC in the context of the development agenda.¹⁴¹ The representative of China also expressed his support for the continued discussion of the issue of natural resources in the General Assembly and ECOSOC,¹⁴² and the representative of Italy recognized the importance of the role and experience of the General Assembly and ECOSOC in the field of natural resources.

The representative of Italy also referred to the significance of the myriad United Nations frameworks overseen by ECOSOC intended to improve the management and sustainable use of natural resources at the global level, and suggested it might be useful for the future to consider those activities in a more coherent framework, bearing in mind their broader impact on long-term conflict prevention.¹⁴³

The representative of Egypt continued by asserting that undoubtedly, the link between natural resources and conflicts lay at the very centre of the intersection between the prerogatives of the General Assembly and ECOSOC on an equal footing with the Council, each within the limits of its responsibilities as set forth in the Charter. He underlined that it was necessary to expand cooperation and coordination and to establish a real partnership among the Security Council, the General Assembly, ECOSOC, regional and sub-regional organizations, and the United Nations agencies, funds and programs dealing with the development aspects of the causes of conflict.¹⁴⁴

At the resumption of the meeting, the representative of Brazil highlighted that the Charter foresaw that issues relating to economic and social development, as was the case with natural resources, including energy, fell within the purview of the functions and powers of the General Assembly and ECOSOC. He underlined that any relevant national debate on the issue of natural resources should first take place at the forum of universal representation, which was the General Assembly, ECOSOC and their relevant subsidiary bodies. In line with addressing the root causes of conflicts, he stressed the importance of deepening the cooperation among the General Assembly and ECOSOC, as set out in Article 65 of the Charter.¹⁴⁵ The representative of Benin welcomed the proposal by the President of ECOSOC to establish a forum between the Council and ECOSOC on the

¹⁴¹ Ibid., pp. 9-10.

¹⁴² Ibid., p. 18.

¹⁴³ Ibid., pp. 19-20.

¹⁴⁴ Ibid., pp. 29-31.

¹⁴⁵ S/PV.5705 (Resumption 1), p. 2.

link between natural resources and conflict, and asserted his belief that that proposal could form part of the institutionalization of conflict prevention within the United Nations.¹⁴⁶

e. Maintenance of international peace and security: Role of the Security Council in conflict prevention and resolution, in particular in Africa

At its 5735th meeting, on 28 August 2007, the Council met to discuss the agenda item entitled “Maintenance of international peace and security: role of the Security Council in conflict prevention and resolution, in particular in Africa”. During the debate, the representative of Haiti made a statement on behalf of the President of the General Assembly and recalled the 2005 World Summit during which the Heads of State stressed the need for the Security Council, General Assembly, ECOSOC and the Secretary-General to coordinate their activities within their respective Charter mandates.¹⁴⁷ The Acting Chairman of the Organizational Committee of the Peacebuilding Commission emphasized the importance of increasing cooperation and engagement between the Security Council and the Peacebuilding Commission, and expressed the hope that the Commission would address how best it could engage with the Council, as well as with the General Assembly and ECOSOC.¹⁴⁸ Similarly, the representative of China emphasized that the Council, ECOSOC, the Peacebuilding Commission and the General Assembly should set an example for the international community by enhancing their communication and exchanges and learning from one another so as to make up for their own shortfalls with a view to making concerted efforts.¹⁴⁹ The representative of Indonesia underscored that the sources of conflict were frequently economic and social in nature, and consequently the Security Council should more closely engage its partners in the United Nations system that are competent in economic and social issues, as laid out in Article 65.¹⁵⁰ Furthermore, the representative of the Sudan outlined that another matter that should be given consideration was strengthening the role of the United Nations in

¹⁴⁶ Ibid., p. 10.

¹⁴⁷ S/PV.5735, p. 4.

¹⁴⁸ Ibid., p. 6.

¹⁴⁹ Ibid., p. 18.

¹⁵⁰ Ibid., p. 21.

economic and social sectors, and that the various United Nations bodies, such as the General Assembly and ECOSOC, should be bolstered.¹⁵¹ The representative of Argentina noted that resolution 1625 (2005) aimed at strengthening the effectiveness of the role of the Security Council in the prevention of armed conflicts, particularly in Africa, by means of a wide range of actions. In that regard, coordinating those actions with the work of the Secretariat and the ECOSOC was the key to its operationalization.¹⁵²

f. Security Council Ad Hoc Working Group on Conflict Prevention and Resolution in Africa

During the period under consideration, the Ad Hoc Working Group enhanced its working relationship with ECOSOC Ad Hoc Advisory Groups on Guinea-Bissau and Burundi.

In a note by the President, he transmitted a letter dated 30 March 2004 addressed to him from the Chairman of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa.¹⁵³ The letter included recommendations of the meeting of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa with the Ad Hoc Advisory Group of the Economic and Social Council on Burundi, held on 15 March 2004. In that regard, the Ad Hoc Advisory Group on Burundi made concrete recommendations on ways in which ECOSOC and the Security Council should work together comprehensively to assist in peace, reconciliation, recovery and rehabilitation of that country. One of the several recommendations made by the Advisory and Working Group on Burundi, included: to consider ways in which ECOSOC and the Security Council could work together comprehensively to assist in peace, reconciliation, recovery and rehabilitation in Burundi.

In a note by the President, he transmitted a letter dated 30 December 2005 addressed to him from the Chairman of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa,¹⁵⁴ forwarding the annual report of the Ad Hoc

¹⁵¹ Ibid., p. 27.

¹⁵² Ibid., p. 32.

¹⁵³ S/2004/266.

¹⁵⁴ S/2005/833.

Working Group on Conflict Prevention and Resolution in Africa in 2005. The Annual Report included amongst others, a summary of the wrap-up open debate on the work of the Security Council for the month of March 2005,¹⁵⁵ which favored an extensive exchange of views on the situation in Africa and on the ways and means to increase the effectiveness of the efforts made by the Security Council to cope with them. During the debate, speakers recommended that, while prevention of conflicts should be considered a vanguard task to be tackled by the United Nations as a whole, the Security Council should enhance coordination and cooperation with other United Nations bodies, in order to help address deep-rooted social and economic causes of conflict in Africa and to ensure development and employment through fair trade, as a way to prevent either the outbreak or the resurgence of conflicts. For this purpose they welcomed the greater involvement of ECOSOC in this task, in particular by means of the creation of ad hoc working groups such as those established for Burundi and for Guinea-Bissau.

While underlining the need to combine peace and security efforts with long-term development strategies, several speakers welcomed the joint collaboration with the Security Council and ECOSOC in that regard.¹⁵⁶ The representative of Pakistan noted that the recognition of the inextricable link between peace and development had opened the window for increased cooperation and coordination between the Security Council and ECOSOC. In that regard, he expected that relationship to develop further in an institutionalized way.¹⁵⁷ While welcoming the greater involvement of ECOSOC in particular by means of the creation of ad hoc working groups such as those established for Burundi and for Guinea-Bissau, the representative of Brazil observed that the Council still lacked the formal institutional frameworks and adequate channels necessary to maximize the quality of both Councils' responses. He noted that his delegation had consistently called for the adoption of rules and procedures to put Article 65 of the Charter fully into force, in order to explore its many potential benefits.¹⁵⁸

¹⁵⁵ S/PV.5156.

¹⁵⁶ Ibid., p. 9 (Egypt); p.12 (Argentina); p. 30 (Cuba); and p. 31 (Brazil).

¹⁵⁷ Ibid., p. 11.

¹⁵⁸ Ibid., p. 31.

Case 12

Post-conflict Peacebuilding

During the period under review the Council met several times to discuss the issues of peacekeeping and post-conflict situations each with a slightly different emphasis.

a. Post-conflict national reconciliation: role of the United Nations

At its 4903rd meeting, on 26 January 2004, the Council met to discuss the agenda item entitled “Post-conflict national reconciliation: role of the United Nations”. During the debate, the representative of Brazil outlined that there was much the Council could do in conflict resolution, and in conceiving and conducting long-term post-conflict initiatives particularly if it made more extensive use of the provisions contained in Article 65 and sought the collaboration of ECOSOC as it had done in the cases of Guinea-Bissau and Burundi, with some success.¹⁵⁹

b. The Role of Business in Conflict Prevention, Peacekeeping and Post-Conflict Peace-building

At its 4943rd meeting, on 15 April 2004, the Council met to discuss the agenda item entitled “The role of business in conflict prevention, peacekeeping and post-conflict peace-building”. During the debate, the representative of Germany underlined that political and economic stability in conflict prevention, as well as in post-conflict recovery were closely related, and that this had to be reflected inside and outside the broader United Nations system. He emphasized that much had already been done to improve coherence and efficiency between the different actors as evidenced by the establishment

¹⁵⁹ S/PV.4903, p. 18.

of the ECOSOC Ad Hoc Advisory Group for African Countries emerging from conflict.¹⁶⁰

The President of ECOSOC noted that in recent years, the Economic and Social Council had taken a more active role in developing a capacity to respond to the countries emerging from conflict, thereby helping to prevent human conditions from getting worse. She noted that although ECOSOC and the Security Council had begun to collaborate in these endeavours, much more could be done by the General Assembly, the Security Council, and ECOSOC working together to develop a comprehensive and a more rapid-response capacity for countries in special situations, where speed, scale and time were of the essence.¹⁶¹

The representative of Brazil shared the views expressed by the President of ECOSOC, to the effect that much more could be done by the General Assembly, the Security Council and ECOSOC, working together, to develop a comprehensive and more rapid response to countries in special situations and also to envisage a long-term perspective towards both sustainable development and conflict prevention.¹⁶²

c. United Nations peacekeeping operations

At its 4970th meeting, on 17 May 2004, the Council met to discuss the agenda item entitled “United Nations peacekeeping operations”. During the debate, the representative of Algeria underlined that the Council could not act in isolation in regard to peacekeeping operations, and that by creating special advisory groups to study the situations of countries emerging from conflict, ECOSOC, for its part, lent important support to peace.¹⁶³ The representative of Angola noted that quick impact projects, referred to in the Brahimi report in the context of peace-building, should also be used proactively for preventive purposes and should be linked to longer-term strategy. In that

¹⁶⁰ S/PV.4943, p. 2.

¹⁶¹ Ibid., pp. 9-10.

¹⁶² Ibid., p. 29.

¹⁶³ S/PV.4970, p. 13.

context, he welcomed the growing cooperation between the Security Council and ECOSOC, as experienced in the cases of Guinea-Bissau and Burundi.¹⁶⁴

The representative of the Russian Federation indicated that the experience of peacekeeping in Africa clearly demonstrated the intricate linkage of the task of establishing peace with the full social and economic restoration of those countries that had suffered from conflict. In this connection, his delegation supported the importance of continuing an in-depth consideration of “a rational division of labor” between the Council, ECOSOC and specialized agencies and programs during the transition from peacekeeping to peace-building.¹⁶⁵ The representative of Brazil noted that it was important that the limitations of peace operations be understood and that other resources be available to complement them. In that regards, the role of ECOSOC was crucial, as it promoted efforts and measures towards development. He further noted that the ad hoc groups for Guinea-Bissau and Burundi were excellent instances of ECOSOC’s contribution to peace-building in an integrated effort with the Security Council.¹⁶⁶

At the resumption of the meeting, the representative of Bangladesh emphasized that models for the active engagement of ECOSOC in post-conflict reconstruction should be developed to lessen the Security Council’s burden, with coordinated support from the United Nations Development Group, donors, the international financial institutions and civil society.¹⁶⁷

d. Role of civil society in post-conflict peace-building

At its 4993rd meeting, on 22 June 2004, the Council met to discuss the agenda item entitled “Role of civil society in post-conflict peace-building”. During the debate the President of ECOSOC emphasized that civil society organizations (NGOs) were increasingly indispensable partners in post-conflict peace-building, as their number, diverse mandates and varying operational capacities made coordination essential to

¹⁶⁴ Ibid., p. 14.

¹⁶⁵ Ibid., p. 16.

¹⁶⁶ Ibid., p. 18.

¹⁶⁷ S/PV.4970 (Resumption1), p. 7.

ensure the coherence and impact of their combined efforts.¹⁶⁸ The representative of the United States outlined that ECOSOC and its various ad hoc advisory groups provided an important link with civil society and this would allow the Security Council to benefit from their expertise as it moved forward.¹⁶⁹

At the resumption of the meeting, the representative of Bangladesh emphasized that ECOSOC as the principal intergovernmental body mandated to promote policy processes in addressing deep-rooted socio-economic, cultural, environmental or structural causes of conflict, should be the lead institution in involving civil society organizations in post-conflict peacebuilding policy recommendations. He noted that it must act as a United Nations system-wide conduit for the transmittal of early warnings and best practices to the Security Council and the General Assembly.¹⁷⁰

e. Civilian aspects of conflict management and peace-building

At its 5041st meeting, on 22 September 2004, the Council met to discuss the agenda item entitled “Civilian aspects of conflict management and peace-building”. During the debate, the representative of Brazil highlighted that recent experiences had given a number of examples of conflicts in countries with very low levels of development, which illustrated the limitations of a purely or primarily military approach to peacebuilding. He emphasized that without a broader perspective, and without considering economic and social variables, a lasting solution would not be reached. In this regard, he suggested that the United Nations should develop instruments and mechanisms that translated this awareness into real strategies. He noted that Article 65 of the Charter offered an opportunity to enhance cooperation between the Security Council and ECOSOC, thereby broadening the scope of multilateral cooperation in conflict management and peace-building. The representative reminded the Council that ECOSOC, not the Security Council was the Charter organ with responsibility for matters relating to social development. In that regard, he stated that it was part of the work of the Security Council to promote the work of ECOSOC in fulfilling its tasks, so as to ease the

¹⁶⁸ S/PV.4993, pp. 4-5.

¹⁶⁹ Ibid., p. 18.

¹⁷⁰ S/PV.4993(Resumption1), pp. 11-12.

work of the Security Council and prevent it from interfering in its own work. He underscored the importance of integrating political, social and economic elements into crisis management strategies, and noted that, to that end, action could be based on “the wise provision of Article 65” of the Charter, “which reminds us of the absolute need to address security issues in their socio-economic context and even provides guidance on how to do so from the institutional and multilateral standpoints”.¹⁷¹

The representatives of Pakistan¹⁷² and Angola¹⁷³ also emphasized the necessity of coordination between the Council, the General Assembly and ECOSOC in effective conflict management and peace-building, and the representative of Algeria similarly advocated that a greater role should be given to ECOSOC.¹⁷⁴

f. Post-conflict peace-building

At its 5187th meeting, on 26 May 2005, the Council met to discuss the agenda item entitled “Post-conflict peacebuilding”. During the debate, the Deputy Secretary-General stated that the United Nations system and its principal organs had to function in a coherent fashion. He added that, in recent years, the Security Council and ECOSOC had each extended the scope of their activities in post-conflict situations, and that both had critical roles to play.¹⁷⁵ The representative of the United Republic of Tanzania emphasized the value of institutional partnership within the United Nations system, and asserted that the creation of ECOSOC’s Ad Hoc Advisory Group on African countries emerging from conflict attested to that, as it was instrumental in linking up ECOSOC and the Security Council in areas of common concern related to peace and development.¹⁷⁶ The representative of Argentina highlighted that coordination by the Council with ECOSOC, in accordance with the provisions of Article 65 of the Charter, had a

¹⁷¹ S/PV.5041, pp. 16-18.

¹⁷² Ibid., p. 19.

¹⁷³ Ibid., p. 20.

¹⁷⁴ Ibid., p. 28.

¹⁷⁵ S/PV.5187, p. 4.

¹⁷⁶ Ibid., p. 10.

fundamental role to play in the promotion of sustainable development.¹⁷⁷ The representative of Brazil expressed the belief that the Peacebuilding Commission proposed by the Secretary-General was one of the many important topics on the reform agenda, as it was adequately balanced between the involvement of the Security Council and ECOSOC in its composition, as well as in its operation.¹⁷⁸ The representative of Algeria noted that peacebuilding activities could not be the sole responsibility of the Council, and that ECOSOC had to be brought in whenever the issues involved were related to social and economic development. He further noted that such collaboration would not only be consistent with the prerogatives that the Charter accorded to each organ, that it would also enable a greater number of Member States to contribute, leading to a more rational and effective handling of the issue.¹⁷⁹

At the same meeting, the President of the Security Council made a statement on behalf of the Council.¹⁸⁰ In its statement, the Council underlined the fact that for countries emerging from conflict, significant international assistance for economic and social rehabilitation and reconstruction was indispensable. In that regard, the Council acknowledged the role ECOSOC played, including in sustainable development, and reiterated its willingness to improve cooperation with United Nations bodies and organs directly concerned with peacebuilding.

At its 5261st meeting, on 14 September 2005, the Security Council adopted resolution 1625 (2005) in which it affirmed its determination to strengthen United Nations conflict prevention capacities by “requesting as necessary and appropriate information and assistance from ECOSOC in accordance with Article 65 of the United Nations Charter.”¹⁸¹ Following the adoption of the resolution, while underlining the importance of the Peacebuilding Commission, the representative of Brazil noted that better coordination between the Security Council and ECOSOC would ensure that situations such as those in Haiti and Guinea-Bissau were adequately addressed.¹⁸²

¹⁷⁷ Ibid., p. 11.

¹⁷⁸ Ibid., p.13.

¹⁷⁹ Ibid., p. 14.

¹⁸⁰ S/PRST/2005/20.

¹⁸¹ Resolution 1625 (2005), para. 2.

¹⁸² S/PV.5261, p. 13.

At its 5335th meeting, on 20 December 2005, the Security Council adopted resolution 1645 (2005),¹⁸³ by which it decided that the agenda of the Organizational Committee of the Peacebuilding Commission should be based on several requests, including requests for advice from ECOSOC or the General Assembly with the consent of a concerned Member State on the verge of lapsing or relapsing into conflict and with which the Security Council was not seized in accordance with Article 12 of the Charter. It also underlined that the advice of the Commission to provide sustained attention as countries moved from transitional recovery towards development would be of particular relevance to ECOSOC, bearing in mind its role as a principal body for coordination, policy review, policy dialogue and recommendations on issues of economic and social development.¹⁸⁴

Case 13

Protection of Civilians in Armed Conflict

At its 4990th meeting, on 14 June 2004, the Council met to discuss the agenda item entitled “Protection of civilians in armed conflict”. During the debate, the representative of Pakistan emphasized that most contemporary conflicts were complex in nature, requiring a comprehensive, coherent and multidimensional response. In that regard, the United Nations had an institution best suited to generate such an integrated approach, with the Secretary-General, the Security Council, ECOSOC and its relevant function commissions, and the General Assembly working in synergy within their respective roles and mandates.¹⁸⁵ In a similar vein, the representative of Brazil highlighted that in order to look for more complementarity, the Council could work in close coordination with the General Assembly and ECOSOC in the field of the protection of civilians, especially as the critical issue of funding for humanitarian missions was

¹⁸³ Resolution 1645 (2005).

¹⁸⁴ For further discussions on the role of ECOSOC in the peacebuilding commission, see Part I, Section G (Relations with the Peacebuilding Commission).

¹⁸⁵ S/PV.4990, p. 14.

beyond the Council's purview.¹⁸⁶ Furthermore, the representative of the Philippines called for a recommitment to the road map that identified the responsibilities of the various entities within the United Nations, including the Security Council, the General Assembly and ECOSOC, and requested a wide dissemination of this road map throughout the United Nations system to maximize contributions to realizing the common objective of effectively protecting civilians in all areas and at all levels.¹⁸⁷

At the resumption of the meeting, the representative of Ukraine highlighted that further strengthening of cooperation between the Security Council and ECOSOC had an important role in areas that were at the heart of peace-building.¹⁸⁸ The representative of Japan also emphasized the importance of collaboration between the Council and other organs such as ECOSOC in the effective protection of civilians in armed conflict. He further asserted that a seamless transition from humanitarian assistance to reconstruction was extremely important, and that his Government accordingly welcomed the holding of an ECOSOC event on transition.¹⁸⁹

Case 14

Women and peace and security

In the report of the Secretary-General on "Women and peace and security", dated 13 October 2004,¹⁹⁰ he provided an overview of the progress achieved thus far in the implementation of resolution 1325 (2000). In the report, he outlined ECOSOC's functional commissions, and highlighted that at its substantive session of 2004, ECOSOC had adopted resolution 2004/4, in which it requested all United Nations entities to strengthen their efforts at gender mainstreaming and to develop action plans with specific timelines for implementing the gender mainstreaming strategy. The resolution also called for measures to strengthen commitment and accountability at the highest levels within the

¹⁸⁶ Ibid., p. 21.

¹⁸⁷ Ibid., p. 27.

¹⁸⁸ S/PV.4990 (Resumption1), p. 5.

¹⁸⁹ Ibid., pp. 10-11.

¹⁹⁰ S/2004/814.

United Nations and underscored the importance of monitoring and reporting. Moreover, the resolution also requested United Nations entities to provide effective support to gender specialists, gender focal points and gender theme groups, and urged continued efforts towards the full implementation of resolution 1325 (2000).

At its 5066th meeting, on 28 October 2004, the Council met to discuss the agenda item entitled “Women and peace and security”. During the debate, the representative of the Philippines welcomed the Secretary-General’s intentions to work towards a comprehensive system-wide strategy and action plan for gender mainstreaming in the organization’s work, and to interface that strategy with the policies and plans adopted by the General Assembly and ECOSOC.¹⁹¹ The representative of Algeria raised concerns about the Security Council exceeding its own area of competency due to the multidimensional and multisectoral nature of the issue which would threaten to weaken the authority of organs and mechanisms that dealt with the status of women. In this connection, he outlined the need to ensure that the Council’s actions were in accordance with its mandate and complemented the work of other players, particularly ECOSOC.¹⁹² The representative of Pakistan also emphasized the need for the Security Council to enhance its coordination with the General Assembly and ECOSOC, with a view to evolving a composite approach, particularly with regard to the economic, social and political empowerment of women.¹⁹³ Similarly, the representative of Brazil underlined the particular need for cooperation between the Council and ECOSOC, under Article 65 of the Charter, to link peace, security, reconstruction and development, and also emphasized the existing success stories of cooperation between the two, such as the ad hoc groups for Guinea-Bissau and Burundi.¹⁹⁴ The representative of the Russian Federation indicated that he was pleased that the issue of women and peace and security was being given increased attention by the Council, the General Assembly and ECOSOC.¹⁹⁵ The representative of Mexico further emphasized that it was of paramount importance that the content of resolution 1325 (2000) had to be ingrained in the daily work of the Main Committees of the General Assembly, the ECOSOC and the

¹⁹¹S/PV.5066, p 12.

¹⁹²Ibid., p. 15.

¹⁹³Ibid., p. 20.

¹⁹⁴Ibid., p. 23.

¹⁹⁵Ibid., p. 25.

Secretariat.¹⁹⁶ Finally, the representative of the Syrian Arab Republic highlighted that the Council's interest in the issue of women and peace and security had further strengthened and promoted the integration of existing General Assembly and ECOSOC mechanisms relating to the protection of women in armed conflict, strengthening measures to empower women and to promote their equal participation in peacekeeping operations and important decision-making in the post-conflict reconstruction of States and societies.¹⁹⁷

At the close of the meeting, the President issued a statement on behalf of the Council,¹⁹⁸ which recognized that significant progress had been made in the implementation of resolution 1325 (2000) in certain areas of the United Nations peace and security work. The Council also expressed its readiness to further promote the implementation of the resolution, and in particular through active cooperation with ECOSOC and the General Assembly.

In the report of the Secretary-General on "Women and peace and security", dated 10 October 2005,¹⁹⁹ he emphasized that intergovernmental bodies, such as the Council, the General Assembly and ECOSOC played a critical role in providing oversight and ensuing accountability of United Nations entities as they formulated policies, standards and norms for gender mainstreaming and empowerment.

At its 5294th meeting, on 27 October 2005, the Council met to discuss the same agenda item. During the debate, the representative of Algeria emphasized that the Council should not impinge on the prerogatives of the General Assembly, ECOSOC or the Commission on the Status of Women, which were the appropriate bodies for the development of policies and norms with respect to the status of women and gender equality, and therefore, it was necessary for the Council to work in conjunction with the other participants in the system.²⁰⁰ The representative of Argentina highlighted that the obstacles to the full implementation of resolution 1325 (2000) arose from both the instability of conflict situations themselves and the lack of respect for the human rights of women. He emphasized that the latter fell within the purview of other bodies such as ECOSOC, and called upon Member States to carry out the commitments they had entered

¹⁹⁶ Ibid., p. 32.

¹⁹⁷ Ibid., p. 33.

¹⁹⁸ S/PRST/2004/40.

¹⁹⁹ S/2005/636.

²⁰⁰ S/PV.5294., p. 20.

into, especially under the Beijing Declaration and Platform for Action.²⁰¹ Furthermore, the representative of Brazil asserted that the possibility of cooperation between the Council and ECOSOC under Article 65 could not be disregarded in the area of intergovernmental oversight.²⁰²

Part III

Relations with the Trusteeship Council

Note

This part concerns the relationship between the Security Council and the Trusteeship Council in relation to those trust territories designated as “a strategic area or areas”, under Articles 77 and 82 of the Charter. Article 83, paragraph 1, provides that “all functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.” Article 83, paragraph 2, further provides that the Security Council shall avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social and educational matters in the strategic areas. Those supervisory functions are specified in Articles 87 and 88 of the Charter.

During the period under review, although remaining in existence, the Trusteeship Council was inactive and did not carry on any activity.²⁰³

²⁰¹ Ibid., pp. 21-22.

²⁰² Ibid., pp. 28-29.

²⁰³ The Trusteeship Council completed its mandate under the United Nations Charter by way of resolution 956 (1994) of 10 November 1994.

Part IV

Relations with the International Court of Justice

Note

This part concerns the relationship between the Security Council and the International Court of Justice (ICJ). Section A deals with the election of the members of the Court, which requires that action be taken by the Security Council in conjunction with the General Assembly, but with both organs proceeding independently. During the period under review two rounds of elections took place to elect six members to fill causal and regular vacancies of the Court (see cases 15 and 16). Section B reflects on the discussion that continued in the Security Council regarding the respective roles of the Council and the Court, in connection with the ruling by the ICJ in the case concerning the Application of the Convention on the Prevention of the Crime of Genocide, between Bosnia and Herzegovina and Serbia and Montenegro (see case 17); and the respective roles of the Council and the Court, in connection with the Palestinian question following the Advisory Opinion by the ICJ on the legal consequences of the construction of a wall in the Occupied Palestinian Territory (see case 18). It also deals with the Council's debate on strengthening the United Nations system and the rule of law, during which the role of the ICJ was emphasized (see case 19). An instance is also described where the Secretary-General and the Security Council, via communications, welcomed the ruling of the ICJ in a dispute between Cameroon and Nigeria concerning the peninsula of Bakassi (see case 20).

Moreover, during the period under review, by a note verbale dated 29 September 2005 addressed to the Secretary-General,²⁰⁴ the representative of Costa Rica communicated that it had filed a case against Nicaragua before the ICJ concerning the navigational rights of Costa Rica on the San Juan River. There were no subsequent

²⁰⁴ A/60/417-S/2005/632.

communications on this issue during the period, nor did the Council meet to discuss the issue.

A. Practice in relation to the election of members of the International Court of Justice

The procedure for election of members of the Court is set out in Articles 4 and 8, and 10 to 14 of the Statute of the International Court of Justice; Rules 150 and 151 of the rules of procedure of the General Assembly; and Rules 40 and 61 of the provisional rules of procedure of the Security Council.

For each of the two elections (cases 15 and 16) that took place during this period, the Security Council began the procedure to fill a vacancy, or vacancies, by fixing the date of election, in accordance with Article 14 of the Court's Statute and the Council's practice through the adoption of a resolution.²⁰⁵ The Security Council and the General Assembly then proceeded independently with the elections.²⁰⁶ At the Security Council meetings, the President of the Council drew attention to a memorandum²⁰⁷ by the Secretary-General describing the composition of the Court and setting out the procedure to be followed in the conduct of the election. He reminded the Council that Article 10, paragraph 1 of the Court's Statute provided that "Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected", adding that the required majority in the Security Council was, therefore, eight votes. He explained further that the voting would proceed by secret ballot.

²⁰⁵ In one instance, the Council adopted resolution 1571(2004) fixing the date of the election; in the remaining five instances, relating to the election to fill regular vacancies of the Court, it appears that the Council informally set the date of election.

²⁰⁶ For the verbatim records of the relevant Security Council meetings see S/PV.5121 and S/PV.5299; for the verbatim records of the relevant General Assembly plenary meetings see A/59/PV.21 and A/60/PV.44.

²⁰⁷ S/2005/51 and S/2005/446.

Case 15

At its 5070th meeting, on 4 November 2004, the Council met to discuss the agenda item entitled “Date of election to fill a vacancy of the international court of justice”.²⁰⁸ At the meeting, the Council adopted resolution 1571 (2004) deciding that the election should take place on 15 February 2005.

At its 5121st meeting, on 15 February 2005, the Council met to elect a member of the International Court of Justice to fill a vacancy in the Court caused by the resignation of one of its members.²⁰⁹ On the first ballot, one candidate obtained the required majority of votes in the Council. The President stated that he would communicate the result of the vote to the President of the General Assembly, and requested the Council to remain in session until the result of the voting in the General Assembly had been received. Subsequently, he informed members of the Council that he had received a letter from the President of the General Assembly informing him that the same candidate had received an absolute majority in the General Assembly at its 81st plenary meeting of its fifty-ninth session. The candidate in question was therefore elected a member of the ICJ. As the new member was elected to replace a member whose term of office had not expired, he was elected to the remainder of his predecessor’s term of office, expiring on 5 February 2009.

Case 16

At its 5299th meeting, on 7 November 2005, the Council proceeded with the election of five members of the International Court of Justice, to fill the seats which would become vacant on 5 February 2006. On the first ballot six candidates obtained the required majority of votes in the Council. As more than five candidates received the required majority, the Council then held a second ballot in accordance with paragraph 13 of the Secretary-Generals’ memorandum on the “Election of five members of the

²⁰⁸ S/PV.5070.

²⁰⁹ See, S/2004/830.

International Court of Justice”.²¹⁰ The results of the second ballot were similar to that of the first, namely that six candidates obtained the required majority of votes. The President then communicated to the Council that six candidates had also obtained the required majority in the second ballot in the General Assembly, and accordingly a third ballot was held in the Council and General Assembly.²¹¹

It was communicated to the Council that the President of the General Assembly had suspended the third ballot until later the same day, and the President of the Council proposed to proceed in the same way and to resume the ballot later in the same meeting, to which all the Council members agreed.

During the same meeting, at the third ballot it was communicated to the Council that, by letters dated 7 November 2005, both the representatives of Tunisia and Sweden had informed the Legal Counsel that their respective national groups had separately decided to withdraw the candidacy of Mr. Abdelfattah Amor for election to the ICJ. Since Mr. Amor’s candidacy was nominated only by the national groups of Tunisia and Sweden his name was not included on the third ballot. The third ballot once again resulted in more than five candidates obtaining the majority necessitating a fourth ballot. It was communicated to the Council that the General Assembly would also need to conduct a fourth ballot.

The fourth ballot then took place. Prior to the announcement of the result of the fourth ballot the President informed the Council that he had received a letter from the President of the General Assembly stating that five candidates had received an absolute majority in the General Assembly’s fourth ballot. It was then revealed that in the fourth ballot of the Council more than five candidates had obtained the required majority.

As the General Assembly had already approved five candidates it did not vote again. The fifth ballot then proceeded in the Council. This, once again, resulted in more than five candidates with an absolute majority.

²¹⁰ S/2005/446, paragraph 13 describes the composition of the Court and sets out the procedure to be followed in the conduct of the election.

²¹¹ There was no communication from the President of the General Assembly to the President of the Council of the results of the first ballot as the General Assembly decided in the same meeting to withhold communication to the President of the Council until “the required number of candidates, and no more, had received the absolute majority” in keeping with a procedure adopted by the General Assembly at the 45th plenary meeting of the forty-fifth session, on 3 November 1999: A/60/PV.44.

The Council accordingly proceeded with a sixth ballot, and in this ballot only the required number of candidates, five, received the required majority. The President communicated the result of the vote to the President of the General Assembly and requested the Council to remain in session to await a communication from the President of the General Assembly, in keeping with procedure, so the results could be read out simultaneously. Subsequently, he announced that he had received a letter from the President of the General Assembly informing the Council that the same candidates had received the required majority of votes in the Assembly at its 44th plenary meeting. The candidates in question were therefore elected members of the International Court of Justice for a term of office of nine years, beginning on 6 February 2006.

B. Consideration of the relationship between the Security Council and the Court

Article 94

1. *Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.*
2. *If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.*

Article 96

1. *The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.*
2. *Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.*

Article 41 of the Statute of the Court

1. *The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.*
2. *Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.*

Case 17

During the period under review, the International Court of Justice issued its ruling in the case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide between Bosnia and Herzegovina and Serbia and Montenegro on 26 February 2007. Prior to the ruling of the Court, by a letter dated 12 October 2006 addressed to the President of the Council,²¹² the Secretary-General transmitted the thirtieth report of the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina, in which the High Representative asserted that the relationship between Bosnia and Herzegovina and Serbia had been complicated by the case pending before the International Court of Justice.

By a letter dated 3 May 2007 addressed to the President of the Security Council,²¹³ the Secretary-General annexed a report from the High Representative of Bosnia and Herzegovina. In the report the High Representative outlined how the ruling by the Court on 26 February had brought to the fore, the issue of constitutional reform within Bosnia and Herzegovina. He explained that, as a result of the ruling, the Bosnian politicians had seized upon the Court's verdict and highlighted that it was the army and police of the wartime Republika Srpska that had committed the genocide in and around Srebrenica in July 1995. Consequently, the Bosniaks demanded that the Srebrenica municipality be removed from the Republika Srpska's jurisdiction and that the Republika Srpska itself be abolished.²¹⁴ Encouraged by the findings of the International Court,²¹⁵ the

²¹² S/2006/810.

²¹³ S/2007/253.

²¹⁴ *Ibid.*, p. 4.

Bosniaks continued to pursue their goal of an entity-free Bosnia and Herzegovina in contrast to the federal state system desired by the Serbs,²¹⁶ and the report indicated that this had caused “reverberations” throughout the country.²¹⁷

In response, by a letter dated 15 May 2007 addressed to the President of the Council,²¹⁸ the President of the International Tribunal for the Former Yugoslavia (ICTY) annexed an assessment and report pursuant to paragraph 6 of Council resolution 1534 of 26 March 2004 regarding the completion strategy of the ICTY.²¹⁹ In light of the judgment of the International Court of Justice, the President of the ICTY expressed the determination of the Office of the Prosecutor to continue actively seeking support from States and international organizations to obtain the arrest of remaining fugitives, and expressed hope that the international community and especially concerned States would give effect to the ICJ findings.

At its 5675th meeting, on 16 May 2007, the Council met to discuss the agenda item entitled “The situation in Bosnia and Herzegovina”. During the debate, the High Representative for the Implementation of the Peace Agreement on Bosnia and Herzegovina highlighted the political tensions within Bosnia and Herzegovina following the ICJ judgment which had threatened stability in the State as politicians sought to exploit the ruling for their own gains. The High Representative then outlined the obligations placed upon Serbia as a result of the judgment, but asserted that Serbia had “not delivered on that obligation” and that “no results [had] been forthcoming” since the ruling.²²⁰ Finally, he stated that the ICJ’s verdict acknowledged that genocide had occurred in Srebrenica, and made it clear that the United Nations had special

²¹⁵ Ibid., p. 9 - On 27 February 2007, the ICJ ruled that the wartime institutions of the Republika Srpska had been responsible for the genocide in Srebrenica.

²¹⁶ Ibid, p. 9.

²¹⁷ Ibid, p. 20.

²¹⁸ S/2007/283.

²¹⁹ Resolution 1534 (2004); Paragraph 6 “*Requests* each Tribunal to provide to the Council, by 31 May 2004 and every six months thereafter, assessments by its President and Prosecutor, setting out in detail the progress made towards implementation of the Completion Strategy of the Tribunal, explaining what measures have been taken to implement the Completion Strategy and what measures remain to be taken, including the transfer of cases involving intermediate and lower rank accused to competent national jurisdictions.”

²²⁰ S/PV.5675, pp. 3-4.

responsibilities to its people and encouraged the Council to establish a United Nations Day of Srebrenica to commemorate the tragic events that had occurred there.²²¹

At the same meeting the representative of Italy endorsed the ruling of the International Court of Justice, and asserted that the ruling should be applied “scrupulously so as...to further ascertain responsibility and to ensure that justice prevails”.²²² The representative of Belgium emphasized that the ruling of the Court should not be used as a pretext to review the political and institutional architecture of Bosnia and Herzegovina, and called for the cessation of all nationalized rhetoric and the depoliticalisation of certain topics within the country.²²³ In a similar vein, the representative of the United Kingdom emphasized that Bosnian leaders should not exploit the judgment to stir up Srebrenica as a means of undermining the Dayton Peace Agreement.²²⁴

By a letter dated 30 May 2007 addressed to the Secretary-General,²²⁵ the representative of Pakistan, in his capacity as Chairman of the Organization of the Islamic Conference Group, annexed resolution 35/34-POL adopted at the thirty-fourth session of the Islamic Conference of Foreign Ministers on the situation in Bosnia and Herzegovina. The resolution took note of the decision by the International Court of Justice on the matter of Bosnia and Herzegovina and the FRY, and declared that the judgment must be fully implemented.

At its 5697th meeting, on 18 June 2007, the Council met to discuss the agenda item entitled “the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 and the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighboring States between 1 January and 31 December 1994”. During the deliberations of the Council, the representative of France welcomed the measures taken

²²¹ Ibid, pp. 7-8.

²²² Ibid, p. 8.

²²³ Ibid, p. 14.

²²⁴ Ibid, p. 17.

²²⁵ A/61/981-S/2007/656.

by the Belgrade authorities, in handing over the two indictees to The Hague, in accordance with its international commitments set out in the ruling of the International Court of Justice.²²⁶ The representative of the United Kingdom welcomed the judgment of the Court, and affirmed the obligations placed upon Serbia by part of the ICJ's judgment, that the remaining accused should be tried before the ICTY.²²⁷

By a letter dated 10 August 2007 addressed to the President of the Council,²²⁸ the Secretary-General enclosed a report of the Secretary-General of the Council of the European Union and High Representative of the Union for the Common Foreign and Security Policy, on the activities of the European Union military mission in Bosnia and Herzegovina. In the report, it was emphasized that the political situation within Bosnia and Herzegovina had deteriorated, mainly as a result of the International Court of Justice ruling of 26 February which had sparked strong reactions.

By a letter dated 5 November 2007 addressed to the President of the Council,²²⁹ the Secretary-General annexed the thirty-second report of the High Representative for Bosnia and Herzegovina on the implementation of the Peace Agreement covering the period from 1 April 2007 to 30 September 2007. In his report, the High Representative made clear that the political fallout from the judgment of the Court had continued to define domestic politics during the first half of the reporting period, and the Bosniak political leaders continued to use the Srebrenica genocide as a means of attacking both the constitutional order and the legitimacy of the Republik Srpska,²³⁰ and this combination had contributed to an unfavorable political environment for achieving the reforms to which the Office of the High Representative was committed.²³¹ However, the High Representative also recognized that the tensions over Srebrenica in the wake of the judgment had lessened overall by the end of the reporting period.²³²

²²⁶ S/PV.5697, p. 19.

²²⁷ Ibid., p. 24.

²²⁸ S/2007/490

²²⁹ S/2007/651

²³⁰ Ibid, p. 4.

²³¹ Ibid, p. 15.

²³² Ibid, p. 3.

Case 18

During the period under review, on 9 July 2004, the International Court of Justice issued its Advisory Opinion on the legality of the construction of the wall in the Occupied Palestinian Territory, in which it held that “Israel is under an obligation to terminate its breaches of international law; it is under an obligation to cease forthwith the works of construction of the wall being built in Occupied Palestinian Territory, including in and around East Jerusalem [and] to dismantle forthwith the structure therein situated.”²³³ Subsequent to the ruling, the Security Council received numerous communications from the Secretary-General and Member States²³⁴ and held many debates on the issue of the Palestinian question.²³⁵ Member States in their communications condemned the actions of Israel in continuing with the construction of the wall in flagrant violation of the Advisory Opinion of the Court, and urged Israel to comply with its legal obligations arising from the judgment of the Court, General Assembly resolutions and international law.

At its 4895th meeting, on 16 January 2004, the Council met to discuss the agenda item entitled “The situation in the Middle East, including the Palestinian question”. During the debate, the issue of the construction of the separation barrier was raised by the Under-Secretary-General for Political Affairs, who indicated that the General Assembly had requested that the International Court of Justice provide an Advisory Opinion on the legality of the construction of the separation barrier.²³⁶

²³³ S/PV.5002, pp. 5-6.

²³⁴ A/58/721-S/2004/142; A/ES-10/257-S/2004/167; A/58/726-S/2004/172; A/ES-10/271-S/2004/506; A/ES-10/276-S/2004/630; A/58/877-S/2004/678; A/59/425-S/2004/808; A/59/574-S/2004/909; A/ES-10/292-S/2004/1029; A/ES-10/293-S/2005/2; A/ES-10/314-S/2006/11; A/ES-10/296-S/2005/46; A/ES-10/297-S/2005/101; A/ES-10/302-S/2005/321; S/2005/274; A/ES-10/303-S/2005/372; A/59/884-S/2005/522; A/60/416-S/2005/619; A/60/539-S/2005/701; A/ES-10/316-S/2006/30; A/ES-10/345-S/2006/499; A/61/355-S/2006/748; A/61/915-S/2007/291; S/2007/360; A/61/946-S/2007/337; A/61/952-S/2007/345; A/61/368-S/2007/581; A/62/344-S/2007/553; A/62/507-S/2007/636; A/ES-10/408-S/2007/766.

²³⁵ S/PV.4895; S/PV.4929; S/PV.4951; S/PV.5002; S/PV.5007; S/PV.5019; S/PV.5060; S/PV.5128; S/PV.5149; S/PV.5767; S/PV.5039; S/PV.5049; S/PV.5051; S/PV.5230; S/PV.5270; S/PV.5312; S/PV.5411; S/PV.5472; S/PV.5552; S/PV.5568; S/PV.5584; S/PV.5667; S/PV.5736.

²³⁶ S/PV.4895, p 3.

In identical letters dated 27 February 2004 addressed to the Secretary-General and the President of the Council,²³⁷ the Permanent Observer of Palestine denounced the actions by Israel in “continuing to kill and wound Palestinian civilians”, and also for continuing the construction of the wall in the Occupied Palestinian Territory, with total contempt for the resolutions of the United Nations and in complete disregard of the current advisory proceedings of the International Court of Justice on the legal consequences arising from the continued construction.

By identical letters dated 2 March 2004 addressed to the Secretary-General and the President of the Council,²³⁸ the representative of Israel expressed his disappointment that the legality of the Wall was being challenged by the International Court of Justice. The representative asserted that it was “tragic that the security fence, the very counter-terrorist defensive measure that could have saved each passing life” was being challenged in the ICJ, especially because in areas currently protected by the security fence, the incidence of terrorist attacks had been significantly reduced.²³⁹

At its 4929th meeting, on 23 March 2004, the Permanent Observer of Palestine expressed grave concern about Israel’s continued building of the expansionist wall in the occupied Palestinian territory, even after the matter had been submitted to the International Court of Justice, at the request of the General Assembly for an advisory opinion.²⁴⁰ The representative of Saudi Arabia remarked upon Israel being a “State marked by hostility to international law and the norms of human society”. He asserted that international relations were in a very grave situation because of the precedence being granted to the logic of force over law, and because of the lack of respect for international norms which had given rise to strange and distorted interpretations of those norms which did not accord with opinions handed down by the International Court of Justice.²⁴¹

By identical letters dated 21 June 2004 addressed to the Secretary-General and the President of the Council,²⁴² the Permanent Observer of Palestine declared that “Israel, the occupying Power, continue[d] to build its expansionist Wall in the Occupied Palestinian

²³⁷ A/ES-10/257-S/2004/167.

²³⁸ A/58/726-S/2004/172.

²³⁹ *Ibid.*, p. 1.

²⁴⁰ S/PV.4929, p. 4.

²⁴¹ *Ibid.*, p. 24.

²⁴² A/ES-10/271-S/2004/506.

Territory, in direct violation of General Assembly resolution ES-10/13 of 21 October 2003²⁴³, and furthermore that “the occupying Power ha[d] continued to confiscate even more Palestinian land, to bulldoze and destroy more Palestinian property and to accelerate the building of the Wall also in blatant disregard for Assembly resolution ES-10/14, in which the Assembly requested the International Court of Justice to urgently render an advisory opinion on the issue, and in contempt for the ongoing deliberations of the Court”.

During its 5002nd meeting, on 13 July 2004, the Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General drew the Council’s attention to the Advisory Opinion of the International Court of Justice on the legality of the construction of the barrier in the West Bank issued on 9 July, and in particular where the Court called on the United Nations to consider what further action was required to bring an end to the illegal situation resulting from the construction of the wall.²⁴⁴

At its 5007th meeting, on 20 July 2004, the Secretary-General of the League of Arab States addressed the Council, and described the decision issued by the International Court of Justice as “a strong and wise response to those who are seeking to make use of negative measures against principles of international law or who are following a double standard”.²⁴⁵

In identical letters dated 6 August 2004 addressed to the Secretary-General and the President of the Council,²⁴⁶ the Permanent Observer of Palestine recalled that the Court had found Israel’s construction of the Wall was in breach of several of its legal obligations, and had concluded that Israel was under an obligation to terminate its breaches of international law and was under an obligation to cease its construction of the Wall. Furthermore, the Court spelled out the obligations of States in that regard and determined that the United Nations, including the General Assembly and Security Council, should consider what further action was required to bring an end to the illegal situation resulting from the construction of the Wall and its regime, taking due account of

²⁴³ By resolution ES-10/13, the General Assembly demanded that Israel stop and reverse the construction of the Wall in the occupied Palestine territory.

²⁴⁴ S/PV.5002, p. 6.

²⁴⁵ S/PV.5007, p. 16.

²⁴⁶ A/ES-10/276-S/2004/630.

the Advisory Opinion. Moreover, the Permanent Observer noted that immediately after both the Court's rendering of the Advisory Opinion and the Assembly's adoption of resolution ES-10/15, Israeli officials publicly rejected the Advisory Opinion, speaking with ill-respect and disdain for the Court, for the opinion and for the Assembly, and defiantly declared Israel's intention to continue constructing the Wall. He further stated that this had to be a matter of direct and critical concern for the United Nations, including the General Assembly and the Security Council.²⁴⁷

By identical letters dated 24 August 2004 addressed to the Secretary-General and the President of the Council,²⁴⁸ the Permanent Observer of Palestine asserted that all Israeli settlement policies and practices were being carried out in flagrant and grave violation of international law, particularly the Fourth Geneva Convention. He stated that this fact was confirmed by the justices of the International Court of Justice in the Advisory Opinion of 9 July 2004, which determined, *inter alia*, that the Israeli settlements had been established in breach of international law. The Permanent Observer also reiterated that, "as concluded by the International Court of Justice, the unlawful construction of the Wall by Israel, the occupying power, is intricately related to this unlawful colonial settlement campaign in the Occupied Palestinian Territory, including East Jerusalem," and that those "illegal practices are preventing the realization of the inalienable national rights of the Palestinian people, including their right to self-determination in their independent State of Palestine."²⁴⁹

At its 5039th meeting, on 17 September 2004, the Under-Secretary-General for Political Affairs reported to the Council that despite the Advisory Opinion of the Court "the Israeli policy of confiscating and/or leveling Palestinian land [had] continued". He informed the Council that he was awaiting further details to be published on the exact routing of the parts of the barrier that remained to be constructed in the West Bank, and that Israel was currently revising long sections of the barrier route in accordance with the ruling of the Israeli High Court, which had instructed the Government to respond to the

²⁴⁷ Ibid, p 3.

²⁴⁸ A/58/877-S/2004/678.

²⁴⁹ Ibid, p. 2.

Advisory Opinion rendered by the International Court of Justice, which might have a further impact on the route of the barrier.²⁵⁰

At its 5049th meeting, on 4 October 2004, the Permanent Observer of Palestine reiterated the obligations placed upon Israel arising from the ruling of the International Court and its request that the Security Council take additional measures to bring an end to the illegal situation resulting from the construction of the Wall. He noted that the General Assembly had responded favorably and had taken the first step, as set out in resolution ES-10/15. He further noted that the Security Council had not yet responded, and called on the Council to become engaged in the political process, thus giving it momentum and further force.²⁵¹

At the same meeting, the representative of Romania emphasized that the illegal construction of the Wall, as determined by the International Court of Justice, was contributing to the very harsh conditions facing the Palestinian people, as the Wall cut off the productive resources; their best arable land and their major water sources.²⁵² The representative of Pakistan said that the continued construction of the Wall in defiance of the Court's ruling was a manifestation of an objective, that of the permanent annexation of occupied Palestinian territories.²⁵³ The representative of Tunisia, speaking on behalf of the Group of Arab States, emphasized the commitments placed on Israel as a result of the Advisory Opinion of the Court, and reminded the Council that the "International Court of Justice [had] requested the United Nations, particularly the Security Council, to adopt additional measures to put an end to the illegal situation resulting from the construction of the wall".²⁵⁴ The representative of the League of Arab States questioned how, in the face of continued actions by Israel in contravention of the ruling of the Court, the Security Council could remain a silent observer in the face of the daily war crimes perpetrated by Israel's occupation forces against the Palestinian people. He called upon the Council to adopt the necessary measures to prevail upon Israel to renounce its policy of occupation, settlement-building, killings and destruction and to compel Israel to return

²⁵⁰ S/PV.5039, p. 3.

²⁵¹ S/PV.5049, p. 4.

²⁵² *Ibid*, p. 10.

²⁵³ *Ibid*, p. 15.

²⁵⁴ *Ibid*, p. 18.

to the negotiating table.²⁵⁵ The representative of the Syrian Arab Republic underlined the repeated warnings received about the plans by the head of the Government of Israel, and highlighted how he was increasing the number of settlements in the West Bank and “continuing to build the racist separation wall”, in defiance of the opinion of the International Court of Justice.²⁵⁶

In a letter dated 1 October 2004 addressed to the Secretary-General,²⁵⁷ the representative of Turkey, in his capacity as Chairman of the Organization of the Islamic Conference Group, transmitted the final communiqué of the Annual Coordination meeting of Ministers of Foreign Affairs of the States members of the Organization of the Islamic Conference. In the communiqué, they strongly welcomed the Advisory Opinion, rendered on 9 July 2004 by the International Court of Justice on the ‘Legal Consequences of the Construction of a Wall in the Occupied Palestine Territories’.²⁵⁸ Furthermore, they took note of “the negative and defiant response by Israel” to the Advisory Opinion and its declarations to continue constructing the wall in the Occupied Palestinian Territory, including in and around East Jerusalem.

In identical letters dated 30 December 2004,²⁵⁹ and also in two subsequent identical letters,²⁶⁰ addressed to the Secretary-General and the President of the Council, the Permanent Observer of Palestine indicated that Israel continued to pursue its illegal settlement and wall campaign in the Occupied Palestinian Territory, in blatant violation of and contemptuous disregard for, the Advisory Opinion of the International Court of Justice.

In identical letters dated 26 January 2005 addressed to the Secretary-General and the President of the Council,²⁶¹ the Permanent Observer of Palestine stated that Israel had resumed construction of a section of the wall by the illegal settlement of Ariel, which was located 12 miles deep into the West Bank, despite the ruling by the ICJ.

²⁵⁵ Ibid, pp 22-23.

²⁵⁶ Ibid, p 25.

²⁵⁷ A/59/425-S/2004/808.

²⁵⁸ Ibid, p. 6.

²⁵⁹ A/ES-10/292-S/2004/1029.

²⁶⁰ A/ES-10/293-S/2005/2 (4 January 2005); and A/ES-10/314-S/2006/11 (5 January 2006).

²⁶¹ A/ES-10/296-S/2005/46.

By identical letters dated 22 February 2005,²⁶² and subsequent identical letters dated 17th May 2005,²⁶³ addressed to the Secretary-General and the President of the Council, the representative of the Permanent Observer Mission to Palestine informed the Council that Israel was continuing to pursue its illegal policies and practices in spite of the ruling by the ICJ. He asserted that the Council had the duty to address the issue and to take the necessary measures to ensure that Israel upheld its responsibilities and legal obligations, and that Member States also upheld their legal obligations, as mentioned in the Advisory Opinion of the ICJ.

In a letter dated 18 April 2005 addressed to the President of the Council,²⁶⁴ the Permanent Observer of the League of Arab States transmitted a letter from its Secretary-General, to which were annexed the texts of the resolutions and the Algiers Declaration adopted by the Council of the League of Arab States at its seventeenth session. In the letter, the League of Arab States reaffirmed the importance of the legal finding of the ICJ and the necessity of observing the legally binding obligations arising from there upon Israel, and the States members of the United Nations, and called upon the General Assembly and Security Council to follow up on the decision of the ICJ by ensuring fulfillment of the legal obligations determined by the Court.

At its 5230th meeting, on 21 July 2005, the Permanent Observer of Palestine asserted that the Israeli Government's approval on the 10 July of the route inside East Jerusalem of the separation wall was a grave development. He stated that it was a direct challenge to the international community, as it coincided with the one year anniversary of the ICJ's Advisory Opinion on the Wall, which ruled that the Wall was illegal.²⁶⁵ She reiterated that the international community must abide by the legal opinion of the ICJ, and looked forward to the day when the international community, and in particular the Security Council, would ensure that Israel respected international law in accordance with the Court's opinion.²⁶⁶ The representative of Brazil voiced the opinion that Israel should be encouraged to reverse its decision on the matter of the construction of the Wall around

²⁶² A/ES-10/297-S/2005/101.

²⁶³ A/ES-10/302-S/2005/321.

²⁶⁴ S/2005/274.

²⁶⁵ S/PV.5230, p 8.

²⁶⁶ Ibid, p. 9.

Jerusalem and to comply with the Advisory Opinion of the Court in all activities related to the Wall.²⁶⁷

Similarly, the representative of China noted that the Israeli decision to accelerate construction of the Wall one year after the issuance of the Court's judgment contravened the relevant United Nations resolutions and principles, and would exacerbate the Israeli-Palestinian discord.²⁶⁸ The representative of Japan deplored the construction of the Wall inside the Green Line, in violation of the findings of the Court, and asserted it was adversely affecting the livelihood of Palestinians and was prejudicial to the outcome of the final status negotiation.²⁶⁹ The representative of Argentina emphasized that Israel should act in conformity with international law with respect to the construction of the separate barrier, and called upon the Government of Israel to abide by the judgment of the Court.²⁷⁰ The representative of Benin further asserted that the continued construction of the Wall, despite the ruling of the Court, was a real challenge for the international community, and urged the Government of Israel to substantially implement the Court's decision, and this sentiment was echoed by the representative of the Philippines.²⁷¹

In a letter dated 29 September 2005 addressed to the Secretary-General,²⁷² the representative of the Libyan Arab Jamahiriya, in his capacity as Chairman of the Arab Group and on behalf of the States members of the League of Arab States, commented on the statement delivered by Mr. Alvaro de Soto, United Nations Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General to the Palestine Liberation Organization and the Palestinian Authority, to the Security Council during the briefing that was held on 23 September 2005.²⁷³ In his statement, Mr. de Soto had referred repeatedly to Israel's need for security as the reason behind the building of the Wall in the Occupied Palestinian Territory, including East Jerusalem. In that regard, the Arab Group reiterated that the Court had rejected the argument that the Wall was needed for security reasons, and that the Court stated: "The Court, from the

²⁶⁷ Ibid, p. 17.

²⁶⁸ Ibid, p. 17.

²⁶⁹ Ibid, p. 19.

²⁷⁰ Ibid, p. 21.

²⁷¹ Ibid., p. 25 (Benin) and p. 26 (Philippines).

²⁷² A/60/416-S/2005/619.

²⁷³ 5270th meeting.

material available to it, is not convinced that the specific course Israel has chosen for the wall was necessary to attain its security objectives.”²⁷⁴

In a report of the Secretary-General entitled “Peaceful settlement of the question of Palestine”,²⁷⁵ submitted on 7 November 2005 in accordance with General Assembly resolution 59/31, he reiterated his call to Israel to abide by the judgment of the ICJ. Included in the report was a note verbal, dated 2 August 2005, from the Permanent Observer of Palestine in which he recalled the ruling of the Court which determined the applicable rules and principles of international law, including humanitarian law and human rights law, and regretted that Israel continued to defy the international community and engage in grave violations and breaches of international law and international humanitarian law in the Occupied Palestinian Territory, including East Jerusalem. The Permanent Observer further asserted that the direct and grave impact of this ongoing illegal situation on the efforts to achieve a peaceful settlement of the Israeli-Palestinian conflict was unquestionable and had to be urgently addressed by both the General Assembly and the Security Council; this was a duty that was affirmed by the ICJ in clear and definitive terms. In his observation, the Secretary-General expressed concern about Israel’s continued construction of the barrier in the West Bank, and reiterated his call to Israel to abide by its legal obligations as set forth in the 9 July 2004 Advisory Opinion of the ICJ.

At its 5312th meeting, on 30 November 2005, the Under-Secretary-General for Political Affairs reiterated the Secretary-General’s call on Israel to abide by its legal obligations as set forth in the 9 July 2004 Advisory Opinion of the International Court of Justice and in General Assembly resolution ES-10/15”.²⁷⁶

In identical letters dated 19 January 2006 addressed to the Secretary-General and President of the Council,²⁷⁷ the Permanent Observer of Palestine highlighted the danger that the continued Israeli settlement activities posed to the safety of Palestinian civilians and their properties across the Occupied Palestinian Territory, including East Jerusalem,

²⁷⁴ A/60/416-S/2005/619, p. 2.

²⁷⁵ A/60/539-S/2005/701.

²⁷⁶ S/PV.5312, p. 4.

²⁷⁷ A/ES-10/316-S/2006/30.

and urged the international community to insist that Israel respected its obligations, including ceasing the construction of the Wall which the Court had deemed illegal.

At its 5411th meeting, on 17 April 2006, the representative of France expressed his concern at the continuation of the Israeli settlement policy in the Occupied Palestinian Territory, including East Jerusalem, at the route of the separation barrier, which contravened the Advisory Opinion of the Court.²⁷⁸ The continuation of the construction was also a matter of concern for the representative of the Syrian Arab Republic.²⁷⁹ The representative of the Islamic Republic of Iran spoke of Israel's defiance of the Advisory Opinion of the ICJ, and asserted that the impunity with which Israel had been allowed to carry out its "war crimes" had emboldened it to continue such policies and practices.²⁸⁰ The representative of the Bolivarian Republic of Venezuela expressed the belief that a comprehensive, just and lasting solution to the Palestinian problem – the nucleus of the Arab-Israeli conflict – had to be based on the relevant United Nations resolutions and the advisory opinion of the ICJ.²⁸¹ In concluding, the Permanent Observer of the League of Arab States stated that the "Israeli occupying authorities" were expanding their illegal policy of settlements in the Occupied Palestinian Territory, and continued to erect the barrier in flagrant violation of the Advisory Opinion of the Court.²⁸²

At its 5472nd meeting, on 21 June 2006, the Under-Secretary-General for Political Affairs informed the Council that Israel was continuing the barrier construction despite the ruling of the ICJ, and that the route of the section of the barrier in Jerusalem had been approved by the Israeli High Court of Justice on 23 May 2006.²⁸³

In a report of the Secretary-General entitled "Peaceful settlement of the question of Palestine",²⁸⁴ submitted on 19 September 2006 in accordance with General Assembly resolution 60/39, the Secretary-General observed that the continuing construction of the barrier encroaching on Palestinian land contradicted the legal obligations of Israel set forth in the 9 July 2004 Advisory Opinion of the International Court of Justice and General Assembly resolution ES-10/15 of 20 July 2004. Annexed to the report was a

²⁷⁸ S/PV.5411, p. 10.

²⁷⁹ Ibid, p. 29.

²⁸⁰ Ibid, pp. 31-32.

²⁸¹ Ibid, p. 36.

²⁸² Ibid, pp. 37-38.

²⁸³ S/PV.5472, p. 4.

²⁸⁴ A/61/355-S/2006/748.

note verbale dated 4 August 2006 from the Permanent Observer of Palestine which highlighted that the Advisory Opinion rendered by the International Court of Justice on 9 July 2004 regarding Israel's expansionist wall in the Occupied Palestinian Territories, including East Jerusalem, continued to be blatantly disrespected by Israel.²⁸⁵

At its 5552nd meeting, on 19 October 2006, the Council was addressed by the Special Representative for the Middle East Peace Process and Personal Representative of the Secretary-General who outlined that settlement activity continued in the West Bank, and construction of the barrier had continued in defiance of the Advisory Opinion of the Court.²⁸⁶ During the debate, the Permanent Observer of Palestine affirmed that his Government categorically rejected any unilateral plans by the Israelis in the West Bank, because the purpose of such plans was to annex more territory as a *fait accompli* and annex the occupied eastern part of Jerusalem, which, in addition to the continuance of construction in violation of the ruling of the court, obviated the possibility of a peaceful resolution in which two States lived side by side in peace and security.²⁸⁷ Similarly speaking, the representative of Cuba, speaking on behalf of the Non-Aligned Movement, highlighted that Israeli construction of the barrier continued in defiance of the ruling of the Court, and stressed that if the construction of the Wall was not stopped or reversed, it would be impossible to reach a two-State solution to the conflict.²⁸⁸

At its 5568th meeting, on 21 November 2006, the representative of France called upon the Israelis to refrain from any unilateral action that might prejudice the results of final status negotiations or undermine prospects for the creation of a viable Palestinian State, and, in keeping with the Advisory Opinion of the ICJ, to put an end to its settlement activities and to the building of the Wall inside the West Bank.²⁸⁹

At its 5584th meeting, on 12 December 2006, the Secretary-General noted that "as Palestinians watch this activity, they also see a barrier being built through their land, in contravention of the advisory opinion of the International Court of Justice... Their despair at the occupation only grows, as does their determination to resist it".²⁹⁰ The

²⁸⁵ Ibid, p. 6.

²⁸⁶ S/PV.5552, p. 4.

²⁸⁷ Ibid., pp. 21-22.

²⁸⁸ Ibid., pp. 27-28.

²⁸⁹ S/PV.5568, p. 13.

²⁹⁰ S/PV.5584, p. 3.

representative of France emphasized that Israel had a duty to refrain from any unilateral action that would undermine the prospects for creating a politically, economically and geographically viable Palestinian State, and must put an end to settlement activities and the construction of the Wall in accordance with the Advisory Opinion of the Court.²⁹¹

At its 5667th meeting, on 25 April 2007, the Council met to discuss the agenda item entitled “the situation in the Middle East, including the Palestinian question”. During the debate, the Council was briefed by the Under-Secretary-General for Political Affairs who informed the Council that Israel continued to construct the Wall in the West Bank, ignoring the Advisory Opinion of the Court.²⁹² The representative of Indonesia deplored the continuing practice of construction in contravention of the judgment of the International Court, and highlighted the harmful consequence of the Wall to the Palestinian people within its boundaries.²⁹³ The Permanent Observer of Palestine pointed out that, in continuing construction in disregard of the Advisory Opinion, Israel was in violation of the Fourth Geneva Convention and other applicable international law.²⁹⁴ The representative of the Syrian Arab Republic noted that Israel continued to violate the truce agreement, committing daily killings and destroying Palestinian property, in addition to continuing the construction of the Wall in flagrant violation of the ruling of the Court.²⁹⁵

In identical letters dated 17 May 2007 addressed to the Secretary-General and the President of the Council,²⁹⁶ the representative of the Permanent Observer of Palestine emphasized that the international community should urgently undertake measures to uphold international law and hold Israel accountable for its actions, and compel Israel to comply with the judgment of the ICJ.

By a letter dated 23 May 2007 addressed to the President of the Council,²⁹⁷ the representative of South Africa communicated to the Council the final document of the United Nations African meeting on the question of Palestine. In the document, it was highlighted that “the participants were highly critical of Israel’s routinely disproportionate and indiscriminate military operations in Palestinian population

²⁹¹ Ibid., p. 20.

²⁹² S/PV.5667, p. 4.

²⁹³ Ibid., p. 21.

²⁹⁴ Ibid., p. 24.

²⁹⁵ Ibid., p.31.

²⁹⁶ A/61/915-S/2007/291.

²⁹⁷ S/2007/360.

centres”, and reminded Israel of its responsibilities under international law. The participants also noted that the construction of the Wall inside the West Bank continued at an accelerated pace in complete disregard of the judgment of the Court. They called upon Governments and intergovernmental organizations and others to meet their legal obligations faced with Israel’s non-compliance, and take appropriate actions.²⁹⁸

By two letters dated 6 June 2007²⁹⁹ and 7 June 2007³⁰⁰ addressed to the Secretary-General, the representative of Cuba, in his capacity as Chair of the Coordinating Bureau of the Non-Aligned Movement, conveyed the viewpoint of the Non-Aligned Movement which demanded that Israel cease the illegal construction of a Wall in the Occupied Palestinian Territory, and condemned the flagrant challenge and disrespect by Israel for the Advisory Opinion of the International Court.

At its 5736th meeting, on 29 August 2007, the Permanent Observer of Palestine noted that Israel was continuing to unlawfully construct the Wall in total disrespect of the Advisory Opinion, and strongly asserted that the Wall and the settlements had to be dismantled.³⁰¹

In the report of the Secretary-General entitled “Peaceful settlement of the question of Palestine”,³⁰² he noted with concern the route of the Wall in contravention of Israel’s legal obligations set forth in the Court’s advisory opinion of the ICJ.³⁰³

By a letter dated 18 October 2007, addressed to the Secretary-General,³⁰⁴ the representative of Pakistan, in his capacity as Chair of the Organization of the Islamic Conference Group, communicated the final communiqué of the annual coordination meeting of Ministers for Foreign Affairs of States Members of the Organization of the Islamic Conference in which they reiterated their condemnation of Israel’s continuing construction of the Wall in flagrant violation of international law and in total disrespect for the Advisory Opinion for the ICJ.³⁰⁵

²⁹⁸ Ibid., p. 3.

²⁹⁹ A/61/946-S/2007/337.

³⁰⁰ A/61/952-S/2007/345.

³⁰¹ S/PV.5736, p. 24.

³⁰² A/62/344-S/2007/553.

³⁰³ Ibid., p. 14.

³⁰⁴ A/62/507-S/2007/636.

³⁰⁵ Ibid., p. 7.

In identical letters dated 28 December 2007 addressed to the President of the Council,³⁰⁶ the Permanent Observer of Palestine asserted that the illegal settlement activities being carried out by Israel constituted grave violations and breaches of the United Nations resolutions, the Fourth Geneva Convention, the judgment of the International Court of Justice, and Israel's obligations and commitments under the road map.

Case 19

During the period under review the Council was seized with the matter of strengthening the United Nations system and the rule of law. At the meetings of the Council, emphasis was placed on the importance of the International Court of Justice. In addition, a decision was adopted emphasizing the important role of the ICJ as the principal judicial organ of the United Nations.

By a letter dated 22 February 2005 addressed to the Secretary-General,³⁰⁷ the representative of the Libyan Arab Jamahiriya proposed a number of reforms of the United Nations. Included in the suggested reforms was a more decisive split for the organs of the United Nations; "namely to make this [General Assembly] organ a legislative body, the Security Council an executive body, and the International Court of Justice the judicial body".³⁰⁸ The representative asserted that by dividing the roles of the organs this way it would ensure that the judicial decisions made by the Court would be implemented by the executive: the Security Council.

At its 5474th meeting, on 22 June 2006, the Council met to discuss the agenda item entitled "Strengthening international law: the rule of law and the maintenance of international peace and security".³⁰⁹ At the debate, Judge Rosalind Higgins, President of the International Court of Justice, said that while the Charter provided that the Council could inform parties to resolve their disputes through judicial settlement, the Council had

³⁰⁶ A/ES-10/408-S/2007/766.

³⁰⁷ A/59/709-S/2005/102.

³⁰⁸ Ibid., p.2.

³⁰⁹ S/PV.5474.

long failed to use that provision. She emphasized the important role of the International Court in settling legal disputes of any nature and encouraged the Council to adopt a policy whereby, when a dispute arose, it strongly indicated to the parties that they are expected to have recourse to the Court.³¹⁰ Several Council members indicated their support for a strengthened relationship between the Council and the Court, and praised the Court for its role in peaceful settlement.³¹¹ The representative of the United Kingdom asserted the “absolutely central role” the Court had to play in maintaining international peace and security,³¹² whilst the representative of Peru underlined the pivotal role that the principle organ of the United Nations played in the maintenance of international peace and security and stressed the contributions by the Court to the achievement of the fundamental purposes of the United Nations by means of the peaceful settlement of disputes.³¹³ The representative of Tanzania recognized and underlined the role of the ICJ in complementing the role of the Security Council.³¹⁴ Emphasizing the recommendation that legal disputes should be referred to the ICJ, the representative of Mexico stated that the Council had to develop its institutional capacity to prevent the outbreak of situations that threatened peace and, in particular, strive to help the parties to a dispute to resolve it, in keeping with the procedures set out in the Charter.³¹⁵

Following the meeting, by a statement of the President dated 22 June 2006,³¹⁶ the Council called upon Member States to settle disputes by peaceful means, including recourse to the ICJ. The Council also emphasized the important role of the Court, as the principal judicial organ of the United Nations, in adjudicating disputes among States.

Case 20

³¹⁰ Ibid., pp. 5- 8.

³¹¹ Ibid, p. 9 (The United Kingdom); p. 15 (Peru); p. 16 (Russian Federation); p. 17 (France); p. 19 (Argentina); p. 22 (United Republic of Tanzania); pp. 22-23 (Greece); p. 25 (Ghana); p. 28 (Congo); pp. 29-30 (Mexico); and p. 32 (Austria).

³¹² Ibid., p. 9.

³¹³ Ibid., p. 15.

³¹⁴ Ibid., p. 22.

³¹⁵ Ibid., p. 29.

³¹⁶ S/PRST/2006/28.

During the period under review, the Security Council was seized with the dispute between Cameroon and Nigeria regarding the Bakassi Peninsula and the subsequent ruling of the International Court of Justice on the issue.³¹⁷ While no meeting of the Council itself addressed this issue, nor decisions adopted, the Security Council received several communications from the Secretary-General and Member States concerning the implementation of the judgment by the Court.

By a letter dated 17 March 2004 addressed to the President of the Council,³¹⁸ the Secretary-General provided an appraisal of activities undertaken by Cameroon and Nigeria through his good offices, in furtherance of the implementation of the ruling of the Court of 10 October 2002 on the land and maritime boundary between the two countries. The Secretary-General reported that at the first meeting between the Heads of State of Cameroon and Nigeria both had requested the establishment of a Mixed Commission mandated to consider the implications of the Court's decision. Furthermore, he gave a summary of the progress of the work of the Mixed Commission and commended it.

In a letter dated 29 July 2004 addressed to the President of the Council,³¹⁹ the representative of Cameroon transmitted a joint communiqué concerning the border dispute between Cameroon and Nigeria. In the communiqué it was emphasized that the two States were cooperating with each other in an effort to implement the judgment of the ICJ, and both expressed satisfaction at the work of the Mixed Commission in facilitating the peaceful implementation of the ruling and settlement of the dispute. Moreover, both Heads of State extended appreciation and gratitude to the Secretary-General for his ceaseless efforts in the implementation of the Court's judgment of 10 October 2002.

In a letter dated 14 December 2004 addressed to the President of the Council,³²⁰ the Secretary-General outlined the mandate, functions and activities of the United Nations Office for West Africa (UNOWA) for the period 1 January 2005 to 31 December 2007. One of the mandated functions was to facilitate, mainly via the Special Representative of the Secretary-General in his capacity as chairman of the Cameroon-

³¹⁷ On 10 October 2002, the International Court of Justice ruled that the Bakassi Peninsula be ceded to Cameroon.

³¹⁸ S/2004/298.

³¹⁹ S/2004/612.

³²⁰ S/2005/16.

Nigeria Mixed Commission, the implementation of the work plan approved by Cameroon and Nigeria towards the implementation of 10 October 2002 ruling by the ICJ.³²¹

By a letter dated 1 August 2005 addressed to the President of the Council,³²² the Secretary-General informed the latter that through his good offices, he had facilitated the implementation of the ruling of the Court on the land and maritime boundary between Cameroon and Nigeria. Furthermore, he applauded the work of the Mixed Commission which had moved the process forward smoothly and peacefully, and kept open the dialogue and communication between Cameroon and Nigeria in furtherance of the October 2002 judgment by the Court.

By a letter dated 20 June 2006 addressed to the President of the Security Council,³²³ the Secretary-General referred to the agreement signed between the Republic of Cameroon and the Federal Republic of Nigeria concerning the modalities of withdrawal and transfer of authority in the Bakassi Peninsula.

In a letter dated 21 June 2006 addressed to the Secretary-General,³²⁴ the representative of Austria annexed a statement of the agreement on the Bakassi Peninsula, issued on 20 June 2006 by the Presidency on behalf of the European Union. The Statement congratulated the Governments of Nigeria and Cameroon for signing the agreement concerning the modalities of withdrawal and transfer of authority in the Bakassi peninsula, and on their commitment to implement by peaceful means the judgment of the ICJ and called it an “inspiring example for the peaceful settlement of differences in accordance with international law”.

By a letter dated 28 September 2006 addressed to the President of the Council,³²⁵ the Secretary-General once again imparted the achievements and activities undertaken by the Mixed Commission in implementing the ruling of the ICJ of October 2002. He informed the President that it was his intention to ask for additional resources from the regular budget of the Mixed Commission for 2007 to help advance the peaceful implementation of the Court’s ruling.

³²¹ Ibid., p. 3.

³²² S/2005/528.

³²³ S/2006/419.

³²⁴ S/2006/453.

³²⁵ S/2006/778.

By a letter dated 17 October 2006 addressed to the Secretary-General,³²⁶ the President of the Security Council acknowledged his letter³²⁷ indicating his intention to continue the activities of the United Nations support team for the Cameroon-Nigeria Mixed Commission with funding from the regular budget. He further stated that the Council requested further information and clarification in writing on the activities expected to be performed by the Mixed Commission in 2007 and following years.

As requested by the Council, by a letter dated 1 November 2006 addressed to the President of the Council,³²⁸ the Secretary-General outlined the activities to be performed by the Cameroon-Nigeria Mixed Commission to foster the implementation of the judgment of the Court.

By a letter dated 28 November 2007 addressed to the President of the Council,³²⁹ the Secretary-General annexed the mandate and functions of the United Nations Office for West Africa from January 2008 to December 2010, which included facilitating the implementation of the ICJ ruling on the land and maritime boundary dispute between Cameroon and Nigeria.

By a letter dated 30 November 2007 addressed to the President of the Council,³³⁰ the Secretary-General communicated the latest achievements and activities carried out by the Mixed Commission as it continued to support and facilitate the peaceful implementation of the Court's judgment. The Secretary-General outlined that the four sections of the ruling of the Court had been resolved in May 2007, and the Mixed Commission would continue to contribute to the reaching of an agreement on oil and gas fields straddling the maritime boundary between the two countries. The Secretary-General also communicated his intention to ask for additional resources from the regular budget to assist the Mixed Commission in its work.

³²⁶ S/2006/819.

³²⁷ S/2006/778.

³²⁸ S/2006/859.

³²⁹ S/2007/753.

³³⁰ S/2007/695.

Part V

Relations with the Secretariat

Article 98

The Secretary-General shall act in that capacity³³¹ in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs....

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Note

This part is concerned with the functions other than those of an administrative nature entrusted to the Secretary-General by the Security Council under Article 98 of the Charter³³² (Section A) and with the Secretary-General's power of initiative under Article 99 (Section B).

A. Functions other than those of an administrative nature entrusted to the Secretary-General by the Security Council

Note

This section deals with the functions entrusted to the Secretary-General by the Security Council with respect to international peace and security. His functions in that regard continued to expand during the period under review, as the activities of the

³³¹ Article 97 of the Charter stipulates that the Secretary-General shall be the chief administrative officer of the Organization.

³³² The functions and powers of the Secretary-General in regard to the meetings of the Security Council, conferred under Article 98, are delineated in rules 21-26 of the Council's Provisional Rules of Procedure; see, further, Chapter I, Part IV, of the present Supplement.

Security Council continued to expand and diversify. In addition to carrying on his responsibilities in the area of peaceful settlement of disputes (political/diplomatic functions) and peacekeeping (security functions), the Secretary-General was entrusted with the implementation of sanctions regimes (legal functions). The practice described below is illustrative and does not purport to be comprehensive.³³³

Measures to ascertain the facts

In a number of instances, the Secretary-General was asked to investigate the facts of a particular situation or his efforts to do so were endorsed:

(a) In relation to the situation in the Central African Republic, the Council again expressed its concern at the possible consequences to the Central African Republic of the crises in the subregion. Accordingly, it welcomed with satisfaction the Secretary-General's initiative in asking the United Nations Peacebuilding Support Office in the Central African Republic to assess the implications of developments in neighbouring countries on the situation in the Central African Republic and vice versa.³³⁴

(b) In relation to the same agenda item, the Council requested the Secretary-General to explore, in close consultation with the authorities of the Central African Republic and the country's development partners, the possibility of setting up a follow-up committee or enlarging the Committee of Foreign Partners to Follow Up on the Electoral Process in order to support the reconstruction efforts initiated by the Central Africans. It invited the Secretary-General to report to it on his consultations, through his Representative in the Central African Republic, no later than 31 October 2005.³³⁵

(c) With regard to the situation in Côte d'Ivoire, the Council requested the Secretary-General to establish as soon as possible the international commission of inquiry, as

³³³ For details of these and other instances where the Security Council entrusted functions to the Secretary-General, see the case studies in Chapter VIII and Chapter X of the Supplement.

³³⁴ S/PRST/2004/39, para. 9.

³³⁵ S/PRST/2005/35, para. 7.

recommended by the commission of inquiry of the Office of the United Nations High Commissioner for Human Rights and requested by the Government of Côte d'Ivoire, in order to investigate all human rights violations committed in Côte d'Ivoire since 19 September 2002 and determine responsibility.³³⁶

(d) In relation to the situation concerning the Democratic Republic of the Congo, the Council expressed grave concern at the allegations of sexual exploitation and misconduct by civilian and military personnel of the Mission, and requested the Secretary-General to continue to fully investigate those allegations, to take the appropriate action in accordance with the Secretary-General's bulletin on special measures for protection from sexual exploitation and sexual abuse.³³⁷

(e) With regard to the situation in Guinea-Bissau, the Council recognized the importance of containing and reversing the threat of drug trafficking to the peace consolidation process in Guinea-Bissau. It further recognized in particular the important role of the United Nations Office on Drugs and Crime (UNODC). In that regard, the Council requested the Secretary-General to report on this matter as soon as possible.³³⁸

(f) With regard to the reports of the Secretary-General on the Sudan, the Council requested that the Secretary-General rapidly establish an international commission of inquiry in order immediately to investigate reports of violations of international humanitarian and human rights law in Darfur by all parties, to determine also whether or not acts of genocide have occurred, and to identify the perpetrators of such violations with a view to ensuring that those responsible are held accountable. It also requested the Secretary-General, in conjunction with the Office of the United Nations High Commissioner for Human Rights, to take appropriate steps to increase the number of human rights monitors deployed to Darfur.³³⁹

³³⁶ S/PRST/2004/17, para. 6.

³³⁷ Resolution 1565 (2004), para. 25.

³³⁸ S/PRST/2007/38, para. 4.

³³⁹ Resolution 1564 (2004), para. 12.

(g) In relation to the same agenda item, the Council requested the Secretary-General to report to the Council on the protection of civilians in refugee and internally displaced persons camps in Chad and on how to improve the security situation on the Chadian side of the border with the Sudan.³⁴⁰

(h) With regard to the situation in Georgia, the Council requested the Secretary-General to include detailed information on developments in the Kodori Valley and on the progress on efforts for the return of refugees and internally displaced persons, particularly to the Gali district, in his next report on the situation in Abkhazia, Georgia.³⁴¹

(i) In relation to the situation in the Middle East, the Council requested the Secretary-General to follow closely the situation in Lebanon and to report urgently on the circumstances, causes and consequences of the terrorist act.³⁴²

(j) In relation to the same agenda item, the Council requested the Secretary-General to consult urgently with the Lebanese Government with a view to facilitate the establishment and operation of the Commission³⁴³ and requested also that he report to the Council accordingly and notify it of the date the Commission begins its full operations.³⁴⁴

(k) In relation to the same agenda item, the Council noted with appreciation the process launched by the Secretary-General to investigate the cartographic, legal and political implications of the proposal contained in the seven-point plan of the Government of Lebanon.³⁴⁵

³⁴⁰ Resolution 1706 (2006), para. 13.

³⁴¹ Resolution 1716 (2006), para. 18.

³⁴² S/PRST/2005/4, para. 8.

³⁴³ By resolution 1595 (2005), the Security Council decided to establish an international independent investigation Commission (“the Commission”) based in Lebanon to assist the Lebanese authorities in their investigation of all aspects of this terrorist act, including to help identify its perpetrators, sponsors, organizers and accomplices (para.1).

³⁴⁴ Resolution 1595 (2005), para. 4.

³⁴⁵ S/PRST/2006/52, para. 21.

Good offices

The Secretary-General was often requested to exercise or continue to exercise his “good offices” function. His independent political role in preventing or mediating conflicts between or within States, or his role in this regard was endorsed:

(a) With regard to the situation concerning the Democratic Republic of the Congo, the Council requested the Secretary-General to continue to use his good offices in facilitating a political solution to address the underlying causes of the crisis in the Kivus, in close consultation with the Government of the Democratic Republic of the Congo, Governments of the region and other regional and international partners.³⁴⁶

(b) With regard to the situation between Ethiopia and Eritrea, the Council reiterated its support for the initiative of the Secretary-General to exercise his good offices by appointing a Special Envoy in order to facilitate the implementation of the Algiers Agreements, the decision of the Boundary Commission and the relevant resolutions and decisions of the Security Council and to encourage the normalization of diplomatic relations between the two countries, and emphasized that this appointment did not constitute an alternative mechanism.³⁴⁷

(c) With regard to the reports of the Secretary-General on the Sudan, the Council requested the Secretary-General to provide good offices and political support for the efforts to resolve all ongoing conflicts in the Sudan.³⁴⁸

(d) With regard to the situation in Myanmar, the Council welcomed the mission by the Secretary-General’s Special Adviser to Myanmar, Mr. Ibrahim Gambari, reaffirmed its strong and unwavering support for the Secretary-General’s good offices mission as mandated by General Assembly resolution 61/232, and expressed its appreciation for the personal engagement of the Secretary-General. The Council also noted that the good

³⁴⁶ Resolution 1794 (2007), para. 9.

³⁴⁷ Resolution 1531 (2004), para. 6.

³⁴⁸ Resolution 1590 (2005), para. 3.

offices mission was a process, and encouraged the sustained support and engagement of the international community in helping Myanmar.³⁴⁹

Joint efforts to promote a political settlement

In several instances, the Secretary-General was asked to undertake diplomatic efforts in conjunction with regional arrangements or other actors in order to achieve a political settlement.

(a) In relation to the situation in Burundi, the Council urged the Government of Burundi to step up its efforts to combat impunity and to promote and protect human rights, paying particular attention in that context to reducing the high level of gender-based violence and violence against children. It encouraged the Secretary-General and the Burundian authorities to pursue their dialogue with a view to agreeing on the establishment of a transitional justice mechanism based on the highest standards of justice and international human rights.³⁵⁰

(b) In relation to the same agenda item, the Council, acknowledging the crucial importance of reconciliation for peace and national unity in Burundi, shared the view that a future truth commission should contribute to it. The Council requested the Secretary-General to initiate negotiations with the Government and consultations with all Burundian parties concerned on how to implement his recommendations, and to report to the Security Council by 30 September 2005 on the details of implementation, including costs, structures and time frame.³⁵¹

(c) In relation to the situation in the Central African Republic, the Council requested the Secretary-General to reinforce cooperation between the United Nations and member States of the Central African Economic and Monetary Community with a view to facilitating and strengthening initiatives aimed at addressing trans-border insecurity in the

³⁴⁹ S/PRST/2007/37, paras. 1 and 5.

³⁵⁰ S/PRST/2007/16, para. 5.

³⁵¹ Resolution 1606 (2005), para. 1.

subregion and bringing to an end the violations by armed groups of the territorial integrity of the Central African Republic.³⁵²

(d) In relation to the situation in Somalia, the Council requested the Secretary-General to consider and to suggest in his next report ways to develop the role of the United Nations in support of the Intergovernmental Authority-facilitated Somali reconciliation process.³⁵³

(e) In relation to the same agenda item, the Council requested the Secretary-General to keep the Council regularly informed of developments at the Somali National Reconciliation Conference and to make timely recommendations on what additional measures could be taken by the Council in support of the Conference and its outcome.³⁵⁴

(f) In relation to the same agenda item, the Council requested the Secretary-General to assist the transitional federal institutions with the National Reconciliation Congress, and, more widely, promoting an ongoing all-inclusive political process, working together with the African Union, the League of Arab States and the Intergovernmental Authority on Development.³⁵⁵

(g) In relation to the same agenda item, the Council requested the Secretary-General in consultation with the African Union, the League of Arab States and the Intergovernmental Authority on Development, to do what he could to assist in furthering ceasefire arrangements and the political dialogue, especially in Mogadishu.³⁵⁶

(h) In relation to the situation in the Western Sahara, the Council called upon the parties to enter into negotiations without preconditions in good faith, taking into account the developments of the last months, with a view to achieving a just, lasting and mutually acceptable political solution which will provide for the self-determination of the people

³⁵² S/PRST/2006/47, para. 6.

³⁵³ S/PRST/2004/3, para. 15.

³⁵⁴ S/PRST/2004/24, para. 14.

³⁵⁵ Resolution 1744 (2007), para. 3.

³⁵⁶ S/PRST/2007/13, para. 12.

of Western Sahara. In that regard, the Council requested the Secretary-General to set up those negotiations under his auspices, and invited Member States to lend appropriate assistance to such talks.³⁵⁷

(i) In relation to the situation in the Middle East, the Council requested the Secretary-General to develop, in liaison with relevant international actors and the parties concerned, proposals to implement the relevant provisions of the Taif Accords, and resolutions 1559 (2004) and 1680 (2006).³⁵⁸

Peacekeeping and implementation of peace agreements

Concerning peacekeeping, in addition to carrying out responsibilities with regard to ongoing missions,³⁵⁹ the Secretary-General took on additional functions in relation to six new peacekeeping operations³⁶⁰ and seven political missions³⁶¹ established during 2004-2007. Most of these new missions were multifunctional with political, humanitarian, social and economic components. They were tasked with helping to regroup and demobilize combatants, destroy weapons, coordinate humanitarian assistance, monitor human rights and organize elections. The Secretary-General had the responsibility for executive direction and command of these peacekeeping operations – i.e., their establishment, deployment, withdrawal and the implementation of their mandates. In addition, the Secretary-General consulted the African Union and the parties to the Darfur Peace Agreement, including the Government of National Unity, on a plan and timetable for transition from the African Union Mission in the Sudan to a United Nations operation in Darfur.³⁶² Furthermore, by a statement of the President dated 8 January 2007,³⁶³ the Council recognized the importance of a more strategic approach to the oversight and direction of peacekeeping, to maximize the prospects for successful

³⁵⁷ Resolution 1754 (2007), paras. 2 and 7.

³⁵⁸ Resolution 1701 (2006), para. 10.

³⁵⁹ For more details see Chapter V of the Supplement.

³⁶⁰ ONUB; UNOCI; MINURCAT; UNMIS; MINUSTAH; UNAMID. For an overview of newly established peacekeeping missions, see Chapter V of the Supplement.

³⁶¹ BINUB; UNIOSIL; UNAMIS; UNOTIL; UNMIT; UNOMB; UNMIN. For an overview of newly established political missions, see Chapter V of the Supplement.

³⁶² Resolution 1706 (2006), para. 5.

³⁶³ S/PRST/2007/1, para. 7.

transition in the countries concerned, and so as to make possible the most effective use of scarce peacekeeping resources. To this end, the Council requested the Secretary-General to focus in his management of and reporting on peacekeeping missions on the steps needed to achieve the objectives of the mission, both by the host Government and by the international community, and to propose to the Council, as appropriate, initiatives to accelerate the transition process.

As regards the implementation of peace agreements, the Secretary-General was tasked to report to the Council on the progress of the implementation of peace agreements. For example, in connection with the situation in Bosnia and Herzegovina, the Council requested the Secretary-General to continue to submit to it reports from the High Representative, in accordance with annex 10 of the Peace Agreement and the conclusions of the Peace Implementation Conference held in London on 4 and 5 December 1996, and later Peace Implementation Conferences on the implementation of the Peace Agreement.³⁶⁴

Support to international and special tribunals

During the period under review, the Secretary-General was mainly requested to make practical arrangements for the election of ad-litem judges for the International Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR), respectively.³⁶⁵

The Secretary-General was also requested to undertake the steps and measures necessary to establish the Special Tribunal in Lebanon. By resolution 1757 (2007) of 30 May 2007, the Council requested the Secretary-General, in coordination, when appropriate, with the Government of Lebanon, to undertake the steps and measures necessary to establish the Special Tribunal in a timely manner and to report to the Council within ninety days and thereafter periodically on the implementation of the resolution.³⁶⁶

³⁶⁴ Resolution 1722 (2006), para. 21.

³⁶⁵ For more details, see Chapter V of the Supplement.

³⁶⁶ Resolution 1757 (2007), para. 3.

Implementation of sanctions regimes

During the period under review, the Security Council established six sanctions regimes.³⁶⁷ In addition to providing all necessary assistance to the sanctions committees established to monitor implementation of the sanctions, the Secretary-General was also requested to report immediately to the Security Council, through the Committee any hindrance or difficulty in implementing the tasks in relation to the situation in Côte d'Ivoire.³⁶⁸

B. Matters brought to the attention of the Security Council by the Secretary-General

Note

At its 5261st meeting, on 14 September 2005, the Security Council adopted resolution 1625 (2005) on the agenda item entitled “Threats to international peace and security”, in which it invoked Article 99. In the resolution, the Council affirmed its determination to strengthen United Nations conflict prevention capacities by: (a) assessing regularly the developments in regions at risk of armed conflict and encouraging the Secretary-General to provide information to the Council on such developments pursuant to Article 99 of the Charter.³⁶⁹ In another instance, Article 99 was invoked by a member State in a communication: by a letter dated 8 September 2004 addressed to the President of the Security Council,³⁷⁰ the representative of Pakistan noted that the role of the Secretary-General pursuant to Article 99 of the Charter of the United Nations was

³⁶⁷ The new sanctions committees established by the Security Council during the period under consideration were: Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo; Committee established pursuant to resolution 1540 (2004) concerning Non-proliferation of weapons of mass destruction; Committee established pursuant to resolution 1572 (2004) concerning Côte d'Ivoire; Committee established pursuant to resolution 1591 (2005) concerning the Sudan; Committee established pursuant to resolution 1718 (2006) concerning the Democratic People's Republic of Korea; Committee established pursuant to resolution 1737 (2006) concerning the Islamic Republic of Iran. For further details, see Chapter V of the present Supplement.

³⁶⁸ Resolution 1584 (2005), para. 6.

³⁶⁹ Resolution 1625 (2005), para. 2.

³⁷⁰ S/2004/723.

critical. He stated that more frequent use should be made of the provisions of resolutions 1296 (2000) and 1366 (2001) that encouraged the Secretary-General to convey to the Security Council his assessment of potential threats to international peace and security in accordance with Article 99 of the Charter.

During the period under review, the Secretary-General did not expressly invoke Article 99. However, he drew the attention of the Security Council to a deteriorating situation which was already on the Council's agenda, and requested the Council to consider taking appropriate action.³⁷¹ In addition, the Secretary-General exercised the implicit rights conferred upon him under Article 99³⁷² by initiating, for example, a good offices mission in respect to Myanmar, Uganda-LRA, and Ethiopia and Eritrea. In the case of Myanmar, the Security Council welcomed the mission by the Secretary-General's Special Adviser to Myanmar, reaffirmed its strong and unwavering support for the Secretary-General's good offices mission as mandated by General Assembly resolution 61/232, and expressed its appreciation for the personal engagement of the Secretary-General.³⁷³ In connection with Uganda-LRA, by a letter dated 21 November 2007 addressed to the President of the Security Council,³⁷⁴ the Secretary-General noted that with the renewed commitment of the parties to the peace process, it was crucial that his Special Envoy continued his good offices in the region. Regarding the situation between Eritrea and Ethiopia, by resolution 1531 (2004), the Council reiterated its support for the initiative of the Secretary-General to exercise his good offices by appointing a Special

³⁷¹ Thus, for example, in his letter dated 22 November 2006 addressed to the President of the Security Council (S/2006/920), the Secretary-General expressed his belief that the United Nations should respond positively to the request of Nepal for assistance. He recalled that over the past years, he had been consulting and working closely with all sides in Nepal to encourage a negotiated political solution to the conflict and that those circumstances appeared to provide the best opportunity yet for achieving that aim. Therefore, he believed that the United Nations should respond immediately and concretely. It should dispatch an advance deployment of essential personnel, and it should complete rapidly the necessary technical assessment for the full deployment of a United Nations mission to deliver the assistance requested and develop a complete concept of operations for such a mission.

³⁷² The *Repertory of Practice of United Nations Organs* states in its Supplement No.8, Volume VI, Article 99 (1989-1994) that "the implicit powers of the Secretary-General in the spirit of Article 99 have been more liberally construed to include the right to initiate fact-finding missions, investigative commissions and the offer of good-offices or mediation". See also report of the Secretary-General dated 17 June 1992 entitled "An Agenda for peace" (S/24111: paragraphs. 23-27) and the Statement by the President of the Security Council of 30 November 1992 (S/24872). On the implementation of Article 99 of the Charter, see Chapter X of the Supplement.

³⁷³ S/PRST/2007/37, para. 1.

³⁷⁴ S/2007/719.

Envoy, in order to facilitate the implementation of the Algiers Agreements, the decision of the Boundary Commission, and the relevant resolutions and decisions of the Security Council.³⁷⁵

³⁷⁵ Resolution 1531 (2004), para. 6.