

Security Council when a violation of sovereignty was in conflict with a fundamental principle of peaceful relations among States. The case before the Council was, therefore, serious not only in itself but especially because of the precedent it implied. The protection of Argentine sovereign rights thus involved the protection of the rights of all members of the international community.^{86/}

At the same meeting the representative of Argentina submitted a draft resolution.^{87/} At the 866th meeting on the same day, the representative of the United States submitted two amendments^{88/} which were later accepted^{89/} by the representative of Argentina.

At the 866th meeting on 22 June 1960, the representative of Israel* recognized that the persons who apprehended Eichmann in Argentina and took him to Israel had broken the laws of Argentina. For this the Government of Israel had apologized to the Argentine Government. But the Government of Israel believed that this isolated violation of Argentine law had to be regarded in the light of the exceptional and unique character of the crimes attributed to Eichmann, on the one hand, and the motives of those that acted in this unusual manner, on the other hand. In the course of their efforts to bring Eichmann to justice some nationals of the State of Israel may have committed infringement of the law of Argentina, but these illegal actions of individuals should not be confused, as a basic legal proposition, with the non-existing intentional violation of the sovereignty of one Member State by another. This was a fundamental distinction, well established in international law, and the State of Israel emphatically denied the charge that it had violated the sovereignty of Argentina. In the view of the Government of Israel its expressions of regret constituted adequate reparation.^{90/}

At the 868th meeting on 23 June 1960, the Argentine draft resolution, as amended, was adopted by 8 votes in favour, none against, with 2 abstentions.^{91/} The representative of Argentina explained that he would not participate in the vote in accordance with the provisions of Article 27 (3) of the Charter.^{92/}

The resolution^{93/} read:

"The Security Council,

"Having examined the complaint that the transfer of Adolf Eichmann to the territory of Israel constitutes a violation of the sovereignty of the Argentine Republic.

"Considering that the violation of the sovereignty of a Member State is incompatible with the Charter of the United Nations,

"Having regard to the fact that reciprocal respect for and the mutual protection of the sovereign rights

of States are an essential condition for their harmonious coexistence,

"Noting that the repetition of acts such as that giving rise to this situation would involve a breach of the principles upon which international order is founded, creating an atmosphere of insecurity and distrust incompatible with the preservation of peace,

"Mindful of the universal condemnation of the persecution of the Jews under the Nazis, and of the concern of people in all countries that Eichmann should be brought to appropriate justice for the crimes of which he is accused,

"Noting at the same time that this resolution should in no way be interpreted as condoning the odious crimes of which Eichmann is accused,

"1. Declares that acts such as that under consideration, which affect the sovereignty of a Member State and therefore cause international friction, may, if repeated, endanger international peace and security;

"2. Requests the Government of Israel to make appropriate reparation in accordance with the Charter of the United Nations and the rules of international law;

"3. Expresses the hope that the traditionally friendly relations between Argentina and Israel will be advanced."

The question remained on the list of matters of which the Security Council is seized.

SITUATION IN THE REPUBLIC OF THE CONGO INITIAL PROCEEDINGS

By telegram^{94/} dated 12 July 1960 addressed to the Secretary-General, the President and the Prime Minister of the Republic of the Congo urgently requested the United Nations for military assistance. The telegram stated that the Congolese request was justified by the unsolicited dispatch to the Congo of metropolitan Belgian troops, in violation of the Belgian-Congolese Treaty of Friendship of 29 June 1960, which allowed intervention by Belgian troops only at the express request of the Congolese Government. Therefore, they regarded the Belgian action as an act of aggression against the Congo. They further accused the Government of Belgium of having carefully prepared the secession of Katanga with a view to maintaining a hold on the Congo.

By a further telegram^{95/} of 13 July 1960, it was made clear that: (1) the purpose of the aid requested was not to restore the internal situation in the Congo but rather to protect the national territory in the Congo against acts of aggression committed by Belgian metropolitan troops; (2) the request for assistance related to a United Nations force consisting of military personnel from neutral countries; (3) if the assistance was not forthcoming immediately the Republic of the Congo would be obliged to appeal to the Bandung Treaty Powers; and (4) the aid had

^{86/} 865th meeting: paras. 5-34.

^{87/} S/4345, 865th meeting: para. 47.

^{88/} S/4346, 866th meeting: paras. 78 and 79.

^{89/} 868th meeting: para. 43.

^{90/} 866th meeting: paras. 2-49. For discussion on appropriate reparation, see chapter X, Case 11.

^{91/} 868th meeting: para. 52.

^{92/} 868th meeting: para. 51.

^{93/} S/4349, O.R., 15th year, Suppl. for April-June 1960, p. 35.

^{94/} S/4382, document I, O.R., 15th year, Suppl. for July-Sept. 1960, p. 11.

^{95/} S/4382, document II, *ibid.*, p. 12.

been requested by the Republic of the Congo in the exercise of its sovereign rights.

By letter ^{96/} dated 13 July 1960 the Secretary-General informed the President of the Security Council that he had to bring to the attention of the Council a matter which, in his opinion, might threaten the maintenance of international peace and security. He requested an urgent meeting of the Council to hear a report of the Secretary-General on a demand for United Nations action in relation to the Republic of the Congo.

At the 873rd meeting on 13/14 July 1960, the Council decided, ^{97/} without a vote, to include in its agenda the item: "Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381)."

The question was considered by the Security Council at the 873rd meeting on 13 and 14 July 1960; at the 877th to 879th meetings from 20 to 22 July 1960; at the 884th to 886th meetings on 8 and 9 August 1960; at the 887th to 889th meetings on 21 and 22 August 1960; at the 896th to 906th meetings between 9 and 17 September 1960; at the 912th to 920th meetings between 7 and 14 December 1960; at the 924th to 927th meetings between 12 and 14 January 1961; at the 928th to 942nd meetings between 1 and 21 February 1961; and at the 973rd to 979th meetings between 13 and 21 November and the 982nd meeting on 24 November 1961.

Decision of 14 July 1960 (873rd meeting):

- (i) *Calling upon the Government of Belgium to withdraw its troops from the territory of the Republic of the Congo;*
- (ii) *Deciding to authorize the Secretary-General to take the necessary steps, in consultation with the Government of the Republic of the Congo, to provide the Government with necessary military assistance until, through the efforts of the Government with the technical assistance of the United Nations, the national security forces might be able, in the opinion of the Government, to meet fully their tasks;*
- (iii) *Requesting the Secretary-General to report to the Security Council.*

At the 873rd meeting on 13/14 July 1960 the Secretary-General, explaining the situation in the Congo that had led him to bring the matter to the attention of the Security Council under Article 99, stated that although the difficulties in the Republic of the Congo were connected with the maintenance of order in the country and the protection of life, they had an important international bearing. It was not for the Secretary-General to pronounce himself on the presence of the Belgian troops in the Congo; but he had to conclude from the communications received from the Government of the Congo that the presence of those troops was a source of internal and, potentially, international tension. In those circumstances, the presence of those troops could not be accepted as a satisfactory stopgap arrangement pending the re-establishment of order through the national security forces. The Secretary-General found

that the arrangement envisaged by the Government of the Congo was preferable to any other formula, and strongly recommended to the Council

"to authorize the Secretary-General to take the necessary steps, in consultation with the Government of the Congo, to provide the Government with military assistance during the period which may have to pass before, through the efforts of the Government with the technical assistance of the United Nations, the national security forces are able to fully meet their tasks."

He added that it was his understanding that were the United Nations to act as proposed, "the Belgian Government would see its way to a withdrawal."^{98/}

The Council decided that the Government of Belgium and the Government of the Republic of the Congo should be invited to take part in the discussion of the item and at the invitation of the President (Ecuador) the representative of Belgium took a seat at the Council table.^{99/}

The representative of Tunisia submitted^{100/} a draft resolution^{101/} to which the representative of the USSR submitted amendments^{102/} which, at the same meeting, were rejected by the Council.^{103/}

At the 873rd meeting the Tunisian draft resolution was adopted by 8 votes to none with 3 abstentions.^{104/}

The resolution^{105/} read:

"The Security Council,

"Considering the report of the Secretary-General on a request for United Nations action in relation to the Republic of the Congo,

"Considering the request for military assistance addressed to the Secretary-General by the President and the Prime Minister of the Republic of the Congo [S/4382],

"1. Calls upon the Government of Belgium to withdraw its troops from the territory of the Republic of the Congo;

"2. Decides to authorize the Secretary-General to take the necessary steps, in consultation with the Government of the Republic of the Congo, to provide the Government with such military assistance as may be necessary until, through the efforts of the Congolese Government with the technical assistance of the United Nations, the national security forces may be able, in the opinion of the Government, to meet fully their tasks;

^{98/} 873rd meeting: paras. 18, 19, 26, 27. For the statement of the Secretary-General, see chapter I, Case 44; in connexion with the establishment and composition of the United Nations Force in the Congo, see chapter V, Case 2; in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic matters, see chapter V, Case 2 (i); with regard to the use of force, see chapter V, Case 2 (iii).

^{99/} 873rd meeting: paras. 71-72. For the invitation of the Governments of Belgium and the Republic of the Congo, see chapter III, Case 2.

^{100/} 873rd meeting: para. 91.

^{101/} S/4383, same text as S/4357, see below.

^{102/} 873rd meeting: paras. 199, 201, 205. For the consideration of individual amendments, see chapter V, Case 2.

^{103/} 873rd meeting: paras. 223-225.

^{104/} 873rd meeting: para. 232.

^{105/} S/4387, O.R., 15th year, Suppl. for July-Sept. 1960, p. 16.

^{96/} S/4381, *ibid.*, p. 11.

^{97/} 873rd meeting: para. 16.

"3. Requests the Secretary-General to report to the Security Council as appropriate."

Decision of 22 July 1960 (879th meeting):

- (i) *Calling upon the Government of Belgium to implement speedily the Security Council resolution of 14 July 1960 on the withdrawal of its troops, and authorizing the Secretary-General to take all necessary action to this effect;*
- (ii) *Requesting all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and the political independence of the Republic of the Congo;*
- (iii) *Commending the Secretary-General for the prompt action he had taken to carry out resolution S/4387 and for his first report;*
- (iv) *Inviting the specialized agencies of the United Nations to render to the Secretary-General such assistance as he might require;*
- (v) *Requesting the Secretary-General to report further to the Council.*

On 18 July 1960 the Secretary-General submitted to the Security Council his first report^{106/} on the implementation of resolution S/4387 of 14 July 1960.

At the 877th to 879th meetings between 20 and 22 July 1960, the representatives of Belgium and of the Republic of the Congo were invited to participate in the discussion.^{107/}

At the 877th meeting the Secretary-General introduced his report.^{108/}

The representative of Belgium said that Belgium would withdraw its intervening troops as soon as, and to the extent that, the United Nations effectively ensured the maintenance of order and the safety of persons. This principle was already being put into effect, particularly in Leopoldville.^{109/}

The representative of the USSR submitted a draft resolution^{110/} whereby the Security Council would: (1) insist upon the immediate cessation of armed intervention against the Republic of the Congo and the withdrawal from its territory of all troops of the aggressor within a period of three days; and (2) call upon all Member States to respect the territorial integrity of the Republic of the Congo and not to undertake any actions which might violate that integrity.

At the 878th meeting a joint draft resolution^{111/} was submitted by Ceylon and Tunisia.

^{106/} S/4389, *ibid.*, pp. 16-24; documents S/4389/Add.1-3 were issued on 19 and 20 July.

^{107/} 877th meeting: para. 1.

^{108/} 877th meeting: paras. 3-19. For the statement of the Secretary-General see chapter I, Cases 19 and 20; in connexion with the definition of the area of operation of the United Nations Force, see chapter V, Case 2; in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic matters, see chapter V, Case 2 (1).

^{109/} 877th meeting: para. 142.

^{110/} S/4402, 877th meeting: para. 176.

^{111/} S/4404, 878th meeting: para. 39.

The representative of Ceylon, commenting on operative paragraph 1 of this draft resolution, stated that whether the words "immediately" or "as speedily as possible" or "speedily" were used, the idea was more or less the same except for the matter of timing to which some attention had to be paid.^{112/}

At the 879th meeting the representative of Ceylon, on behalf of the sponsors, asked that operative paragraph 3 of the joint draft resolution be deleted because similar authority had been conferred on the Secretary-General in the resolution of 14 July 1960. The fact that operative paragraph 1 of the present joint draft resolution envisaged a special authority for him would clearly make the present operative paragraph 3 redundant.^{113/}

The representative of the USSR stated that he had no objection to the joint draft resolution being given priority.^{114/}

The President (Ecuador) stated that the Ceylonese-Tunisian joint draft resolution would be put to the vote without operative paragraph 3.^{115/}

At the 879th meeting on 21/22 July 1960, the joint draft resolution was adopted unanimously.^{116/}

The resolution^{117/} read:

"The Security Council,

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

"Appreciating the work of the Secretary-General and the support so readily and so speedily given to him by all Member States invited by him to give assistance,

"Noting that, as stated by the Secretary-General, the arrival of the troops of the United Nations Force in Leopoldville has already had a salutary effect,

"Recognizing that an urgent need still exists to continue and to increase such efforts,

"Considering that the complete restoration of law and order in the Republic of the Congo would effectively contribute to the maintenance of international peace and security.

"Recognizing that the Security Council recommended the admission of the Republic of the Congo to membership in the United Nations as a unit,

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

"2. Requests all States to refrain from any action which might tend to impede the restoration of law

^{112/} 878th meeting: paras. 71-75.

^{113/} 879th meeting: para. 104.

^{114/} 879th meeting: para. 107.

^{115/} 879th meeting: para. 108.

^{116/} 879th meeting: para. 108.

^{117/} S/4405, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 34-35.

and order and the exercise by the Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and the political independence of the Republic of the Congo;

"3. Commends the Secretary-General for the prompt action he has taken to carry out resolution S/4387 of the Security Council, and for his first report;

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

"5. Requests the Secretary-General to report further to the Security Council as appropriate."

The representative of the USSR stated that in view of the adoption of the joint draft resolution, he would not press for a vote on his draft resolution.^{118/}

He noted that because of the specific nature of the resolution of 14 July 1960 and of the situation in the Republic of the Congo it would be prudent not to regard that resolution otherwise than as a decision adopted under exceptional circumstances. The current resolution, as well as that of 14 July, should not, therefore, be considered as a precedent for the future. The USSR felt unable to subscribe to certain aspects of the interpretation given by the Secretary-General to the resolution of 14 July, and it could not regard that resolution, and the ensuing action for its implementation, as endowing the United Nations with the right to interfere in the domestic affairs of a State and to assume responsibility for its domestic laws and regulations. The fundamental purpose and the crux of the resolution were to be found in its demand for the withdrawal of the Belgian forces. The United Nations Force must also be entrusted with safeguarding the territorial integrity of the Republic of the Congo. No other interpretation of the resolution of 14 July could be correct or consistent with the provisions of the Charter.^{119/}

Decision of 9 August 1960 (886th meeting):

- (i) *Confirming the authority given to the Secretary-General by the resolutions of 14 July and 22 July 1960 and requesting him to continue to carry out the responsibility placed on him thereby;*
- (ii) *Calling upon the Government of Belgium to withdraw immediately its troops from the province of Katanga under speedy modalities determined by the Secretary-General;*
- (iii) *Declaring that the entry of the United Nations Force into the province of Katanga was necessary for the full implementation of this resolution;*
- (iv) *Reaffirming that the United Nations Force in the Congo would not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise;*
- (v) *Calling upon all Member States, in accordance with Articles 25 and 49 of the Charter, to carry out the decisions of the Security Council and*

to afford mutual assistance in carrying out measures decided upon by the Council;

- (vi) *Requesting the Secretary-General to implement this resolution and to report further to the Council.*

On 6 August 1960 the Secretary-General submitted to the Security Council his second report^{120/} on the implementation of resolutions S/4387 of 14 July 1960 and S/4405 of 22 July 1960, which the Security Council considered at the 884th to 886th meetings held on 8 and 8/9 August 1960.

The representatives of Belgium and of the Republic of the Congo were invited to take part in the discussion.^{121/}

At the 884th meeting the Secretary-General introduced his report.^{122/}

At the 885th meeting the representative of Tunisia introduced^{123/} a draft resolution^{124/} submitted jointly with Ceylon.

At the same meeting the representative of the USSR submitted a draft resolution^{125/} whereby the Security Council would: (1) note that the Belgian Government was grossly violating the decisions of the Security Council calling for the speedy withdrawal of Belgian troops from the territory of the Congo and the maintenance of the territorial integrity and political independence of the Republic of the Congo; (2) impose on the Secretary-General the obligation to take decisive measures, without hesitating to use any means to that end, to remove the Belgian troops from the territory of the Congo and to put an end to acts directed against the territorial integrity of the Republic of the Congo; and (3) instruct the Secretary-General to report within a period of three days on the measures taken to implement this decision of the Security Council.

At the 886th meeting the representative of Ceylon, quoting operative paragraph 2 of the Ceylonese-Tunisian draft resolution, whereby the Security Council would ask the Government of Belgium to withdraw immediately its troops from the province of Katanga under speedy modalities determined by the Secretary-General and "to assist in every possible way the implementation of the Council's resolutions", stated that the last words were taken from the Charter and that it would, therefore, be incumbent upon the Belgian Government to carry out the provisions of the Charter without hesitation.^{126/}

^{120/} S/4417, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 45-53, para. 10.

^{121/} 884th meeting: para. 4.

^{122/} 884th meeting: paras. 10-35. For the statement of the Secretary-General, see chapter I, Cases 21, 22 and 45; in connexion with the definition of the area of operation of the United Nations Force, see chapter V, Case 2; in connexion with the limitations of the powers of the United Nations Force in the Congo with regard to the use of force, see chapter V, Case 2 (iii); in connexion with the consideration of the provisions of Articles 25 and 49, see chapter XII, Case 22 and chapter XI, part IV, Note.

^{123/} 885th meeting: para. 76.

^{124/} S/4424, same text as resolution S/4426, see below; 885th meeting: para. 76.

^{125/} S/4425, 885th meeting: para. 119.

^{126/} 886th meeting: para. 26.

^{118/} 879th meeting: para. 109.

^{119/} 879th meeting: paras. 115-122.

The representative of the United Kingdom pointed out that the joint draft resolution provided for the immediate withdrawal of the Belgian forces "under speedy modalities determined by the Secretary-General" and felt that it would be of value to the Council if the Secretary-General would state how he would interpret this language.^{127/}

In reply, the Secretary-General stated that he read the phrase "speedy modalities" as a recognition of the need for him to implement the request for immediate withdrawal addressed to the Government of Belgium in such a way as to provide for an orderly development within the limits of the possible, as determined also by factors over which others were the masters, with due regard to the overriding needs of the situation. Thus, the Secretary-General read the phrase as entitling him, *inter alia*, to have regard to the concern expressed by the Council that there should be effective and continued maintenance of law and order. That would not slow down the withdrawal provided that the Belgian Government and Mr. Tshombé gave their full and immediate co-operation. There were, however, other related considerations which were bound to influence the Secretary-General in determining the modalities and the establishment of speedy timetables.^{128/}

At the 886th meeting on 8/9 August 1960, the Security Council adopted the joint draft resolution submitted by Ceylon and Tunisia by 9 votes in favour to none against, with 2 abstentions.^{129/}

The resolution^{130/} read;

"The Security Council,

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

"Having noted the second report of the Secretary-General [S/4417] on the implementation of the aforesaid two resolutions and his statement before the Council,

"Having considered the statements made by the representatives of Belgium and the Republic of the Congo to this Council at this meeting,

"Noting with satisfaction the progress made by the United Nations in carrying out the Security Council resolutions in respect of the territory of the Republic of the Congo other than the province of Katanga,

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

"Recognizing that the withdrawal of Belgian troops from the province of Katanga will be a positive contribution to and essential for the proper implementation of the Council resolutions,

"1. Confirms the authority given to the Secretary-General by the Security Council resolutions of 14 July and 22 July 1960 and requests him to continue to carry out the responsibility placed on him thereby;

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

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

"4. Reaffirms that the United Nations Force in the Congo will not be a party to or in any way intervene in or be used to influence the outcome of any internal conflict, constitutional or otherwise;

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

"6. Requests the Secretary-General to implement this resolution and to report further to the Council as appropriate."

The representative of the USSR stated that he would not press for a vote on the USSR draft resolution.^{131/}

Decision of 22 August 1960 (889th meeting): Statement by the President expressing the conviction that the Secretary-General had found in the debate the desired clarification to assist him in the pursuit of his mission

On 12 August 1960 the Secretary-General informed the Security Council of the interpretation which he had given to the Central Government of the Republic of the Congo, as well as to the provincial government of Katanga, of operative paragraph 4 of the resolution of 9 August, contained in the "Memorandum on the implementation of the Security Council resolution of 9 August 1960, operative paragraph 4".^{132/} He noted that the resolution, in addition to reaffirming the principle of non-intervention in any internal conflict, had put the main emphasis on the withdrawal of Belgian troops. Consequently, in the application of operative paragraph 4 to the situation in Katanga, as seen in the light of precedents in the cases of Lebanon and Hungary, it could be concluded

"that if the Belgian troops were withdrawn and if, pending full withdrawal, a Belgian assurance were given to the Secretary-General that the Belgian troops would in no way intervene in or be used to influence the outcome of the conflict between the provincial government and the Central Government—that is to say, that they would remain completely inactive during the phasing out—the question between the provincial government and the Central

^{131/} 886th meeting: para. 273.

^{132/} S/4417/Add.1, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 64-71. For the contents of the memorandum, the letter of the Prime Minister of the Republic of the Congo of 14 August 1960 and the debate at the 887th to 889th meetings, see chapter V, Case 2 (ii).

^{127/} 886th meeting: para. 159.

^{128/} 886th meeting: paras. 169, 170.

^{129/} 886th meeting: para. 272.

^{130/} S/4426, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 91-92.

Government would be one in which the United Nations would in no sense be a party and on which it could in no sense exert an influence. . . ."

The Secretary-General stated further that were his findings, as regards operative paragraph 4, to be challenged either by the Central Government or the provincial government, he would immediately report to the Security Council and request it to consider the interpretation and pronounce itself on its validity.

In a letter^{133/} dated 14 August 1960, the Prime Minister of the Republic of the Congo contested the Secretary-General's interpretation.

At the 887th meeting on 21 August 1960, convened at the Secretary-General's request,^{134/} the representatives of the Congo and of Guinea were invited to take part in the discussion.^{135/}

In his explanatory statement the Secretary-General pointed out that although in the light of the legal history of the matter he did not see any reason for the Council to confirm the interpretation he had given in the memorandum of 12 August, he felt that the Council might clarify its attitude, which was the only reason for his request for the meeting.^{136/}

At the 888th meeting on 21 August 1960, the representative of the USSR raised objections to the Secretary-General's interpretation of the resolution of 9 August 1960. He also submitted^{137/} a draft resolution^{138/} which provided for the establishment by the Security Council of a group consisting of representatives of Member States supplying armed forces to assist the Republic of the Congo, which, acting in conjunction with the Secretary-General, might ensure on the spot the execution of the decisions of the Security Council.

The representative of Tunisia observed that the spirit in which the decisions of the Council had been implemented seemed in no way contrary to those decisions, and still less to the principles which had guided the United Nations intervention.^{139/}

The representative of Argentina endorsed the Secretary-General's interpretation of operative paragraph 4 of the resolution of 9 August.^{140/}

^{133/} S/4417/Add.7, document II, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 71-73. See also S/4448, *ibid.*, pp. 107-109. The interpretation of the Secretary-General was implicitly criticized in the statement of the Government of the USSR on the situation in the Congo, S/4450, *ibid.*, pp. 109-112, para. 14.

^{134/} 887th meeting: para. 7.

^{135/} 887th meeting: paras. 2, 4.

^{136/} 887th meeting: paras. 39, 41, 51. For the statement of the Secretary-General, see chapter I, Cases 25, 26 and 46: in connexion with the limitations of the powers of the United Nations Force with regard to the principle of non-intervention in domestic matters, see chapter V, Case 2 (ii); with regard to the use of force, see chapter V, Case 2 (iii); in connexion with a proposal concerning the establishment of a group of observers in the Congo, see chapter V, Case 6; in connexion with the legal status of Kamina and Kitona bases, see chapter XI, part I, Note.

^{137/} 888th meeting: para. 80. See chapter V, Case 6. For the statement of the representative of the USSR objecting to the interpretation given by the Secretary-General, see chapter V, Case 2 (ii).

^{138/} S/4453, O.R., 15th year, Suppl. for July-Sept. 1960, p. 116.

^{139/} 888th meeting: para. 132.

^{140/} 888th meeting: para. 149.

At the 889th meeting on 21/22 August 1960, at which the representative of Belgium was invited to participate in the discussion,^{141/} the Secretary-General's interpretation was further endorsed by the representatives of Italy, Ceylon, Ecuador, the United Kingdom, the United States and China,^{142/} while the representative of Poland expressed his disagreement.^{143/}

The representative of the USSR stated that he would not press for a vote on the USSR draft resolution since most of the members of the Council were not prepared to support it.^{144/}

The President (France) made the following "final observation":

"The Secretary-General asked for this meeting to be convened so that he might obtain clarification, for his own guidance, of the views of the Security Council. We have listened, throughout the day and even into the early hours of this morning, to different and sometimes conflicting opinions. I believe that on both sides everything has been said to bring out their respective points of view. I am convinced that the Secretary-General will have found in this debate the clarification which he desired, and that it will assist him in the pursuit of his mission. If there are no other observations, I shall declare the meeting adjourned."^{145/}

Decisions of 10 September 1960 (897th meeting):

Adjournment and statement by the President interpreting the consensus of the Council

On 30 August 1960 the Secretary-General submitted his third report^{146/} and on 7 September 1960 his fourth^{147/} on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4405 of 22 July 1960 and S/4426 of 9 August 1960.

By letter^{148/} dated 7 September 1960 the Secretary-General requested the President of the Security Council to convene a meeting of the Council for consideration of his fourth report on the question of the Congo.

By letter^{149/} dated 8 September 1960 the representative of Yugoslavia requested the President of the Security Council, in accordance with Article 35 (1) of the Charter, urgently to convene the Council to consider the situation in the Republic of the Congo, which Yugoslavia considered was threatening "to bring into greatest peril peace in the world" and required "an appropriate action without delay by the Security Council".

By telegram^{150/} dated 8 September 1960 addressed to the Secretary-General, the Prime Minister of the Republic of the Congo, referring to Article 28 (3) of the Charter, urged the Secretary-General to desig-

^{141/} 889th meeting: para. 1.

^{142/} 889th meeting: paras. 8, 50, 59, 70, 96, 114.

^{143/} 889th meeting: paras. 84, 85.

^{144/} 889th meeting: para. 142.

^{145/} 889th meeting: paras. 144, 145.

^{146/} S/4475, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 126-129, supplemented by S/4475/Add.1-3.

^{147/} S/4482, *ibid.*, pp. 135-139.

^{148/} S/4488, *ibid.*, p. 145.

^{149/} S/4485, *ibid.*, pp. 143-144.

^{150/} S/4486, *ibid.*, p. 145.

nate Leopoldville as the place of the next Council meeting on the problem of the Congo.

By letter^{151/} dated 9 September 1960, the First Deputy Minister for Foreign Affairs of the USSR transmitted to the Secretary-General the text of a statement by the Government of the USSR informing him that it had instructed its representative on the Security Council to request an immediate meeting of the Council "with a view to measures being taken without delay to put an end to all interference of whatever kind in the internal affairs of the Congo".

At the 896th meeting on 9/10 September 1960, the Council adopted^{152/} the following agenda:

"...

- "2. Telegram dated 8 September 1960 from the Prime Minister of the Republic of the Congo addressed to the Secretary-General (S/4486).
- "3. Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381): fourth report of the Secretary-General on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4405 of 22 July 1960 and S/4426 of 9 August 1960 (S/4482 and Add.1); letter dated 8 September 1960 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council (S/4485)."

The following representatives were invited to take part in the discussion, the invitations being renewed at each of the subsequent meetings: at the 896th meeting, the representatives of Yugoslavia and Indonesia; at the 897th meeting, the representative of Ghana; at the 899th meeting, the representatives of Guinea and Morocco; at the 902nd meeting, the representative of Belgium; at the 903rd meeting, the representative of the United Arab Republic; at the 906th meeting, the representatives of Ethiopia and Liberia.^{153/}

At the 896th meeting the representative of the USSR submitted a draft resolution^{154/} whereby the Council would decide to hold a special meeting in Leopoldville to consider the situation in the Congo. The draft resolution was rejected,^{155/} and the Council proceeded to consider point 3 of the agenda.

The Secretary-General made a statement on "the constitutional conflict" in Leopoldville and its repercussions on the United Nations action in the Congo.^{156/}

^{151/} S/4497, *ibid.*, pp. 147-150, para. 14.

^{152/} 896th meeting: para. 29. For the adoption of the agenda, see chapter II, Case 5.

^{153/} 896th meeting: paras. 30, 31; 897th meeting: para. 3; 899th meeting: para. 4; 902nd meeting: para. 2; 903rd meeting: para. 22; 906th meeting: para. 2.

^{154/} S/4494, 896th meeting: paras. 13, 54. For the consideration of the USSR draft resolution, see chapter I, Case 6.

^{155/} 896th meeting: paras. 81, 82.

^{156/} 896th meeting: paras. 83-111. For the statement of the Secretary-General, see chapter I, Cases 11, 27, 28 and 29; for the consideration of the provisions of Article 2 (7), see chapter XII, Case 13; for the consideration of the provisions of Article 25, and Article 49, see chapter XII, Case 23 and chapter XI, part IV, Note.

The representative of Tunisia, referring to a motion for the adjournment of the meeting made by the representative of the United Kingdom,^{157/} pointed out that the statement by the Secretary-General had emphasized the gravity of the situation in the Congo, and expressed the hope that until such time as the Council had decided on what measures to take, in conformity with Article 40 of the Charter, no action would be taken in the Republic of the Congo that might aggravate a situation which was already serious.^{158/}

At the 897th meeting on 10 September 1960, the Council had before it a telegram^{159/} of the Central Government of the Republic of the Congo requesting postponement of the meeting until the arrival of the delegation of the Congo.

The representative of the United Kingdom stated that he was prepared to agree to the requested postponement of the meeting on the understanding that in the interval no action likely to aggravate the situation in the Congo would be taken by any Members of the United Nations and he gave his full support to the statement of the representative of Tunisia made at the 896th meeting.^{160/} Similar views were expressed by the representatives of Ecuador, the United States, Argentina and Ceylon.^{161/}

After a suspension of the meeting, the representative of Tunisia proposed that the meeting be adjourned to 12 September 1960.^{162/}

The President (Italy), having declared that the proposal was adopted,^{163/} stated:

"In consideration of the decision to adjourn the meeting, as President of this Council, certain that I am interpreting the consensus of opinion around this table, I should like to stress how important it is that, in conformity with the letter and spirit of the Charter of the United Nations, no action should be taken by any party which might worsen the already very grave situation with which we are confronted in the Congo. The representative of Tunisia, at the close of last night's meeting, made an appeal to that effect. As many speakers have previously referred to his statement, I should like to quote a pertinent part of it:

"The clear and precise statement made at this meeting by the Secretary-General served to emphasize still further the gravity of the situation to which the Council must give its serious attention.

"Now that the matter is before it, the Council must, in full awareness of its responsibilities, take such decisions as it deems proper to maintain international peace and security. Since, however, a motion for adjournment has been made my delegation wishes to express the fervent hope that, until such time as the Security Council has decided what measures to take at the close of the debate,

^{157/} 896th meeting: para. 155.

^{158/} 896th meeting: paras. 159, 160.

^{159/} S/4496, 897th meeting: para. 4.

^{160/} 897th meeting: paras. 11, 13.

^{161/} 897th meeting: paras. 22, 24, 31, 51 and 52.

^{162/} 897th meeting: para. 79.

^{163/} 897th meeting: paras. 82-85.

in conformity with the spirit if not the letter of Article 40 of the United Nations Charter no action will be taken in the Republic of the Congo which might aggravate an already serious situation.' [896th meeting, paras. 159 and 160.]

"In this connexion may I remind the Council that it has already taken, on two previous occasions, a very definite position on this point. Operative paragraph 2 of the resolution adopted by the Council on 22 July [S/4405] contains a specific request to all States 'to refrain from any action which might tend to impede the restoration of law and order' in the Congo. Similarly, in operative paragraph 5 of the resolution adopted on 9 August [S/4426], the Council:

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

"The decisions which have been made by the Council in its wisdom appear to be of the utmost relevance at this juncture, in the face of the grave situation and the serious events of which the Secretary-General has apprised us. The Council, by deciding to postpone until Monday its final deliberations, has taken a serious responsibility, because of the critical circumstances at present prevailing in that country. In this awareness, I am sure that I am interpreting the consensus of the Council when I reiterate a strong appeal that no action should be taken that could by any means aggravate the present situation until the resumption of our debate."

The representative of Poland agreed with that part of the President's statement which called upon all parties not to aggravate the situation in the Congo, but expressed the view that the reference to all the other problems unnecessarily enlarged the issue. He reserved his right to comment on these matters at the next meeting.^{164/}

The President stated:

"I deemed it fit to make my statement in response to suggestions and requests which came from members of this Council and which I welcomed. I thought that the statement might help in the situation, and it was in that light that I decided to make it. The representative of Poland has made some comments on my statement and has reserved his right to elaborate on them at a future meeting. That means that I am not in a position to comment on his comments on the considerations advanced by me. That will be done when he has had an opportunity to make his comments. I do think, however, that my statement responded to a situation which made it necessary, and I hope that, in the light of that situation, all the members of the Council will approve it."^{165/}

*Decisions of 17 September 1960 (906th meeting):
Rejection of the USSR draft resolution;
rejection of the Ceylonese-Tunisian joint draft resolution*

^{164/} 897th meeting: paras. 94, 95.

^{165/} 897th meeting: para. 96.

By letter ^{166/} dated 12 September 1960, the representative of the USSR requested the President of the Security Council to call a meeting of the Council for urgent consideration of the question of the implementation of the Council's resolutions of 14 and 22 July and of 9 August 1960.

At the 899th meeting on 14 September 1960, the Security Council considered the following agenda:^{167/}

" . . .

- "3. Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381); fourth report of the Secretary-General on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4405 of 22 July 1960 and S/4426 of 9 August 1960 (S/4482 and Add.1-3); letter dated 8 September 1960 from the Permanent Representative of Yugoslavia to the United Nations addressed to the President of the Security Council (S/4485); letter dated 12 September 1960 from the representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council (S/4506)."

The President (Italy) drew the attention of the Council to documents S/4504 and Add.1,^{168/} containing cables relating to the appointment of two different delegations from the Congo to participate in the discussion. The representative of Poland proposed that the Council invite the delegation headed by Mr. Kanza.^{169/} At the 900th meeting on 14 September 1960, this proposal was not adopted.^{170/}

At the 902nd meeting on 15 September 1960 the representative of the United States submitted a draft resolution^{171/} whereby the Security Council would: (1) urge the Secretary-General to continue to give vigorous effect to the resolutions of the Council; (2) call upon Member Governments to make voluntary financial contributions to a United Nations fund for the Congo, to be used under United Nations control as determined by the Secretary-General, for the financing of the necessary governmental expenditures not covered by governmental revenue owing to the disruption of the administration and civilian life; (3) urge all parties to the internal conflicts within the Republic of the Congo, in the interest of its unity and integrity, to seek a speedy settlement by peaceful means with such assistance from the Secretary-General as might be required; (4) reaffirm its request to all States to refrain from any action which might tend to impede the restoration of law and order and in particular from sending personnel, supplies and equipment to be used for military purposes in the Congo other than through the United Nations in accordance with its responsibilities under the pertinent resolutions of the Security Council; and (5) reaffirm that the United Nations Force should

^{166/} S/4506, C.R., 15th year, Suppl. for July-Sept. 1960, pp. 160-162.

^{167/} As point 2 of the agenda the Security Council considered in private the report of the Security Council to the General Assembly.

^{168/} O.R., 15th year, Suppl. for July-Sept. 1960, pp. 157-158.

^{169/} 899th meeting: para. 34. For consideration of this proposal and the decision, see chapter I, Case 9.

^{170/} 900th meeting: para. 87.

^{171/} S/4516, 902nd meeting: para. 45.

continue to act to restore and maintain order as necessary for the maintenance of international peace and security.

At the 903rd meeting on 15 September 1960 the representative of the USSR submitted a draft resolution^{172/} according to which the Security Council would: (1) invite the Secretary-General and the Command of the United Nations Force in the Congo to cease forthwith any form of interference in the internal affairs of the Republic of the Congo so that its Government might exercise without let or hindrance its sovereign rights and authority over the whole territory of the Congo and, in particular, immediately to evacuate armed forces under the control of the United Nations Command from all airports occupied by them and to hand over national radio stations to the complete and unrestricted control of the Central Government of the Congo; (2) instruct the Secretary-General to remove the Command of the United Nations Force, whose actions constituted flagrant violations of the Security Council's decisions on the question of the Congo; and (3) call upon all Member States of the United Nations to provide the Republic of the Congo with speedy financial and other economic assistance through voluntary contributions to be placed directly at the disposal of the Government of the Republic of the Congo.

At the 906th meeting on 16/17 September 1960 the representative of Ceylon introduced a draft resolution^{173/} submitted jointly with Tunisia, whereby the Security Council would: (1) reaffirm its resolutions of 14 and 22 July and 9 August and urge the Secretary-General to continue to give vigorous implementation to them; (2) call upon all Congolese within the Republic of the Congo to seek a speedy solution by peaceful means of all their internal conflicts for the unity and integrity of the Congo; (3) reaffirm that the United Nations Force should continue to act to restore and maintain law and order as necessary for the maintenance of international peace and security; (4) appeal to all Member Governments for urgent voluntary contributions to a United Nations Fund for the Congo to be used under United Nations control and in consultation with the Central Government of the Congo for the purpose of rendering the fullest possible assistance; and (5) reaffirm specifically: (a) its request to all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Congo of its authority and also to refrain from any action which might undermine the territorial integrity and political independence of the Republic of the Congo and decide that no assistance for military purposes be sent to the Congo except as part of the United Nations action; (b) its call to all Member States, in accordance with Articles 25 and 49 of the Charter, to accept and carry out the decisions of the Security Council and to afford mutual assistance in carrying out measures decided upon by the Council.

^{172/} S/4519, 903rd meeting: para. 93.

^{173/} S/4523, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 172-173; 906th meeting: para. 81.

The representative of the USSR submitted the following amendments to the joint draft resolution:^{174/} (1) in the fourth preambular paragraph to insert after the word "assist" the words "the Central Government of"; (2) in operative paragraph 1 to replace the words "to continue to give vigorous implementation to them" by the words "to implement them strictly"; thereafter, to add the words "permitting no interference in the internal affairs of the Republic of the Congo"; (3) in operative paragraph 3, after the word "should" to delete the words "continue to"; to replace the words "as necessary for the maintenance of international peace and security" by the words "with the view to assisting the Central Government of the Congo to exercise its authority and ensure the territorial integrity and political independence of the Congo"; (4) in operative paragraph 4 to replace the word "consultation" with the word "co-operation"; and (5) in operative paragraph 5 (a) to insert after the words "and also to refrain from any action" the words "including military assistance"; to delete the words "and decides that no assistance for military purposes be sent to the Congo except as part of the United Nations action".

The representative of Tunisia said in clarification that the sponsors had not thought it necessary to repeat throughout the draft resolution a reference to the "Central Government of the Congo" or the "Central Government of the Republic of the Congo", as such reference was understood.^{175/}

At the 906th meeting on 17 September 1960, the USSR draft resolution was rejected by 2 votes in favour to 7 against, with 2 abstentions.^{176/}

Paragraph 1 of the USSR amendment was rejected by 4 votes in favour to 6 against, with 1 abstention^{177/}; paragraph 2 was rejected by 2 votes in favour to 8 against, with 1 abstention^{178/}; paragraph 3 was rejected by 2 votes in favour to 9 against^{179/}; paragraph 4 was rejected by 2 votes in favour to 8 against, with 1 abstention^{180/}; paragraph 5 was rejected by 2 votes in favour to 9 against.^{181/}

The Ceylonese-Tunisian joint draft resolution failed of adoption; there were 8 votes in favour, 2 against, and 1 abstention (one of the negative votes being that of a permanent member).^{182/}

The representative of the United States said that he would not press for a vote on the United States draft resolution.^{183/}

Decision of 17 September 1960 (906th meeting): Calling an emergency special session of the General Assembly

^{174/} S/4524, *ibid.*, pp. 173-174; 906th meeting: paras. 116-124.

^{175/} 906th meeting: para. 130.

^{176/} 906th meeting: para. 148.

^{177/} 906th meeting: para. 152.

^{178/} 906th meeting: para. 153.

^{179/} 906th meeting: para. 154.

^{180/} 906th meeting: para. 155.

^{181/} 906th meeting: para. 156.

^{182/} 906th meeting: para. 157.

^{183/} 906th meeting: para. 169.

At the 906th meeting on 17 September 1960, after the vote on the USSR draft resolution and the Ceylonese-Tunisian joint draft resolution, the representative of the United States submitted a draft resolution,^{184/} by which the Security Council would decide to call an emergency special session of the General Assembly, as provided in General Assembly resolution 377 A (V), with a view to making appropriate recommendations.

At the same meeting the draft resolution submitted by the United States was adopted by 8 votes in favour to 2 against, with 1 abstention.^{185/}

The resolution^{186/} read:

"The Security Council,

"Having considered the item on its agenda as contained in document S/Agenda/906,

"Taking into account that the lack of unanimity of its permanent members at the 906th meeting of the Security Council has prevented it from exercising its primary responsibility for the maintenance of international peace and security,

"Decides to call an emergency special session of the General Assembly as provided in General Assembly resolution 377 A (V) of 3 November 1950, in order to make appropriate recommendations."

Decisions of 14 December 1960 (920th meeting): Rejection of the joint draft resolution submitted by Argentina, Italy, the United Kingdom and the United States; rejection of the USSR draft resolution

On 5 December 1960 the Secretary-General transmitted to the members of the Security Council a report^{187/} from his Special Representative in the Congo regarding actions taken against Mr. Patrice Lumumba.

On 6 December 1960, at the request of the President of the Security Council, a statement^{188/} issued on the same day by the Government of the USSR concerning the situation in the Congo was brought to the attention of the members of the Security Council.

At its 912th meeting on 7 December 1960, the Security Council adopted the following agenda:^{189/}

"Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381);

"Urgent measures in connexion with the latest events in the Congo;

"Note by the Secretary-General (S/4571);

"Statement dated 6 December 1960 by the Government of the Union of Soviet Socialist Republics concerning the situation in the Congo (S/4573)."

^{184/} S/4525, 906th meeting; para. 173.

^{185/} 906th meeting; para. 128.

^{186/} S/4526, O.R., 15th year, Suppl. for July-Sept. 1960, p. 174.

^{187/} S/4571 and Add.1, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 67-75.

^{188/} S/4573, *ibid.*, pp. 75-80. In the statement were listed steps to be taken by the Security Council "without the slightest delay".

^{189/} 912th meeting; para. 101.

The following representatives were invited to take part in the discussion, the invitations being renewed at each of the subsequent meetings: at the 913th meeting, the representatives of Mali, Guinea, Congo (Leopoldville), Indonesia, Cameroon and Yugoslavia; at the 914th meeting, the representatives of India and the United Arab Republic; at the 916th meeting, the representative of Morocco.^{190/}

At the 913th meeting on 7 December 1960, the Secretary-General noted at the conclusion of his statement that the United Nations must stand by the mandate already laid down, interpreted strictly in accordance with the principles of the Charter,

"but adjusted to the peculiar circumstances at present prevailing in the Congo. This adjustment unavoidably leads to a serious curtailment for the present of our activities and to great restraint as regards the assistance we can grant."^{191/}

Only through the efforts of the Congolese people themselves could the United Nations assistance make its full contribution.^{192/}

At the 914th meeting on 8 December 1960, the President, speaking as the representative of the USSR, introduced a draft resolution^{193/} according to which the Security Council would: (1) call upon the Secretary-General to secure the immediate release of Mr. Lumumba, Prime Minister of the Republic of the Congo, Mr. Okito, President of the Senate, Mr. Kasongo, President of the Chamber of Representatives, and other Ministers and deputies and, at the same time, to take all the necessary steps to ensure the resumption of the activities of the lawful Government and Parliament of the Republic of the Congo; (2) request the Command of the troops dispatched to the Congo by decision of the Security Council immediately to disarm the terrorist bands of Mobutu; and (3) call upon the Government of Belgium, in accordance with the decision of the Security Council and the special emergency session of the General Assembly, immediately to withdraw Belgian military, paramilitary and civil personnel from the Congo.

The representative of Argentina introduced^{194/} a draft resolution submitted jointly with Italy, the United Kingdom and the United States, which in its

^{190/} 913th meeting; paras. 2, 3, 6-9; 914th meeting; para. 4; 916th meeting; para. 3.

^{191/} In explanation of this last statement, the Secretary-General, at the 916th meeting on 9/10 December 1960, stated that the need for "great restraint" referred "to very practical circumstances, which I think I can most easily illustrate by saying that, of course, we cannot continue the training of an army which has become a political instrument, nor can we help financially with the budget if expenditure is partly of a character which runs counter to our aims" (para. 133).

^{192/} 913th meeting; paras. 12-61. For the statement of the Secretary-General, see chapter I, Case 33; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (v); for the consideration of Chapter VII of the Charter in general, see chapter XI, Case 4; for the consideration of the provisions of Article 2 (7), see chapter XII, Case 14.

^{193/} S/4579, 914th meeting; para. 62.

^{194/} 914th meeting; para. 80.

revised form^{195/} provided for the Security Council (1) to declare that any violation of human rights in the Republic of the Congo was inconsistent with the purposes that guided the United Nations and to expect that no measures contrary to recognized rules of law and order would be taken by anyone against any person held prisoner or under arrest anywhere in the Republic of the Congo; (2) to express the hope that the International Committee of the Red Cross would be allowed to examine detained persons throughout the Republic of the Congo and their places and conditions of detention and otherwise to obtain the necessary assurances for their safety; and (3) to request the Secretary-General to continue his efforts to assist the Republic of the Congo in the restoration of law and order throughout its territory and in adopting all necessary measures tending to safeguard civil and human rights for all persons within the country.

At the 915th meeting on 8/9 December 1960, the representative of the United Kingdom stated that the resolutions of the Council adopted on 14 and 22 July and 9 August 1960 had provided the Secretary-General with a satisfactory mandate to carry out his responsibility and that no further resolution was required in connexion with his mandate.^{196/}

On 9 December 1960 the Secretary-General transmitted to the members of the Security Council a report^{197/} from his Special Representative in the Congo which noted that, following arrests of a number of Belgians in Stanleyville, the commander of the United Nations Force was instructed by ONUC Headquarters in Leopoldville to provide full protection to the European population with all means that might be required in the circumstances.

At the 917th meeting on 10 December 1960, the representative of Ceylon suggested that the Council should confer on the Secretary-General a mandate to make use of the armed forces at his disposal so as to carry out the purpose of maintaining law and order in the territory of the Congo by all the means that would appear to him to be necessary.^{198/}

At the 920th meeting on 13/14 December 1960, the President, speaking as the representative of the USSR, submitted the following amendments^{199/} to the four-Power draft resolution: (1) in the second preambular paragraph^{200/} to replace the words following "Deeply concerned" by

"at the deterioration in the situation in the Republic of the Congo and at the fact that the deci-

^{195/} S/4578/Rev.1, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 82-83. At the 920th meeting the representative of Argentina stated that the sponsors of the joint draft resolution, in order to make their concern for civil and human rights more specific, had introduced in operative paragraph 3 statements previously to be found in preambular paragraph 3 (920th meeting: para. 12b).

^{196/} 915th meeting: paras. 35, 43.

^{197/} S/4590, O.R., 15th year, Suppl. for Oct.-Dec. 1960, pp. 93-95, paras. 5, 6.

^{198/} 917th meeting: para. 56. See chapter XI, Case 4.

^{199/} S/4597, 920th meeting: para. 53.

^{200/} The paragraph read: "Deeply concerned at the continuation of unsettled conditions in various parts of the Republic of the Congo, which has led to acts of violence against persons of both Congolese and non-Congolese nationality, including United Nations personnel."

sions of the Security Council on the question of the Congo are not being carried out, that the sovereign rights of the Congolese people continue to be violated and that the country's territorial integrity and independence are being undermined by Belgium and other colonial Powers";

(2) to insert the following text as the third preambular paragraph:

"Noting that, as a result of the premeditated and systematic destruction of the democratic foundations of the State Government of the Congo by Mobutu's armed bands, which are financed and supplied by foreign Powers, the functioning of the lawful Central Government and Parliament of the Republic has been paralysed and Prime Minister Patrice Lumumba and a number of leading members of Parliament and members of the Government have been unlawfully deprived of their liberty and are being subjected to other forms of violence."

The third preambular paragraph would accordingly become preambular paragraph 4; (3) in operative paragraph 1 to replace the words following "United Nations and" by

"requests that the Command of the troops, sent to the Congo in accordance with the Security Council's decision, shall take energetic action to ensure the immediate cessation of the criminal violation of law and order in the country by Mobutu's armed bands";

(4) to delete, in view of the amendment to the first operative paragraph, operative paragraph 2; and (5) to replace operative paragraph 3, which would become operative paragraph 2, by the following:

"Requests that the Command of the armed forces, sent to the Congo in accordance with the Security Council's decision, shall take immediate steps to disarm and disperse Mobutu's bands, thereby creating the essential conditions for the restoration of law and order in the country."

At the 920th meeting on 13/14 December 1960, the USSR amendments to the four-Power draft resolution were rejected: the first, second, third and fifth amendments by 2 votes in favour to 8 against, with 1 abstention,^{201/} and the fourth amendment by 2 votes in favour to 7 against, with 2 abstentions.^{202/}

The four-Power draft resolution failed of adoption; there were 7 votes in favour, 3 against, with 1 abstention (one of the negative votes being that of a permanent member).^{203/}

The representative of Poland requested that a separate vote be taken on the last operative paragraph of the USSR draft resolution.^{204/}

The President (USSR) put to the vote operative paragraph 3 of the USSR draft resolution. The para-

^{201/} 920th meeting: paras. 151-153, 155.

^{202/} 920th meeting: para. 154.

^{203/} 920th meeting: para. 156.

^{204/} 920th meeting: para. 157.

graph was rejected by 4 votes in favour to 6 against, with 1 abstention.^{205/}

The USSR draft resolution as a whole was rejected by 2 votes in favour to 8 against, with 1 abstention.^{206/}

Decision of 14 December 1960 (920th meeting): Rejection of the Polish draft resolution

At the 920th meeting on 13/14 December 1960, after the rejection of the four-Power draft resolution and of the USSR draft resolution, the representative of Poland submitted a draft resolution^{207/} according to which the Security Council would: (1) request the Secretary-General to undertake the necessary measures in order to obtain the immediate release of Mr. Lumumba and of all persons under arrest or detention despite their parliamentary immunity; and (2) request the Secretary-General to inform the Security Council as soon as possible of the measures taken and the results thereof.

At the same meeting the Polish draft resolution was rejected^{208/} by 3 votes in favour to 6 against, with 2 abstentions.

Decision of 14 January 1961 (927th meeting): Rejection of the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic

By note verbale^{209/} dated 1 January 1961 to the representative of Belgium, the Secretary-General referred to the report^{210/} from his Special Representative in the Congo that the troops of the Armée nationale congolaise, which had been permitted to land at Usumbura, had been transferred to Bukavu in the Republic of the Congo. This, it was noted, indicated direct or indirect military assistance to the Armée nationale congolaise, in contravention of operative paragraph 6^{211/} of General Assembly resolution 1474 (ES-IV), and the gravity of the situation was accentuated by the fact that such assistance had been rendered in the Trust Territory of Ruanda-Urundi. The Secretary-General requested the Belgian Government to take immediate and effective measures to ensure that Belgian authorities in the Trust Territory of Ruanda-Urundi or elsewhere would lend

no support, directly or indirectly, to military action by Congolese troops.^{212/}

By letter^{213/} dated 4 January 1961 addressed to the President of the Security Council, the representative of the USSR requested that States members of the Security Council should receive information from the Secretary-General on the use of the Trust Territory of Ruanda-Urundi as a Belgian military base for carrying out operations against the Congo.

By letter^{214/} dated 7 January 1961, the representative of the USSR requested the President of the Security Council to convene a meeting of the Council to examine the serious threat to peace and security which it held to have been created by the new acts of Belgian aggression against the Congo and flagrant violation of the international status of the Trust Territory of Ruanda-Urundi.

In a note verbale^{215/} dated 11 January 1961 to the Secretary-General, the representative of Belgium stated that the Belgian authorities at Usumbura had treated the contingent of the Armée nationale congolaise correctly and transported the contingent immediately to the frontier of the Congo. In so acting they had not contravened operative paragraph 6 of resolution 1474 (ES-IV). Any other attitude would have been contrary to the Security Council resolution of 22 July 1960, which requested "all States to refrain from any action which might tend to impede the restoration of law and order and the exercise by the Government of the Congo of its authority". It was further stated in the note that there were no longer any Congolese soldiers in Ruanda-Urundi and that the local authorities had been instructed by the Government of Belgium to oppose any unauthorized transit in the future.

At the 924th meeting on 12 January 1961, the Council considered the following agenda:

- "Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381);
- "Note of the Secretary-General (S/4606 and Add.1);
- "Letters dated 4 and 7 January 1961 from the Permanent Representative of the Union of Soviet Socialist Republics addressed to the President of the Security Council (S/4614, S/4616)."

The representative of Belgium was invited to participate in the discussion, the invitation being renewed at each of the subsequent meetings; at the 927th meeting the representative of the Republic of the Congo was also invited to take part in the discussion.^{216/}

The representative of the USSR stated that further acts of aggression against the Republic of the Congo had been committed by Belgium from the Trust

^{205/} 920th meeting: para. 158.

^{206/} 920th meeting: para. 159.

^{207/} S/4598, 920th meeting: para. 169.

^{208/} 920th meeting: para. 177.

^{209/} S/4606, document V, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 11-12. In documents S/4606 and Add.1 (*ibid.*, pp. 1-15) the Secretary-General submitted documents concerning the landing of units of the Armée nationale congolaise at Usumbura (Ruanda-Urundi). For the consideration of the obligations for Belgium arising from the Trusteeship Agreement, see chapter XII, Case 28.

^{210/} S/4606, document IV, *ibid.*, pp. 7-11.

^{211/} Operative paragraph 6 of resolution 1474 (ES-IV) reads:

"6. Without prejudice to the sovereign rights of the Republic of the Congo, calls upon all States to refrain from the direct and indirect provision of arms or other materials of war and military personnel and other assistance for military purposes in the Congo during the temporary period of military assistance through the United Nations, except upon the request of the United Nations through the Secretary-General for carrying out the purposes of this resolution and of the resolutions of 14 and 22 July and 9 August 1960 of the Security Council."

^{212/} In a note verbale of 2 January 1961 (S/4606/Add.1, document VI, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 12-13) to the representative of Belgium, the Secretary-General reiterated the urgent need for a clarification by the Belgian Government of the situation in Ruanda-Urundi.

^{213/} S/4614, *ibid.*, pp. 17-19.

^{214/} S/4616, *ibid.*, pp. 19-20.

^{215/} S/4621, *ibid.*, pp. 22-27.

^{216/} 924th meeting: para. 1; 927th meeting: para. 26.

Territory of Ruanda-Urundi, in violation of operative paragraph 6 of resolution 1474 (ES-IV). This action also constituted an infringement of the Trusteeship Agreement for the Territory of Ruanda-Urundi and of resolution 1579 (XV) concerning the future of Ruanda-Urundi adopted by the General Assembly on 20 December 1960.^{217/}

The representative of Belgium* stated that when the Belgian Government learned that a contingent of the Armée nationale congolaise had landed at Usumbura, it could have given to the Resident-General of Ruanda-Urundi no instructions other than to have that contingent at once conveyed to the Congolese national frontier. He assured the Council that the Belgian Government did not intend to authorize any further transit in the future.^{218/}

At the 926th meeting on 13 January 1961, the representative of Liberia introduced a draft resolution^{219/} jointly sponsored with Ceylon and the United Arab Republic, according to which the Security Council would: (1) call upon the Government of Belgium as the Administering Authority of the Trust Territory of Ruanda-Urundi immediately to cease all action against the Republic of the Congo and to observe strictly its international obligations under the Trusteeship Agreement and to take immediate steps to prevent the utilization of the Trust Territory of Ruanda-Urundi contrary to the purposes of General Assembly resolutions 1474 (ES-IV) and 1579 (XV) and the Security Council resolutions of 14 and 22 July and 9 August 1960; (2) call upon the Government of Belgium to withdraw immediately from the Republic of the Congo all Belgian military and paramilitary personnel, advisers and technicians; and (3) recommend to the General Assembly to consider the action taken by Belgium as a violation of the Trusteeship Agreement for the Trust Territory of Ruanda-Urundi.

The representative of the United States, in view of assurances by the Belgian Government, reaffirmed in the Security Council by the representative of Belgium, that there were no more Congolese troops within the Trust Territory and that no more would be permitted to enter, stated that if there ever had been any justification for the Council to meet it had now been obviated.^{220/}

At the 927th meeting on 14 January 1961 the draft resolution submitted jointly by Ceylon, Liberia and the United Arab Republic was not adopted; there were 4 votes in favour, with 7 abstentions.^{221/}

Decisions of 21 February 1961 (942nd meeting):

- (1) Rejection of the USSR draft resolution;
- (2) Adoption of the draft resolution submitted by Ceylon, Liberia and the United Arab Republic
 - A (i) Urging the immediate taking of all appropriate measures to prevent the occurrence of civil war in the Congo;

^{217/} 924th meeting: paras. 3, 19, 20.

^{218/} 924th meeting: paras. 47, 51.

^{219/} S/4625, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 30-31; 926th meeting: para. 9.

^{220/} 926th meeting: para. 3b.

^{221/} 927th meeting: para. 94.

(ii) Urging the taking of measures for the immediate withdrawal and evacuation from the Congo of all Belgian and other foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries;

(iii) Calling upon all States to prevent the departure of such personnel for the Congo from their territories;

(iv) Deciding that an investigation be held in order to ascertain the circumstances of the death of Mr. Lumumba and his colleagues and that the perpetrators of these crimes be punished;

(v) Reaffirming the Security Council resolutions of 14 July, 22 July and 9 August 1960 and the General Assembly resolution 1474 (ES-IV) of 20 September 1960 and reminding all States of their obligation under these resolutions;

- B (i) Urging the convening of the Parliament;
- (ii) Urging the re-organization of Congolese armed units and personnel;
- (iii) Calling upon all States to extend their full co-operation for the implementation of this resolution;

(3) Rejection of the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic.

By note^{222/} dated 23 January 1961 the Secretary-General brought to the attention of the Members of the Security Council communications concerning Mr. Lumumba and other related subjects.

^{222/} S/4637, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 54-59. By letter dated 19 January 1961 the Secretary-General informed the President of the Republic of the Congo (Leopoldville) about the grave concern regarding the transfer of Mr. Lumumba to Katanga and urged him to take immediate measures to have Mr. Lumumba return from Katanga and that, unless released, he be given the opportunity to answer the charges against him in a fair and public hearing (document I, *ibid.*, pp. 54-55). By message dated 19 January 1961 addressed through his Special Representative in the Congo to Mr. Tshombé, the Secretary-General stated that it had been his understanding that the Katanga authorities had been presented by Mr. Lumumba's transfer with a *fait accompli*; that Mr. Tshombé would consider what steps could properly be taken so that Mr. Lumumba and his companions might be given the benefit of due process of law at the place of competent jurisdiction (document II, *ibid.*, p. 55). By letter dated 20 January 1961 the Secretary-General informed the President of the Republic of the Congo that the Advisory Committee considered it appropriate to draw his urgent attention to the serious bearing on the efforts towards reconciliation and political unification which the continued imprisonment of Mr. Lumumba seemed to it to have. The political significance of those observations was enhanced by Mr. Lumumba's transfer, which could not but aggravate the complications created by his arrest and detention (document III, *ibid.*, pp. 56-57). By message dated 23 January 1961 addressed through his Special Representative in the Congo to Mr. Gizenga in Stanleyville, the Secretary-General drew Mr. Gizenga's attention to confirmed reports in Oriental Province indicating that a very large number of violations of the most basic human rights of both Congolese and non-Congolese elements of the population had taken place. The Secretary-General asked that the most vigorous steps be taken to ensure that the the Armée nationale congolaise units in the Stanleyville area assume their function of the maintenance of internal security (document V, *ibid.*, pp. 58-59). By message received by the Secretary-General on 1 February 1961, Mr. Tshombé informed him that the transfer of Mr. Lumumba to Katanga had been effected on the initiative of the President of the Congo and expressed the view that for the time being, in the interest of restoring general calm, there should be no contact between Mr. Lumumba and the outside world (S/4637/Add.1, *ibid.*, p. 59).

By letter^{223/} dated 24 January 1961, the President of the Republic of the Congo and the President of the College of Commissioners-General and Commissioner-General for Foreign Affairs informed the President of the Security Council that the Government of the Republic of the Congo had taken cognizance of the violation of its national sovereignty and of the flagrant interference in its domestic affairs by the United Arab Republic^{224/} which constituted a breach of General Assembly resolution 1474 (ES-IV) of 20 September 1960 and of the Charter. In view of this grave situation, which was considered to be the result of foreign intervention in the Republic of the Congo and to present a danger to international peace and security, the President of the Security Council was requested to call a meeting of the Council to examine the situation and to take appropriate measures. In submitting this question, the Government of the Congo referred to Articles 24, 34 and 35 (1) of the Charter and to rule 3 of the provisional rules of procedure of the Security Council.

By letter^{225/} dated 26 January 1961, the permanent representatives of Ceylon, Ghana, Guinea, Mali, Morocco, the United Arab Republic and Yugoslavia informed the President of the Security Council that their Governments strongly protested against the inhuman and brutal treatment to which Mr. Lumumba, Prime Minister of the Republic of the Congo, Mr. Okito, Vice-President of the Senate, and Mr. Mpolo, Minister of Youth, had been subjected upon their illegal transfer to Katanga. They further noted that the continued illegal incarceration of Mr. Lumumba would increase disunity and render extremely difficult the preservation of the Congo's territorial integrity and the establishment of law and order. Fruitful negotiations aiming at increasing harmony among political factions and at preserving the Congo's territorial integrity could not be conducted as long as some of the Congo's prominent national leaders remained illegally detained. The President of the Security Council was, therefore, requested to convene a meeting of the Council "to examine the alarming recent developments in the Congo, which are hampering efforts for the preservation of law and order in that country, as well as its territorial integrity, and which, therefore, endanger international peace and security".

By note verbale^{226/} dated 29 January 1961, the permanent representative of Libya joined in the request and requested the President of the Security

Council that his name be added to the list of signatories of the letter of request (S/4641).

In a letter^{227/} dated 29 January 1961 addressed to the President of the Security Council, the permanent representative of the USSR stated that the situation in the Republic of the Congo constituted a real threat not only to Africa but to the whole world. The principal cause of all the difficulties was the continued Belgian aggression against the Congo. The illegal arrest of Prime Minister Lumumba and his subsequent surrender to the former Belgian colonial administration in Katanga had further complicated the situation in the Congo and increased the grave threat to international peace and security. He requested the President of the Security Council to take up immediately the situation resulting from the new acts of Belgian aggression.

At the 928th meeting on 1 February 1961, the Security Council adopted^{228/} the following agenda:

"Letter dated 13 July 1960 from the Secretary-General addressed to the President of the Security Council (S/4381);

"Letter dated 26 January 1961 from the permanent representatives of Ceylon, Ghana, Guinea, Libya, Mali, Morocco, United Arab Republic and Yugoslavia addressed to the President of the Security Council (S/4641 and S/4650);^{229/}

"Telegram dated 24 January 1961 from the President of the Republic of the Congo (Leopoldville) and the President of the College of Commissioners-General and Commissioner-General for Foreign Affairs addressed to the President of the Security Council (S/4639);

"Letter dated 29 January 1961 from the Permanent Representative of the Union of Soviet Socialist Republics to the President of the Security Council (S/4644)."

The following representatives were invited to participate in the discussion, the invitations being renewed at each of the subsequent meetings: at the 928th meeting, the representatives of Mali, India, Yugoslavia, Indonesia, Belgium, Guinea, Ghana, Congo (Leopoldville), Morocco, Poland and Libya; at the 934th meeting, the representatives of Sudan, Nigeria, Madagascar, Cameroon, Congo (Brazzaville), Senegal, Gabon; at the 935th meeting, the representatives of the Central African Republic, Upper Volta and Iraq; at the 936th meeting, the representative of Czechoslovakia; at the 941st meeting, the representative of Pakistan.^{230/}

At the 928th meeting on 1 February 1961, the Secretary-General made a statement commenting on "important elements" in the current situation in the Congo, in which he dealt with domestic political

^{223/} S/4639, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 59-60.

^{224/} By letter dated 7 January 1961, the President of the Republic of the Congo (Leopoldville) and the Commissioner-General for Foreign Affairs sent to the Special Representative of the Secretary-General in the Congo a memorandum concerning the activities of the United Nations in the Congo. In the memorandum it was stated that an aircraft whose registration marks appeared to connect it with the United Arab Republic landed at Lisala on 31 December 1960, without clearance to fly over or land in the country. The United Arab Republic troops belonging to the United Nations Force apparently had prevented all contacts between the legal authorities and the crew of the aircraft, thus implying support of that country for the rebel agitators in Oriental and Kivu Provinces (S/4630, O.R., 16th year, Suppl. for Jan.-March 1961, p. 43, para. 10).

^{225/} S/4641, *ibid.*, pp. 62-63.

^{226/} S/4650, *ibid.*, pp. 70-71.

^{227/} S/4644, *ibid.*, pp. 66-67.

^{228/} 928th meeting: para. 55.

^{229/} In the agenda of the 929th-932nd, 934th-939th, 941st and 942nd meetings, after Guinea, Libya was included as a signatory of the letter and document number S/4650 was added after S/4641. The 933rd and 940th meetings were adjourned without the adoption of the agenda.

^{230/} 928th meeting: paras. 57, 94; 934th meeting: para. 22; 935th meeting: paras. 1-2.

development, the problem of interference from outside and the problem of the various units of the Armée nationale congolaise, as regards its role in relation to the domestic political development and as an element in the interplay between foreign Powers and groups within the Congo.^{231/}

At the 933rd meeting on 13 February 1961, the Secretary-General stated that after the circulation of the report^{232/} from his Special Representative in the Congo regarding Mr. Lumumba, he was informed^{233/} that Mr. Patrice Lumumba and his associates, Messrs. Okito and Mpolo, had been assassinated. He proposed that this report, which was of a most serious and tragic nature, be added to the agenda, noting that the matter was of such a character and significance that an impartial, international investigation was necessary.^{234/} The meeting adjourned without adopting the agenda.

At the 934th meeting on 15 February 1961, to the agenda adopted^{235/} at the 928th meeting the following was added:

"Report to the Secretary-General from his Special Representative in the Congo regarding Mr. Patrice Lumumba (S/4688 and Add.1)"

At the same meeting, the representative of the USSR submitted a draft resolution^{236/} whereby the Security Council would: (1) decisively condemn the actions of Belgium which had led to the murder of Messrs. Lumumba, Okito and Mpolo; (2) deem it essential that the sanctions provided under Article 41 of the Charter should be applied to Belgium as to an aggressor which by its actions was creating a threat to international peace, and would call on the Member States of the United Nations to apply those sanctions immediately; (3) enjoin the command of the troops that were in the Congo pursuant to the decision of the Security Council immediately to arrest Tshombé and Mobutu in order to deliver them for trial, to disarm all military units and "gendarmerie" forces under their control, and to ensure the immediate disarming and removal from the Congo of all Belgian troops and all Belgian personnel; (4) direct that the "United Nations operation" in the Congo should be discontinued within one month and all foreign troops withdrawn from there so as

^{231/} 928th meeting; paras. 61-93. For the statement of the Secretary-General, see chapter I, Cases 38 and 48; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vi); for the consideration of the provisions of Article 2 (7), see chapter XII, Case 15.

^{232/} On 12 February 1961 the Special Representative of the Secretary-General in the Congo forwarded to the Secretary-General a report (S/4688, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 88-95) on the subject of Mr. Patrice Lumumba, containing information about the escape during the night 9/10 February of Messrs. Lumumba, Mpolo and Okito from Kolatay Farm in the province of Katanga, where they had been detained.

^{233/} On 13 February 1961 the Special Representative transmitted (S/4688/Add.1, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 95-97) to the Secretary-General a statement made on the same day by Mr. Munongo, Minister of Interior of the provincial government of Katanga, in which the assassination of Messrs. Lumumba, Okito and Mpolo had been announced.

^{234/} 933rd meeting; paras. 2, 3.

^{235/} 934th meeting; para. 13.

^{236/} S/4706, 934th meeting; para. 112.

to enable the Congolese people to decide its own internal affairs; and (5) deem it essential to dismiss Mr. Hammarskjöld from the post of Secretary-General of the United Nations as a participant in and organizer of the violence committed against the leading statesmen of the Republic of the Congo.

At the 935th meeting on 15 February 1961, the Secretary-General made a statement in which he dealt with points which he held "should determine the judgement regarding the relations of the United Nations to the fate of Mr. Lumumba" and outlined measures to be pursued with regard to the solution of the Congo problem.^{237/}

At the 938th meeting on 17 February 1961, the representative of the United Arab Republic introduced a draft resolution^{238/} submitted jointly with Ceylon and Liberia.

At the 940th meeting on 20 February 1961, the Secretary-General, referring to the report^{239/} of his Special Representative in the Congo, stated that it was for the Council to judge how the latest development should influence United Nations action in relation to the Congo and various groups in the Congo.^{240/} The meeting adjourned without adopting the agenda.

At the 941st meeting on 20 February 1961, the representative of the United Arab Republic introduced a draft resolution^{241/} submitted jointly with Ceylon and Liberia, whereby the Security Council, taking note of the Secretary-General's report (S/4727) of 18 February 1961 and his communication to the Security Council in his statement made at the 940th meeting (preamble, para. 1), would: (1) strongly condemn the unlawful arrests, deportations and assassinations of the political leaders of the Congo; (2) call upon the authorities in Leopoldville, Elisabethville and Kasai immediately to put an end to such practices; (3) call upon the United Nations authorities in the Congo to take all possible measures to prevent the occurrence of such outrages including, if necessary, the use of force as a last resort; and (4) decide upon an impartial investigation to determine the responsibility for these crimes and punishment of the perpetrators of such crimes. The representative requested that priority should be given to a discussion on this joint draft resolution.

^{237/} 935th meeting; paras. 25-36. For the statement of the Secretary-General, see chapter I, Cases 12, 39 and 40; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vi); for the consideration of the provisions of Article 2 (7), see chapter XII, Case 15.

^{238/} S/4722, same text as S/4741, see below; 938th meeting; para. 24.

^{239/} S/4727 and Add.1-3, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 131-137. In his report dated 18 February 1961, the Special Representative reported on a wave of arbitrary arrests of political personalities in Leopoldville in October and November 1960. During the previous week, arrests of political personalities had been resumed in Leopoldville and deportations were taking place to Bakwanga in South Kasai. On 20 February, the Special Representative reported that a Mr. Kabeya, who described himself as a Minister for Justice for the so-called *Etat minier* of South Kasai, had notified him that Messrs. Finant, Fataki, Yangare, Muzungu, Elengenza and Nzuzi were sentenced to death and Mr. Kamanga was sentenced to five years of imprisonment.

^{240/} 940th meeting; paras. 3-6.

^{241/} S/4733, see S/4733/Rev.1 and foot-note 23, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 142-143; 941st meeting; para. 3.

At the same meeting the representative of Liberia submitted a draft resolution^{242/} according to which the Security Council would resolve that the meeting should rise and that its next meeting would be held in the Congo or in a nearby country upon the invitation of its Government for the purpose of meeting the political leaders of the Congo.

The representative of the United States, referring to part A of the joint draft resolution S/4722, stated that his delegation would like to have seen covered more specifically the following points: the responsibility of the Secretary-General for carrying out the resolution, recognition that the United Nations was in the Congo to assist and uphold its sovereignty and independence, and the prohibition of outside interference through the provision of supplies and "matériel" as well as personnel. It was obvious that any Security Council resolution calling for United Nations action must be implemented by the Secretary-General. Finally, the representative regretted that operative paragraph 3 did not specifically call upon all States not only to prevent the departure of military and paramilitary personnel for the Congo but also to prevent the sending of military "matériel", directly or indirectly. He suggested to the sponsors of the draft resolution to revise operative paragraph 3 to read as follows:

"Calls upon all States to take immediate and energetic measures to prevent the departure or provision from their territories for the Congo of any such personnel or of any aid for military purposes, direct or indirect, other than through the United Nations, and to deny any transit or other facilities for any such personnel or any such aid, and requests the United Nations to take the necessary measures to interdict any such personnel or aid."^{243/}

The representative of Turkey observed that the joint draft resolution S/4722 reaffirmed the provisions of all previous resolutions of the Council on the Congo, so that the scope and meaning of the text before the Council became precise and clear in the light of existing decisions of the Council as well as of the provisions of the Charter. For example, the principle of non-interference was dealt with directly in operative paragraphs 2 and 3 of part A. These paragraphs were concerned with one particular aspect of intervention—that of personnel. However, paragraph 5 of part A, by reaffirming all the previous resolutions, brought the Council back in a strengthened way to the principle of non-interference in connexion with any of the aspects of the problem that interested the Council. Thus, the mandate of the Secretary-General came also from paragraph 5, and operative paragraph 3 of part B clearly must be interpreted in relation to the entire United Nations stand as it was set out in the previous resolutions. The representative further suggested that the text of draft resolution S/4733 be made another section, part C of draft resolution S/4722, and that operative paragraph 2 of draft resolution S/4733 be revised to read: "Calls upon the authorities in the Congo".^{244/}

^{242/} 941st meeting: para. 23.

^{243/} 941st meeting: paras. 79-82, 84-87.

^{244/} 941st meeting: paras. 91-94.

The representative of China, commenting on the joint draft resolution S/4733, suggested that operative paragraph 2 should read: "Calls upon all the authorities in all parts of the Congo (Leopoldville) immediately to put an end to such practices", and that preambular paragraph 5, reading "Convinced of the responsibility for such crimes of persons in high places" should be deleted. He stated further that his delegation would not support the phrase "including, if necessary, the use of force as a last resort" in operative paragraph 3^{245/} and requested that this phrase be put to the vote separately.

The representative of Ceylon suggested that the first preambular paragraph of draft resolution S/4733 should read:

"The Security Council,

"Taking note of the report of the Special Representative in the Congo, S/4727 of 18 February 1961 and the Secretary-General's communication to the Security Council in his statement of 20 February, bringing to the earnest attention of the Council the atrocities and the assassinations in Leopoldville, Katanga and South Kasai in the Congo,"

and proposed that operative paragraph 2 should read: "Calls upon all concerned in the Congo immediately to put an end to such practices."^{246/}

The representative of Liberia, referring to the joint draft resolution S/4722, part A, operative paragraph 3, stated that his delegation interpreted the provision as including material from any country or other source and that this interpretation was a necessary precaution.^{247/}

The representative of the United States, referring to the interpretation given by the representative of Liberia, assumed that it reflected the views of the other sponsors of the draft resolution, and on that assumption, he was prepared to proceed with the voting on draft resolution S/4722.^{248/}

At the 942nd meeting on 20/21 February 1961 the President, speaking as the representative of the United Kingdom, stated that his delegation could not agree that any part of the joint draft resolution S/4722 could be interpreted to derogate from the principle stated in the fourth preambular paragraph of part B, that "the solution of the problem of the Congo lies in the hands of the Congolese people themselves without any interference from outside". The representative drew attention to part A, operative paragraphs 1 and 4, and part B, operative paragraph 2. Each of them, if taken in isolation, could mean that the United Nations would take action in the Congo by force without appropriate consultation with the representatives of the Congolese people. This interpretation would be extremely dangerous. The representative added that he fully agreed with the interpretation of the representative of the United States to the effect that operative paragraph 1 of

^{245/} 941st meeting: paras. 98-102.

^{246/} 941st meeting: para. 12c.

^{247/} 941st meeting: paras. 16c-168.

^{248/} 941st meeting: para. 18c.

part A should be interpreted to mean that the Secretary-General should implement the resolution.^{249/}

The representative of Chile stated that the joint draft resolution S/4722, with its deliberate avoidance of any reference to the Secretary-General, was not a satisfactory one. The previous resolutions of the Council and the General Assembly should be expressly reaffirmed, for this remedied many defects in the draft resolution. The appeal to States in part A, operative paragraph 3, seemed to be limited in scope by making no reference to war matériel. However, the Liberian representative's explanation had to some extent made up for these weaknesses, which a proper interpretation of the existing agreements, reaffirmed and recalled by the draft resolution, would offset. The representative expressed doubts about part B of the draft resolution. Operative paragraphs 1 and 2 would represent interference contrary to the Charter; however, the aim, as stated in the preamble to part B, to prevent interference from outside and the appeal for conciliation, made up for that shortcoming. The convening of the Parliament, as well as the reorganization of the army, were not made mandatory. It would be necessary to negotiate and conciliate for that purpose. The representative concurred in the explanations and interpretations given by the representatives of the United States, Turkey and the United Kingdom.^{250/}

The representative of France stated that his delegation endorsed what had been said by the representatives of the United States and the United Kingdom on the subject of the respect for the sovereignty of the Congo. It was desirable that the United Nations should help the lawful authorities of the Congo to reorganize the armed forces and to restore order within the country, but nothing could be done without their co-operation. It was also for those authorities to convene Parliament and to take the necessary steps towards conciliation.^{251/}

The representative of China shared the interpretations of the representatives of Turkey, the United States and the United Kingdom on the joint draft resolution S/4722, particularly on operative paragraph 1 of part A. In regard to operative paragraph 3, the Chinese delegation attached a great deal of importance to the prevention of the furnishing not only of military personnel but also of military matériel. With regard to operative paragraph 1 of part B, it was his understanding that it meant that the Secretary-General should urge the Government of the Congo to convene the Parliament because that was the only procedure possible. With regard to operative paragraph 2 of part B, the representative expressed the view that the Secretary-General should urge the Government of the Congo to have its armed forces reorganized. This was the only procedure consistent with the Charter and with the previous resolutions of the Council.^{252/}

The representative of Ecuador stated that he would vote for the joint draft resolution S/4722 on the

^{249/} 942nd meeting: paras. 17-19, 23.

^{250/} 942nd meeting: paras. 34-39.

^{251/} 942nd meeting: para. 44.

^{252/} 942nd meeting: paras. 53-55.

understanding that it was to be interpreted in the manner explained by the representative of Liberia and in conformity with the views expressed by the representatives of the United Kingdom, the United States and Turkey.^{253/}

At the 942nd meeting on 20/21 February 1961, the draft resolution submitted by the USSR was rejected by 1 vote in favour to 8 against, with 2 abstentions.^{254/}

Before the vote on the joint draft resolution S/4722, the representative of the United States stated that he understood the statement of the representative of Liberia to mean that, taken as a whole, the draft resolution was intended to forbid the introduction into the Congo of military arms and supplies, as well as military personnel from any source, and to authorize the United Nations to interdict such traffic. The representative assumed that, in the absence of any statement to the contrary, the two other sponsors were in accord with the representative of Liberia in so construing the draft resolution. It was on this basis that the United States was ready to vote for it.^{255/}

At the 942nd meeting on 21 February 1961 the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic was adopted ^{256/} by 9 votes in favour to none against, with 2 abstentions. The resolution^{257/} read:

"A

"The Security Council,

"Having considered the situation in the Congo,

"Having learnt with deep regret the announcement of the killing of the Congolese leaders, Mr. Patrice Lumumba, Mr. Maurice Mpolo and Mr. Joseph Okito,

"Deeply concerned at the grave repercussions of these crimes and the danger of widespread civil war and bloodshed in the Congo and the threat to international peace and security,

"Noting the report of the Secretary-General's Special Representative (S/4691) dated 12 February 1961 bringing to light the development of a serious civil war situation and preparations therefor,

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

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

^{253/} 942nd meeting: para. 57.

^{254/} 942nd meeting: para. 89.

^{255/} 942nd meeting: paras. 91-94.

^{256/} 942nd meeting: para. 95.

^{257/} S/4741, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 147-148.

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

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

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

"B

"The Security Council,

"Gravely concerned at the continuing deterioration in the Congo, and the prevalence of conditions which seriously imperil peace and order, and the unity and territorial integrity of the Congo, and threaten international peace and security,

"Noting with deep regret and concern the systematic violations of human rights and fundamental freedoms and the general absence of rule of law in the Congo,

"Recognizing the imperative necessity of the restoration of parliamentary institutions in the Congo in accordance with the fundamental law of the country, so that the will of the people should be reflected through the freely elected Parliament,

"Convinced that the solution of the problem of the Congo lies in the hands of the Congolese people themselves without any interference from outside and that there can be no solution without conciliation,

"Convinced further that the imposition of any solution, including the formation of any government not based on genuine conciliation would, far from settling any issues, greatly enhance the dangers of conflict within the Congo and threat to international peace and security,

"1. Urges the convening of the Parliament and the taking of necessary protective measures in that connexion;

"2. Urges that Congolese armed units and personnel should be re-organized and brought under discipline and control, and arrangements be made on impartial and equitable bases to that end and with a view to the elimination of any possibility of interference by such units and personnel in the political life of the Congo;

"3. Calls upon all States to extend their full co-operation and assistance and take such measures as may be necessary on their part, for the implementation of this resolution."

At the same meeting, the representative of the United States submitted the following amendments to the joint draft resolution S/4733/Rev.1: (1) in the first preambular paragraph to add after the words "20 February" the words "and of other reports"; and

after the words "assassinations in" to add the word "Stanleyville"; (2) to delete the last preambular paragraph; (3) in operative paragraph 3, to add after the word "measures" the words "in accordance with the Charter"; (4) in operative paragraph 4 to add after the word "and" the words "to seek the".

He stated that the purpose of his amendments was, first, to make it clear that the Council was concerned with atrocities, assassinations and violations of human rights wherever they occurred in the Congo, secondly, that no prejudgement of responsibility for those occurrences be made before the investigation, thirdly, to seek the punishment of the perpetrators thereof, and fourthly, to make it clear that any action by the United Nations in the Congo, specifically the use of force, was circumscribed by the provisions of the Charter.^{258/}

After a suspension of the meeting the representative of Ceylon stated that the sponsors of the joint draft resolution were prepared to substitute in the last preambular paragraph "Taking note of the allegations of the responsibility of persons in high places for such crimes", and were ready to accept the United States amendments to operative paragraphs 3 and 4. However, they were not in a position to accept the amendment to the first preambular paragraph.^{259/}

The representative of the United States declared that he was ready to substitute in the first preambular paragraph after "20 February" the words "and other reports bringing to the urgent attention of the Council the atrocities and assassinations in various parts of the Congo".^{260/}

The President (United Kingdom) put to the vote the retention of the words "including, if necessary, the use of force in the last resort" in operative paragraph 3, as the representative of China had asked for a separate vote on these words.^{261/}

The proposal was not adopted. There were 5 votes in favour, 1 against, with 5 abstentions.^{262/}

The President put to the vote the amendments to preambular paragraph 1, to add after the words "20 February" the words "and of other reports" and to delete the words "in Leopoldville, Katanga and South Kasai in the Congo", and to replace them with the words "in various parts of the Congo".^{263/}

The amendments failed of adoption. There were 8 votes in favour and 3 against (one of the negative votes being that of a permanent member).^{264/}

Following a discussion in which the representatives of Liberia, the United States, Ceylon, the United Arab Republic, Turkey and the USSR took part, the meeting was suspended. Upon resumption of the meeting, after a clarification by the representative of the United States that the first preambular paragraph of

^{258/} S/4740, 942nd meeting: paras. 97-101.

^{259/} 942nd meeting: paras. 112, 113.

^{260/} 942nd meeting: para. 125.

^{261/} 942nd meeting: para. 129.

^{262/} 942nd meeting: para. 129.

^{263/} 942nd meeting: para. 135.

^{264/} 942nd meeting: para. 139.

the joint draft resolution S/4733/Rev.1, as amended by the proposed United States amendment, would read:

"Taking note of the report of the Special Representative in the Congo [S/4727] of 18 February 1961 and the Secretary-General's communication to the Security Council in his statement of 20 February and other reports" ^{265/}

the President put the amendment to the vote.

The amendment failed of adoption. There were 7 votes in favour, 3 against, with 1 abstention (one of the negative votes being that of a permanent member).^{266/}

At the 942nd meeting on 20/21 February 1961, the joint draft resolution S/4733/Rev.1, as amended, was not adopted. There were 6 votes in favour, none against, with 5 abstentions.^{267/}

The President, speaking as the representative of the United Kingdom, said that had either of the amendments to the first preambular paragraph been carried, his delegation would have voted for the draft resolution.^{268/}

The Secretary-General welcomed resolution S/4741 as giving a stronger and a clearer framework for United Nations action although it did not provide a wider legal basis or new means for implementation. He noted the reaffirmation of previous resolutions which had entrusted the Secretary-General with execution of the decisions of the Security Council in the Congo affairs. On that basis he would urgently avail himself of the assistance of the Advisory Committee. The Secretary-General noted further that there had been no difference of opinion as regards the operative paragraphs of draft resolution S/4733/Rev.1. Under such circumstances he felt entitled to use those operative paragraphs with the full moral value which they had in the United Nations efforts in the Congo. Concerning the provision regarding the impartial investigation to determine responsibility, it would have to be done on the initiative of the Secretariat.^{269/}

The representative of Liberia asked the President of the Security Council to consider convening a special meeting of the Council to discuss his delegation's suggestion regarding the Council's visit to the Congo.^{270/}

The President said that he would enter into consultations with other members of the Council with a view to calling a meeting if that was the general desire.^{271/}

^{265/} 942nd meeting: para. 169.

^{266/} 942nd meeting: para. 175.

^{267/} 942nd meeting: para. 181.

^{268/} 942nd meeting: para. 215.

^{269/} 942nd meeting: paras. 216, 217, 219-221. For the statement of the Secretary-General in connexion with the question of the limitation of the powers of the United Nations Force in the Congo with regard to the use of force (paras. 225, 226, 228-231), see chapter XI, Case 4.

^{270/} 942nd meeting: para. 246.

^{271/} 942nd meeting: para. 247.

By telegram^{272/} dated 22 February 1961, the President of the Congo (Leopoldville) communicated to the President of the Security Council the position of the Government of the Congo on the Security Council resolution S/4741 of 21 February 1961.

On 27 February 1961 the Secretary-General submitted his first report^{273/} and on 17 May 1961 his second report^{274/} on steps taken in regard to the implementation of the Security Council resolution S/4741 of 21 February 1961.

On 20 March 1961 the Secretary-General submitted his report^{275/} on the implementation of part A, operative paragraph 4, of Security Council resolution S/4741 of 21 February 1961.

On 20 June 1961 he submitted his report^{276/} on steps taken in regard to the implementation of part B, paragraph 1, of Security Council resolution S/4741 of 21 February 1961.

On 2 August 1961 the Secretary-General submitted his report^{277/} concerning the meeting of the Parliament of the Congo and the establishment, on 2 August 1961, of a new Government of the Republic.

On 13 August 1961 an exchange of letters^{278/} between the Prime Minister of the Republic of the Congo and the Secretary-General concerning the meeting of the Congolese Parliament and the establishment of a Government of national unity and political reconciliation under Prime Minister Adoula was published.

On 14 September 1961 a report^{279/} of the Officer-in-Charge of the United Nations Operation in the Congo to the Secretary-General, relating to the implementation of part A, operative paragraph 2, of Security Council resolution S/4741 of 21 February 1961, was published.

Decision of 24 November 1961 (982nd meeting):

(i) *Strongly deprecating the secessionist activities in Katanga;*

^{272/} S/4743, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 150-152. By letter dated 21 February 1961 addressed to the President of the Security Council the representative of the Congo (Leopoldville) brought to the attention of the Security Council the views of his Government on certain aspects of the question, and the interpretation it intended to give to the decision adopted, on the basis of the commentaries put forward by the members of the Council (S. 4742, *ibid.*, pp. 145-150).

^{273/} S/4752, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 176-190, supplemented by S/4752/Add.1-4, *ibid.*, pp. 190-203.

^{274/} S/4807, O.R., 16th year, Suppl. for April-June 1961, pp. 43-48, supplemented by S/4807/Add.1, *ibid.*, p. 48.

^{275/} S/4771, O.R., 16th year, Suppl. for Jan.-March 1961, pp. 259-260, supplemented by S/4771/Add.1-3, *ibid.*, pp. 260-261.

^{276/} S/4841, O.R., 16th year, Suppl. for April-June 1961, pp. 69-72, supplemented by S/4841/Add.1-3, *ibid.*, pp. 73-76.

^{277/} S/4913, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 61-63.

^{278/} S/4923, *ibid.*, pp. 74-86.

^{279/} S/4940, O.R., 16th year, Suppl. for July-Sept. 1961, pp. 99-106. The report covered the developments in Katanga from 24 August to the afternoon of 13 September and was supplemented by documents S/4940/Add.1-9, covering the developments from 13 September to 23 September 1961, *ibid.*, pp. 106-121. Document S/4940/Add.7 contains the text of a provisional draft agreement on a cease-fire between the United Nations troops and those of the Katanga authorities, signed on 20 September 1961, *ibid.*, pp. 119-120. Subsequent developments up to 19 December 1961 were covered in S/4940/Add.10-19, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 1-57.

- (ii) Further deprecating the armed action against the United Nations forces and personnel in pursuit of such activities;
- (iii) Insisting that such activities should cease forthwith;
- (iv) Authorizing the Secretary-General to take vigorous action, including the use of requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action, and/or deportation of all foreign military and paramilitary personnel and political advisers not under United Nations Command, and mercenaries as laid down in paragraph A-2 of the resolution of 21 February 1961;
- (v) Further requesting the Secretary-General to take all necessary measures to prevent the entry or return of such elements and of equipment or other material in support of such activities;
- (vi) Requesting all States to refrain from the supply of arms, equipment or other material which could be used for warlike purposes, and to take the necessary measures to prevent their nationals from doing the same, and to deny transportation for such supplies except in accordance with the decisions, policies and purposes of the United Nations;
- (vii) Calling upon all Member States to refrain from promoting, condoning, or giving support to activities against the United Nations often resulting in armed hostilities against the United Nations forces and personnel;
- (viii) Declaring that all secessionist activities against the Congo are contrary to the *Loi fondamentale* and Security Council decisions and specifically demanding that such activities taking place in Katanga should cease forthwith;
- (ix) Declaring full support for the Central Government of the Republic of the Congo;
- (x) Urging all Members to lend their support to the Central Government of the Republic of the Congo;
- (xi) Requesting all Member States to refrain from any action which might impede the policies and purposes of the United Nations in the Congo and which was contrary to the decisions of the Security Council and the general purposes of the Charter

By letter ^{280/} dated 3 November 1961, the permanent representatives of Ethiopia, Nigeria and Sudan requested the President of the Security Council to convene a meeting of the Council to consider the situation prevailing in the province of Katanga, Republic of the Congo, which was considered to have been caused by the lawless acts of mercenaries.

At the 973rd meeting on 13 November 1961,^{281/} the Security Council adopted the following agenda:

"Letter dated 13 July 1960 from the Secretary-General to the President of the Security Council (S/4381):

"Letter dated 3 November 1961 from the Permanent Representatives of Ethiopia, Nigeria and

Sudan to the President of the Security Council (S/4973)."

The following representatives were invited to participate in the discussion, the invitations being renewed at each of the subsequent meetings: at the 973rd meeting, the representatives of Ethiopia, Belgium, India and the Republic of the Congo; at the 974th meeting, the representative of Sweden.^{282/}

At the 974th meeting on 15 November 1961, the representative of Liberia noted that the resolution of the Security Council of 21 February 1961 had not yet been fully implemented and that paragraphs 2 and 3 of part A of that resolution had not yet met with the desired results.^{283/} He introduced a draft resolution^{284/} submitted jointly with Ceylon and the United Arab Republic according to which the Security Council would: (1) strongly deprecate the secessionist activities of the provincial administration of Katanga; (2) further deprecate the armed action against the United Nations forces and personnel in the pursuit of such activities; (3) insist that such activities should cease forthwith; (4) authorize the Secretary-General to take vigorous action, including the use of requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign mercenaries and hostile elements as laid down in paragraph 2 of part A of resolution S/4741 of 21 February 1961; (5) further request the Secretary-General to take all necessary measures to prevent the entry or return of such elements and also of arms, equipment or other material in support of such activities; (6) request all States to refrain from the supply of arms, equipment or other material which could be used for warlike purposes, and to take the necessary measures to prevent their nationals from doing the same, and also to deny transportation and transit facilities for such supplies across their territories except in accordance with the decisions of the United Nations; (7) call upon all Member States to refrain from promoting, condoning or giving support to activities against the United Nations; (8) demand that all secessionist activities in Katanga should cease forthwith in conformity with the *Loi fondamentale* and the decisions of the Security Council; (9) declare full support for the Central Government of the Congo and the determination to assist that Government in accordance with the decisions of the United Nations to maintain law and order and national integrity, and to provide technical assistance; (10) urge all States to lend their support to the Central Government of the Republic of the Congo; (11) request all Member States to refrain from any action which might impede the policies and purposes of the United Nations in the Congo.

The representative of Belgium* observed that the United Nations could not use force except when it had exhausted all possibilities of conciliation to the utmost and requested the Council to consider

^{282/} 973rd meeting; para. 25; 974th meeting; para. 2.

^{283/} 974th meeting; para. 10.

^{284/} S/4985. (The sponsors subsequently revised operative paragraph 8 of the joint draft resolution which was issued as S/4985/Rev.1, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 132-134.) 974th meeting; para. 7.

^{280/} S/4973, O.R., 16th year, Suppl. for Oct.-Dec. 1961, p. 66.

^{281/} 973rd meeting; para. 16.

whether a provision about conciliation should not be added to the draft resolution.^{285/}

At the 975th meeting on 16 November 1961, the representative of the United States, referring to actions and declarations of the authorities in Oriental Province, stated that he had no doubt that the sponsors of the joint draft resolution would agree that further consultations were essential if the Council was to take effective action on all important aspects of the Congo question.^{286/}

At the 976th meeting on 17 November 1961, the representative of Turkey pointed out that, since the joint draft resolution had been submitted on 14 November, naturally any developments which had occurred after that date could not have been taken into account by the co-sponsors. He further stated that the general consensus of opinion of the Council would be in favour of adopting a text which would also reflect, as appropriate, any subsequent questions which might be relevant to the debate on the Congo.^{287/}

The representative of the United Kingdom expressed the view that the joint draft resolution should be broadened to take into account all secessionist activities in the Congo.^{288/}

At the 977th meeting on 20 November 1961, the representative of Chile observed that operative paragraph 10 of the joint draft resolution was superfluous and might open the door to types of unilateral actions which would be incompatible with the decisions of the General Assembly and the Security Council, in which it had been envisaged that no military assistance should be provided except through the channels of the United Nations.^{289/}

The representative of Liberia pointed out that the only official information about secession concerned Katanga and that all the resolutions of the Security Council and of the General Assembly had called for the territorial integrity and national unity of the Republic of the Congo. Thus, by implication, the United Nations was opposed to secessionist activities in any part of the Congo. The sponsors of the joint draft resolution, however, had revised the text of operative paragraph 8, whereby the Council would declare that all secessionist activities against the Republic of the Congo were contrary to the Loi fondamentale and the Security Council decisions and would specifically demand that such activities as were currently taking place in Katanga should cease forthwith.^{290/}

At the 978th meeting on 21 November 1961, the representative of the United States submitted the following amendments^{291/} to the joint draft resolution

^{285/} 974th meeting: para. 151.

^{286/} 975th meeting: para. 54.

^{287/} 976th meeting: para. 129.

^{288/} 976th meeting: para. 175.

^{289/} 977th meeting: para. 15.

^{290/} 977th meeting: paras. 42-44.

^{291/} S/4989, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 136-137.

of Ceylon, Liberia and the United Arab Republic: (1) to revise the fifth preambular paragraph^{292/} to read: "Deploring all armed action and secessionist activities in opposition to the authority of the Government of the Republic of the Congo, including specifically those carried on with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation'; (2) to add two new preambular paragraphs: "Noting with deep regret the recent and past actions of violence against United Nations personnel" and "Recognizing the Government of the Republic of the Congo as exclusively responsible for the conduct of external affairs of the Congo"; (3) to revise operative paragraph 2 to read: "Further deprecates all armed action against the United Nations forces and personnel and against the Government of the Republic of the Congo"; (4) to revise operative paragraph 4 to read: "Authorizes the Secretary-General to take vigorous action, including the use of requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries as laid down in part A, paragraph 2, of the Security Council resolution of 21 February 1961"; (5) to add the following new paragraph 6, renumbering subsequent paragraphs accordingly: "Authorizes the Secretary-General, in consultation with the Government of the Republic of the Congo, to neutralize, where necessary to prevent their use for military purposes against the United Nations, the Republic of the Congo, or the civilian population, aircraft and other weapons of war which have entered the Congo contrary to its laws and United Nations resolutions"; (6) to add the following new paragraph 11 (after original paragraph 9): "Requests the Secretary-General to assist the Government of the Republic of the Congo to reorganize and retrain Congolese armed units and personnel and to assist the Government to develop its armed forces for the tasks which confront it"; and (7) to add the following new penultimate paragraph: "Further requests the Secretary-General to take all such steps in accordance with the resolutions of the Security Council as he considers necessary, including those of negotiation and conciliation, to achieve the immediate political unity and territorial integrity of the Congo."

The President, speaking as the representative of the USSR, submitted the following amendment^{293/} to the United States amendments: to make the following changes in the text of the new paragraph 6 proposed in the fifth United States amendment: (a) substitute the word "remove" for the word "neutralize"; (b) substitute the words "which have entered Katanga contrary to the laws of the Congo" for the words "which have entered the Congo contrary to its laws"; and (c) delete the words "where necessary."

^{292/} This paragraph read: "Bearing in mind the imperative necessity of speedy and effective action to implement fully the policies and purposes of the United Nations in the Congo to end the unfortunate plight of the Congolese people, necessary both in the interests of world peace and international co-operation, and stability and progress of Africa as a whole".

^{293/} S/4991, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 138-139; 975th meeting: paras. 36, 37.

On 21 November 1961, the United States submitted a revised text of its amendments^{294/} to the joint draft resolution, in which the following changes were made: (a) the preambular paragraph 5 to read: "Deploring all armed action and secessionist activities in opposition to the authority of the Government of the Republic of the Congo, including specifically those carried on by the provincial administration of Katanga with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation'; (b) the new operative paragraph 6 in the fifth amendment to read: "Authorizes the Secretary-General, in consultation with the Government of the Republic of the Congo, to remove or to prevent the use for military purposes against the United Nations, the Republic of the Congo, or the civilian population, of aircraft and other weapons of war which have entered Katanga or any other region of the Congo contrary to the laws of the Congo and United Nations resolutions"; and (c) the new operative paragraph 11 in the sixth amendment to read: "Requests the Secretary-General to assist the Government of the Republic of the Congo to reorganize and retain Congolese armed units and personnel to assist the Government to develop its armed forces for the tasks which confront it."

At the 979th meeting on 21 November 1961 the representative of the United Kingdom expressed "very strong" reservations on the United States amendments in paragraphs 4 and 5 of document S/4989/Rev.1.^{295/} The United Kingdom delegation could not associate itself with any wording which could be interpreted as encouraging the local command to use an added measure of force which might endanger the uneasy peace in Katanga and lead to a further series of reprisals and counter-reprisals. The representative expressed the hope that the Secretary-General would interpret this particular part of his mandate with the basic principle in mind that the proper task for the United Nations was conciliation and pacification. Concerning the amendment in paragraph 5, which introduced a new operative paragraph 6, the representative pointed out that the United Nations had entered into a cease-fire agreement with the Katanga authorities and the implementation of this new paragraph must not prejudice the terms of that agreement.^{296/}

The President, speaking as the representative of the USSR, stated that in view of the United States amendments (S/4989/Rev.1) the USSR amendment (S/4991) would be altered by deleting from the text of the new operative paragraph 6 only the words "or any other region of the Congo".^{297/}

At the 982nd meeting on 24 November 1961, the United States introduced a new revised text of its amendments^{298/} in which the preambular paragraph 5 would read:

^{294/} S/4989/Rev.1, see foot-note 31 to S/4989/Rev.2, O.R., 16th year, Suppl. for Oct.-Dec., 1961, pp. 137-138.

^{295/} These were the amendments to operative paragraph 4 and the new operative paragraph 6.

^{296/} 979th meeting: paras. 19-21.

^{297/} 979th meeting: para. 54.

^{298/} S/4989/Rev.2, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 137-138.

"Deploring all armed action in opposition to the authority of the Government of the Republic of the Congo, specifically secessionist activities and armed action now being carried on by the provincial administration of Katanga with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation'."

The representative of the United States revised, in paragraph 5 of the United States amendments (S/4989/Rev.2) the words "have entered" to read "have entered or may enter". He further deleted paragraph 7 of the amendments.^{299/}

The President put to the vote the USSR sub-amendment to paragraph 5 of the United States amendments to delete the words "or any other region of the Congo". The USSR amendment was rejected by 2 votes in favour to 6 against, with 3 abstentions.^{300/}

The first United States amendment to the joint draft resolution submitted by Ceylon, Liberia and the United Arab Republic was adopted^{301/} by 9 votes in favour to none against, with 2 abstentions.

The two paragraphs of the second United States amendment were each adopted^{302/} by 10 votes in favour to none against, with 1 abstention.

The third United States amendment failed of adoption.^{303/} The result of the vote was 9 in favour, 1 against, with 1 abstention (the negative vote being that of a permanent member).

The fourth United States amendment was adopted^{304/} by 8 votes in favour to none against, with 3 abstentions.

The fifth United States amendment was not adopted.^{305/} There were 6 votes in favour, 1 against, with 3 abstentions, one member having not participated in the voting.

The sixth United States amendment failed of adoption.^{306/} There were 9 votes in favour, 1 against, with 1 abstention (the negative vote being that of a permanent member).

At the proposal of the United States representative, the meeting was suspended.^{307/}

After the resumption of the meeting, the joint draft resolution of Ceylon, Liberia and the United Arab Republic, as amended, was put to the vote.

At the 982nd meeting on 24 November 1961, the joint draft resolution, as amended, was adopted^{308/} by 9 votes in favour to none against, with 2 abstentions.

^{299/} 982nd meeting: paras. 25, 5c.

^{300/} 982nd meeting: para. 77.

^{301/} 982nd meeting: para. 75.

^{302/} 982nd meeting: paras. 79, 5c.

^{303/} 982nd meeting: para. 81.

^{304/} 982nd meeting: para. 82.

^{305/} 982nd meeting: para. 83.

^{306/} 982nd meeting: para. 84.

^{307/} 982nd meeting: para. 94.

^{308/} 982nd meeting: para. 99.

The resolution^{309/} read:

"The Security Council,

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

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

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

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

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

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

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

"(e) To render technical assistance,

"Welcoming the restoration of the national Parliament of the Congo in accordance with the 'Loi fondamentale' and the consequent formation of a Central Government on 2 August 1961,

"Deploring all armed action in opposition to the authority of the Government of the Republic of the Congo, specifically secessionist activities and armed action now being carried on by the provincial administration of Katanga with the aid of external resources and foreign mercenaries, and completely rejecting the claim that Katanga is a 'sovereign independent nation',

"Noting with deep regret the recent and past actions of violence against United Nations personnel,

"Recognizing the Government of the Republic of the Congo as exclusively responsible for the conduct of the external affairs of the Congo,

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

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

"2. Further deprecates the armed action against United Nations forces and personnel in the pursuit of such activities;

"3. Insists that such activities shall cease forthwith, and calls upon all concerned to desist therefrom;

"4. Authorizes the Secretary-General to take vigorous action, including the use of a requisite measure of force, if necessary, for the immediate apprehension, detention pending legal action and/or deportation of all foreign military and paramilitary personnel and political advisers not under the United Nations Command, and mercenaries as laid down in part A, operative paragraph 2 of the Security Council resolution of 21 February 1961;

"5. Further requests the Secretary-General to take all necessary measures to prevent the entry or return of such elements under whatever guise and also of arms, equipment or other material in support of such activities;

"6. Requests all States to refrain from the supply of arms, equipment of other material which could be used for warlike purposes, and to take the necessary measures to prevent their nationals from doing the same, and also to deny transportation and transit facilities for such supplies across their territories, except in accordance with the decisions, policies and purposes of the United Nations;

"7. Calls upon all Member States to refrain from promoting, condoning, or giving support by acts of omission or commission, directly or indirectly, to activities against the United Nations often resulting in armed hostilities against the United Nations forces and personnel;

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

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

"10. Urges all Member States to lend their support, according to their national procedures, to the Central Government of the Republic of the Congo, in conformity with the Charter and the decisions of the United Nations;

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

The Acting Secretary-General stated that he intended to discharge the responsibilities entrusted to him particularly in paragraphs 4 and 5 of the resolution with determination and vigour and to employ to that end as much as possible of the total resources available to the United Nations Operations in the Congo.^{310/}

^{310/} 982nd meeting: para. 102. For the statement of the Acting Secretary-General, see chapter I, Cases 13 and 41; in connexion with the limitations of the powers of the United Nations Force with regard to the use of force, see chapter V, Case 2 (vii).

^{309/} S/5002, O.R., 16th year, Suppl. for Oct.-Dec. 1961, pp. 148-150.

On 4 February 1963 the Secretary-General submitted to the Security Council his report ^{311/} on the implementation of Security Council resolutions S/4387 of 14 July 1960, S/4741 of 21 February 1961 and S/5002 of 24 November 1961.^{312/}

On 17 September 1963 the Secretary-General submitted to the Security Council his report on the question of military disengagement in the Congo.^{313/}

On 29 June 1964 the Secretary-General submitted to the Security Council his report on the withdrawal of the United Nations Force in the Congo and on other aspects of the United Nations Operations there.^{314/}

COMPLAINT BY CUBA (LETTER OF 11 JULY 1960) INITIAL PROCEEDINGS

By letter ^{315/} dated 11 July 1960 addressed to the President of the Security Council, the Minister for Foreign Affairs of Cuba stated that a grave situation existed with manifest danger to international peace and security, as a consequence of the repeated threats, reprisals and aggressive acts carried out against Cuba by the Government of the United States. The situation had taken concrete shape from the moment the Revolutionary Government, exercising its sovereignty, had adopted measures designed to safeguard the national resources and to raise the standard of living, health and education of the Cuban people. In spite of the Cuban Government's repeated expressions of willingness to live in peace and harmony with the United States and to broaden, on a basis of equality, mutual respect and reciprocal benefit, diplomatic and economic relations with the Government and people of the United States, such proposals had been of no avail. Instead, the United States had offered protection to known Cuban war criminals, and provided facilities to counter-revolutionaries to plot conspiracies and to prepare invasion plans. Cuban airspace had been frequently violated with considerable material damage and loss of life by aircraft proceeding from United States territory and piloted, in some instances, by United States pilots. Also, threats of economic strangulation had been levelled against Cuba through such acts as the refusal of oil companies to refine crude oil owned by the Cuban State in violation of the Mineral Fuel Oil Act of 1938, and the extraordinary decision of the President of the United States to reduce the sugar quota. Such actions, concluded the letter, constituted intervention in Cuba's domestic affairs and economic aggression contrary to the terms of relevant treaties

^{311/} S/5240 and Add.1, O.R., 18th year, Suppl. for Jan.-March 1963, pp. 92-106, supplemented by S/5240/Add.2, O.R., 18th year, Suppl. for April-June 1963, pp. 1-13.

^{312/} For the report of the Officer-in-Charge of the United Nations Operation in the Congo to the Secretary-General relating to the implementation of the Security Council resolutions S/4741 of 21 February 1961 and S/5002 of 24 November 1961, see: S/5033 and Add.1-9, O.R., 17th year, Suppl. for Jan.-March 1962, pp. 2-44; S/5053/Add.10, O.R., 17th year, Suppl. for April-June 1962, pp. 1-93; S/5053/Add.11, O.R., 17th year, Suppl. for July-Sept. 1962, pp. 1-40; S/5053/Add.12, Add.12/Add.1 and 2, Add.13 and Add.13/Add.1, O.R., 17th year, Suppl. for Oct.-Dec. 1962, pp. 1-142; S/5053/Add.14-15, O.R., 18th year, Suppl. for Jan.-March 1963, pp. 1-85.

^{313/} S/5428, O.R., 18th year, Suppl. for July-Sept. 1963, pp. 160-178.

^{314/} S/5784.

^{315/} S/4378, O.R., 15th year, Suppl. for July-Sept. 1960, pp. 9-10.

and to the fundamental principles of the United Nations Charter.

The request for a meeting of the Security Council was based on Articles 52 (4), 103, 24, 34, 35 (1) and 36 of the Charter and rule 3 of the provisional rules of procedure of the Security Council.

At the 874th meeting on 18 July 1960, the Council decided^{316/} to include the question in its agenda. It was considered by the Council at its 874th to 876th meetings held between 18 and 19 July 1960. The President (Ecuador) invited, without objection, the representative of Cuba to participate in the discussion.^{317/}

Decision of 19 July 1960 (876th meeting):

- (i) *Deciding to adjourn consideration of the question pending the receipt of a report from the Organization of American States;*
- (ii) *Inviting members of that Organization to lend their assistance toward the achievement of a peaceful solution of the situation;*
- (iii) *Urging all other States to refrain from any action which might increase tensions between Cuba and the United States*

At the 874th meeting on 18 July 1960, the President called attention to a letter^{318/} dated 15 July 1960 from the representative of the United States to the President of the Council, transmitting a memorandum on "Provocative Actions of the Government of Cuba Against the United States Which Have Served to Increase Tensions in the Caribbean Area", which had been previously submitted to the Inter-American Peace Committee of the Organization of American States. The memorandum noted that, for the past several months, the Government of Cuba had conducted an intensive campaign of distortions, half-truths and outright falsehoods against the United States and that, in spite of patience and forbearance on the part of the latter, Cuba continued to intensify its hostility towards that country, thus increasing tensions in the area. With regard to Cuban charges, which were said to lack substantiation either by evidence or facts, the memorandum cited among other "provocative" actions the La Coubre incident, regarding which the Government of Cuba, after charging that the explosion on board the vessel La Coubre was the responsibility of the United States, admitted that it had no conclusive evidence. Attached to the memorandum were several documents to substantiate the United States contention that the Cuban Government's systematic and provocative campaign of slander and hostile propaganda against the United States was a major contribution to increased tensions in the Caribbean and the hemisphere as a whole.

In his initial statement before the Council at the 874th meeting on 18 July 1960, the representative of Cuba upheld his Government's right of appeal to the Council, in spite of the existence of the Organization of American States, and advanced further charges that the United States was planning increased aggression and, ultimately, invasion.^{319/}

^{316/} 874th meeting: preceding para. 1.

^{317/} 874th meeting: para. 2.

^{318/} S/4388; 874th meeting: para. 3.

^{319/} 874th meeting: paras. 6-94.