

Chapter X

CONSIDERATION OF THE PROVISIONS OF CHAPTER VI OF THE CHARTER

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INTRODUCTORY NOTE

As in the previous volumes of the *Repertoire*, the criterion for inclusion of material in the present chapter is the occurrence of discussion in the Council directed to the text of Articles 33-38 of Chapter VI of the Charter. Thus, chapter X does not cover all the activities of the Council in the pacific settlement of disputes, for the debates preceding the major decisions of the Council in this field have dealt almost exclusively with the actual issues before the Council and the relative merits of measures proposed without discussion regarding the juridical problem of their relation to the provisions of the Charter. For a guide to the decisions of the Council in the pacific settlement of disputes, the reader should turn to the appropriate sub-headings of the Analytical Table of Measures adopted by the Security Council.¹

The material in this chapter constitutes only part of the material relevant to the examination of the operation of the Council under Chapter VI of the Charter, since the procedures of the Council reviewed in chapters I-VI, in so far as they relate to the consideration of disputes and situations, should be regarded as integral to the application of Chapter VI of the Charter. Chapter X is limited to presenting the instances of deliberate consideration by the Council of the relation of its proceedings or of measures proposed to the text of Chapter VI.

The case histories on each question require to be examined within the context of the chain of proceedings on the question presented in chapter VIII.

CHAPTER VI OF THE CHARTER. PACIFIC SETTLEMENT OF DISPUTES

"Article 33

"1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

"2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means."

"Article 34

"The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security."

¹ Chapter VIII, part I.

"Article 35

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

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

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

"Article 36

"1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

"2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

"3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court."

"Article 37

"1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.

"2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate."

"Article 38

"Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute."

Part I

CONSIDERATION OF THE PROVISIONS OF ARTICLE 33 OF THE CHARTER

NOTE

During the period under review, none of the communications submitting disputes or situations to the Security Council, and none of the statements made thereon during the initial stage of debates, contained references to prior effort at pacific settlement.²

The significance of Article 33 in the pacific settlement of disputes and situations rests not only on the discharge by the parties themselves of their obligation under that Article but also on the possibility of recourse to that Article by the Council itself by calling upon the parties to settle their disputes by means of pacific settlement. In this connexion, reference should be made to the various decisions of the Security Council entered under "Measures for Settlement" in the Analytical Table of Measures of chapter VIII of this *Supplement*.

Resolutions and decisions adopted by the Security Council during the period under review contained no explicit reference to Article 33 of the Charter. Nor did they contain provisions calling on the parties concerned to enter into direct negotiations or to resort to any of the means of pacific settlement contained in paragraph 1 of that Article, in order to settle their differences by peaceful means. The Council has, on occasion, however, adopted resolutions which might be considered as an indirect application of Article 33. In connexion with the complaint by the Government of Cyprus, for instance, the Council, in extending³ the stationing in Cyprus of the United Nations Peace-keeping Force for further periods, continued, not only to reaffirm⁴ its earlier resolutions on this question whereby it had, *inter alia*, recommended certain measures of pacific settlement,⁵ but also to urge⁶ the parties to continue determined co-operative efforts to achieve the objectives of the Security Council by availing themselves in a constructive manner of the present auspicious climate and opportunities.

In another instance, in connexion with the question of Bahrain, the Security Council endorsed⁷ the report⁸ of the Personal Representative of the Secretary-General of the Good Offices Mission to Bahrain for ascertaining the wishes of the people of Bahrain regarding their

² In one instance, the submitting State referred both in its initial communication and in its statement before the Council, to certain proposals it had made to the other party, prior to its appeal to the Security Council for dispatch to the area in question of a United Nations peace-keeping force. See letter dated 17 August 1969 from Ireland, in connexion with the situation in Northern Ireland, S/9394, *OR*, 24th yr., *Suppl. for July-Sept. 1969*, p. 159; and statement of the Minister for External Affairs of Ireland, in connexion therewith, 1503rd meeting, paras. 30-32.

³ Resolutions 266 (1969) of 10 June 1969; 274 (1969) of 11 December 1969; 281 (1970) of 9 June 1970; 291 (1970) of 10 December 1970; 293 (1971) of 26 May 1971; 305 (1971) of 13 December 1971, para. 3.

⁴ Resolution 305 (1971), para. 1.

⁵ See, in particular, resolution 186 (1964) of 4 March 1964, para. 7; and resolution 244 (1967) of 22 December 1967, paras. 3 and 5.

⁶ Resolutions 266 (1969); 281 (1970); 291 (1970); 293 (1971); 305 (1971), para. 2. See also the proceedings in connexion with the adoption of resolution 305 (1971) in chapter VIII, part II, p. 125 of this *Supplement*.

⁷ Resolution 278 (1970) of 11 May 1970, para. 1.

⁸ S/9772, *OR*, 25th yr., *Supplement for April-June 1970*, pp. 166-169.

status and welcomed⁹ the conclusions in the findings of the report.

On yet another occasion the Security Council, in the context of the grave situation in the India/Pakistan subcontinent which, in its view, remained a threat to international peace and security, resolved,¹⁰ *inter alia*, to authorize the Secretary-General to appoint if necessary a special representative to lend his good offices for the solution of humanitarian problems. Two other draft resolutions, which possibly fall within the scope of Article 33, were also submitted to the Security Council, one¹¹ of which failed of adoption and the other¹² was not pressed for consideration. No constitutional discussion, applying to Article 33, ensued.

During the period under review, Article 33 was invoked, explicitly and implicitly, by Council members in the debates to support conflicting viewpoints. These focused on the question of the timing of the involvement of the parties and of the Council in efforts at pacific settlement. Some argued that the matter had been brought before the Council because bilateral attempts to settle it peacefully had failed or that the conditions for using the procedures under Article 33 were lacking.¹³ Others asserted that the available bilateral instruments had not been exhausted, not even tried before the question was brought before the Security Council.¹⁴ Some arguments, in this connexion, were

⁹ Resolution 278 (1970), para. 2. For the debate and vote on the draft resolution see chapter VIII, part II, pp. 150-151. See also chapter I, part IV, Case 19.

¹⁰ In connexion with the situation in the India/Pakistan subcontinent, see: resolution 307 (1971) of 21 December 1971, para. 5.

¹¹ Under the provisions of a United States draft resolution, the Security Council, convinced that hostilities along the India/Pakistan border constituted an immediate threat to international peace and security, would have, *inter alia*, invited the Governments concerned to respond affirmatively to the proposal of the Secretary-General offering his good offices to secure and maintain peace in the area. (S/10416, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 90.) At the 1606th meeting of the Security Council on 4 December 1971 it was put to the vote and failed of adoption, with 11 votes in favour, 2 against and 2 abstentions, one of the negative votes being that of a permanent member of the Council. (1606th meeting, para. 371.)

¹² A joint draft resolution by Italy and Japan would, among other things, have the Security Council call for immediate steps toward a comprehensive political settlement and decide to appoint, with the consent of India and Pakistan, a committee composed of three members of the Security Council to assist them in their efforts to bring about normalcy in the area of conflict and to achieve reconciliation. (S/10451, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, p. 108; 1613th meeting: Italy, paras. 298, 304-305.) It was not pressed for consideration by the Council, however, in view of the fact that progress was being made towards achieving an agreement on another text which would enable the Council to take a unanimous decision and act. (1617th meeting: Italy, paras. 33-34.)

¹³ In connexion with the complaint by Zambia: 1486th meeting: Zambia, paras. 12-13, 49; 1488th meeting: Nepal, para. 60; 1489th meeting: Sierra Leone, para. 71; Zambia, para. 92. In connexion with the complaint by Senegal: 1518th meeting: Madagascar, paras. 24-25; Nepal, paras. 116-117. In connexion with the complaint by Guinea: 1526th meeting: Finland, para. 13.

¹⁴ In connexion with the complaint by Zambia: 1486th meeting: Portugal, paras. 63, 78-80, 92; 1491st meeting: Spain, para. 18. In connexion with the complaint by Senegal: 1516th meeting: Portugal, paras. 127-129. In connexion with the complaint by Guinea: 1526th meeting: United States, paras. 8 and 9.

as follows: (1) while parties to a dispute have an obligation to settle it, in the first instance, along the lines of Article 33, every State is entitled, if these efforts to resort to that procedure fail, to bringing its complaint before the Security Council in order to find an adequate solution;¹⁵ (2) the Council should assist the parties in reaching for a peaceful bilateral solution through application of the many instruments under Article 33 of the Charter;¹⁶ (3) these instruments, in particular negotiations, are binding to the extent that all the parties so decide and that the situation which gave rise to the dispute lends itself to a settlement;¹⁷ (4) non-implementation by one of the parties of previous Council resolutions that deal with the subject of complaint justifies direct recourse by the other party to the Security Council;¹⁸ and (5) when the minimum measure of

¹⁵ In connexion with the complaint by Zambia: 1488th meeting: Finland, para. 88.

¹⁶ In connexion with the complaint by Zambia: 1491st meeting: United Kingdom, para. 13.

¹⁷ In connexion with the complaint by Zambia: 1489th meeting: Madagascar, para. 24. In connexion with the complaint by Senegal: 1518th meeting: Madagascar, para. 24.

¹⁸ In connexion with the complaint by Zambia: 1488th meeting: France, para. 93; 1489th meeting: Tunisia, para. 55; in connexion with the complaint by Senegal: 1518th meeting: Nepal, paras. 116-117.

mutual confidence between the parties, the necessary prerequisite for the successful utilization of the means under Article 33, is non-existent, it is the duty of the Security Council to investigate the complaint, and to recommend ways and means under chapter VI of the Charter, in order to prevent the recurrence of incidents and to halt the deterioration of the situation.¹⁹

On many other occasions, Article 33 was mentioned only briefly during the various Council debates: mostly as just an express reference to the exact phase in Article 33, and in some cases in support of one or the other viewpoints summarized above.²⁰

¹⁹ *Ibid.*: 1519th meeting: Finland, para. 35. In connexion with the complaint by Guinea: 1526th meeting: Finland, para. 13.

²⁰ In connexion with the complaint by Senegal: 1517th meeting: Sierra Leone, para. 28; 1520th meeting: Spain, para. 54; 1572nd meeting: Somalia, para. 31. In connexion with the complaint by Guinea: 1524th meeting: Mali, paras. 56-57; 1526th meeting: Spain, para. 5. In connexion with the question of Bahrain: 1536th meeting: France, para. 155. In connexion with the situation in the India/Pakistan subcontinent: 1606th meeting: Pakistan, para. 133. In connexion with the question concerning the islands of Abu Musa, the Greater Tunb and the Lesser Tunb: 1610th meeting: Iraq, paras. 256-257.

Part II

CONSIDERATION OF THE PROVISIONS OF ARTICLE 34 OF THE CHARTER

NOTE

During the period under review, there has been no instance of an explicit reference to Article 34 in the resolutions or decisions of the Security Council. Neither has there been any constitutional discussion regarding the juridical bearing of a proposal under consideration on the interpretation or application of Article 34.

The three case histories entered in part II of this chapter relate only marginally to the functions of investigation by the Security Council as envisaged in Article 34, since in none of these instances the stated purpose of the proposed investigation was to determine whether the continuance of the particular dispute or situation was in fact likely to endanger the maintenance of international peace and security.²¹ In two instances,²² the Council, while pronouncing itself on the charges made before it, also decided to send a special mission to the area subject of complaint. In the first instance,²³ the task of the special mission was to report on the situation immediately; in the second instance,²⁴ the special mission was to examine the situation of which

²¹ In one instance, in connexion with the complaint by Senegal, the Security Council, having considered the report of a special mission which it had sent to the area to examine the situation along the border between Guinea (Bissau) and Senegal, expressed deep concern at the "climate of insecurity and instability, fraught with a threat to peace and security in the region" and strongly deplored "the lack of co-operation with the Special Mission on the part of the Portuguese Government, which had prevented the Special Mission from implementing fully the mandate" given to it by the Security Council. See: resolution 302 (1971) of 24 November 1971, preambular paras. 3 and 4, para. 4. See also Case 2 of this chapter for the establishment of the Special Mission.

²² Cases 1 and 2 below.

²³ Case 1.

²⁴ Case 2.

the Council had been informed, and submit a report including recommendations aimed at guaranteeing peace and security in the area. In a third instance,²⁵ in which the State concerned maintained that another State was preparing aggression against it, the Council decided to send a special mission to the area for the purpose of consulting with the authorities and reporting on the situation immediately.

In another case²⁶ the Security Council requested the Secretary-General, in consultation with the President of the Council and using such instrumentalities as he may choose, including a representative or a mission, to report to the Council as appropriate and in any event within sixty days on the implementation of the present resolution pertaining to the status of the City of Jerusalem. The report was to contain information on how Israel was complying or failing to comply with earlier Council resolutions on Jerusalem.

During the Council debates, Article 34 was invoked once, together with Article 33, in support of the observation that the parties to the complaint before the Council could have sought a solution through negotiations and investigation in accordance with the provisions of the said Articles, since the State subject of complaint was prepared to accept some responsibility and pay adequate reparations, had the facts of the incident been clearly determined.²⁷ In another instance, Article 34 was cited, along with Article 33, in the context of the argument that events such as those submitted for consideration by the Council required investigation by that

²⁵ Case 3.

²⁶ See resolution 298 (1971) of 25 September 1971, para. 5. See also chapter VIII, pp. 120-121 of this *Supplement*.

²⁷ In connexion with the complaint by Senegal: 1520th meeting: Spain, para. 54.

organ so that its members could evaluate the situation on the basis of objective information.²⁸ No constitutional discussion, however, ensued on either case.

On one occasion²⁹ the reinstatement of the practice of sending investigation missions of the Security Council, rather than missions of the Secretariat was welcomed by one member as a positive development entirely in accord with the Charter and with the role of the Security Council as the organ primarily responsible for the maintenance of international peace and security. The Council, it was noted, is empowered by the relevant Articles of the Charter independently to carry out thorough examination of particular acts of aggression and to take appropriate steps to eliminate such acts utilizing the relevant provisions of Chapters VI and VII of the Charter.

On the same occasion, involving the discussion of border incidents between overseas Territories under the administration of one Member State and other Member States neighbouring those Territories, one representative proposed³⁰ that the Security Council should call upon the administering State to allow a special mission, to be appointed by the Council or by the General Assembly, to go to its overseas Territories to conduct an impartial investigation of conditions there in order to ascertain the wishes of the people in those areas. Another delegate suggested³¹ that it would be preferable if the Council established a commission acceptable to all parties to investigate border incidents and related questions and report periodically to the Security Council on progress towards self-determination in the Territories, and thereby helped to prevent border incidents and disputes arising from them.

CASE 1.³² COMPLAINT BY GUINEA: In connexion with a draft resolution submitted jointly by Burundi, Nepal, Sierra Leone, Syria and Zambia (S/9990/Rev.1), voted upon and adopted on 23 November 1970. [Resolution 289 (1970)]

[*Note:* While there was agreement that the Security Council should send a special investigation mission to the Republic of Guinea, there was a difference of opinion regarding the method of selecting it. The five-Power draft resolution that was adopted provided for its formation after consultation between the President of the Council and the Secretary-General, while a draft amendment proposed prior consultation among the members of the Security Council.]

At the 1558th meeting on 22-23 November 1970, the representative of Guinea* stated that on that morning the Republic of Guinea had been the object of premeditated armed aggression by Portuguese colonial forces. He conveyed to the Security Council the request by his Government that United Nations airborne troops be sent immediately to strengthen the national army.

The Secretary-General informed the Council of messages he had received from the President of the Republic of Guinea charging Portugal with aggression

²⁸ In connexion with the complaint by Guinea: 1526th meeting: Spain, para. 5.

²⁹ In connexion with the complaint by Senegal: 1586th meeting: USSR, paras. 79-80; 1600th meeting: USSR, paras. 29-30.

³⁰ In connexion with the complaint by Senegal: 1586th meeting: Somalia, para. 45.

³¹ *Ibid.*, 1600th meeting: United States, paras. 50-51.

³² For texts of relevant statements, see: 1558th meeting: Guinea,* paras. 18-22; Nepal, paras. 80-82; United States, paras. 84-86, 97-99; Secretary-General, paras. 7-13.

and from the Resident Representative of the United Nations Development Programme in Conakry who, at the request of the Government of Guinea, confirmed the disembarkment in Conakry of external forces described by the Government of Guinea as Portuguese.

The Council members also had before them a letter³³ dated 22 November 1970 from the representative of Portugal, in which he denied the accusation of the Government of Guinea stating that Guinea was trying to blame third parties for its internal troubles and expressed the hope that the Security Council would reject the Guinean accusations as unfounded.

During the deliberations in the Council, the representative of Nepal suggested that it was of the utmost importance for the Security Council, first to effect the withdrawal of the attacking forces, and, second to have an impartial report on the situation in Guinea. To that end, he submitted, on behalf of the delegations of Burundi, Sierra Leone, Syria, Zambia and Nepal, a draft resolution, the third and fourth paragraphs of which³⁴ read as follows:

"The Security Council,

" . . .

"3. Decides to send a special mission to the Republic of Guinea to report on the situation immediately;

"4. Decides that this special mission be formed after consultation between the President of the Security Council and the Secretary-General;

" . . ."

The representative of Nepal, requested, in the names of the five submitting delegations, that the draft resolution should immediately be put to the vote on an urgent basis.

In the ensuing debate the representative of the United States raised an objection to the wording of the fourth paragraph of the draft resolution and requested that it should be altered to read: "(The Security Council) *Decides* that this special mission be formed after consultation." He added that the purpose of this change would be to ensure adequate consultation among the members of the Council in connexion with the composition of the special mission.

After further discussion³⁵ the representative of the United States formally submitted his delegation's proposal as an amendment to paragraph 4 of the draft resolution.³⁶

Subsequently, the United States amendment was put to the vote³⁷ and was not adopted, the result of the vote being 3 in favour, none against with 12 abstentions.

³³ S/9989, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, pp. 51-52.

³⁴ S/9990/Rev.1 adopted without change as Security Council resolution 289 (1970), 1558th meeting, para. 81. In the original five-Power draft resolution (S/9990) to which the President of the Security Council drew the attention of the Council members (1558th meeting, para. 79) prior to the introduction by the representative of Nepal of the revised draft (S/9990/Rev.1), the third paragraph would have had the Security Council request its President "in consultation with the Secretary-General to send a special mission to the Republic of Guinea to report on the situation immediately". See: S/9990, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, p. 52.

³⁵ For the discussion on this issue see chapter VIII, part II, p. 147 and chapter V, Case 1, pp. 58-59.

³⁶ 1558th meeting, para. 99.

³⁷ *Ibid.*, para. 100.

The Council then proceeded to vote on the five-Power draft resolution which was adopted unanimously [Resolution 289 (1970)].³⁸

After the adoption of the resolution, the representative of the United Kingdom stated that in accepting paragraph 4 of the resolution, his delegation had taken note of the statement by one of the sponsors, Burundi, that the President of the Council would consult with members of the Council and secure their assent to his choice.

Pointing to the interim nature of the Council decision, the representative of Finland stated that before it could take more substantive action the Council needed the full facts of the situation established by an impartial investigation and that his delegation had voted for the resolution on the understanding that paragraphs 3 and 4 would be implemented in such a way as to meet those demands.

CASE 2.³⁹ COMPLAINT BY SENEGAL: In connexion with the draft resolution jointly submitted by Burundi, Japan, Sierra Leone, Somalia and Syria (S/10266), voted upon and adopted on 15 July 1971. [Resolution 294 (1971)]

[Note: In the course of the consideration of the question, there was general agreement that the Council should fully utilize its investigative powers under Article 34 so that any action it deemed necessary could be taken on an informed basis. In this connexion, reservations were expressed regarding justifiability of condemnation by the Security Council of a State or a particular act in the absence of an investigation by or under the authority of the Council to establish all the pertinent facts about alleged incidents. It was emphasized that the Security Council should not base its judgement on information contained in the report of a mission whose nomination and mandate were not decided upon by that organ, especially in instances where there were conflicting statements about what had actually occurred, and where the accused party denied responsibility for the alleged incidents.]

At the 1569th meeting on 15 July 1971, the representative of Senegal* charged that the latest acts of aggression by Portuguese troops added to a long list of violations of Senegalese territorial integrity. Noting that a colonial frontier separated Guinea (Bissau), still under Portuguese colonial domination and Senegal, whose populations on both sides belong to the same ethnic groups, the representative of Senegal detailed the various incidents that had occurred since April 1963. In this connexion, he pointed out that in January 1970, when Portugal renewed its violent attack, the Senegalese Chief of State had formally addressed the Secretary-General in order that a fact-finding mission be sent to Senegal to determine the daily damage inflicted by Portuguese troops on Senegalese territory. He also recalled that in June 1970 a Senegalese village near the frontier with Guinea (Bis-

sau) had been shelled by Portuguese artillery in the presence of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights who were then in Senegal.⁴⁰ He pointed out that a plan by the Senegalese Chief of State, that proposed a cease-fire between Portugal and the liberation movements in Guinea (Bissau), followed by internal autonomy and finally by independence within the framework of a Portuguese-African community, had been approved by the liberation movements but that Portugal had not responded to it. He claimed that Portuguese violence had now escalated to the laying of anti-tank and anti-personnel mines on Senegalese territory. He asked the Security Council to take effective measures against Portugal in pursuance of Council resolution 273 (1969) of 9 December 1969.⁴¹

At the same meeting, the Council had before it a letter⁴² dated 10 July 1971 from the representative of Portugal in which the latter categorically rejected any responsibility on the part of Portugal for the alleged incidents. The letter also expressed regret that the Government of Senegal had asked for the convening of the Security Council without first having sought recourse to the procedure, provided for in the Charter, for seeking to clarify, by means of direct contacts, the truth of the facts, and asserted that Senegal had not presented any factual evidence to substantiate its charges. The letter further claimed that the Portuguese Government had, on every occasion, drawn the attention of the Government of Senegal to the circumstance that all the problems in the frontier areas had arisen because the Senegalese Government had granted facilities to the subversive group PAIGC for the preparation on Senegalese territory of armed attacks against the population of the Portuguese province of Guinea. In the view of the Portuguese Government, the Senegalese complaint before the Security Council ought to be considered as a complaint by the Government of Senegal against these groups which disturbed the peace and security of its population by acts of aggression by which Portugal was also victimized.

At the 1570th meeting on 13 July 1971, the representative of Somalia, noting that in a situation such as the one before the Council, the Council should have at its disposal all pertinent information and facts to facilitate its decision, requested the Secretary-General to make available to the Security Council the results of the investigation carried out by an *Ad Hoc* Working Group of Experts of the Commission on Human Rights in June 1970 on incidents involving the Portuguese colonial forces and the African populations both in Guinea (Bissau) and along the frontiers between that Territory and Senegal.⁴³ It was agreed to make

⁴⁰ In pursuance of resolution 21 (XXV) of the Commission on Human Rights, the Commission's *Ad Hoc* Group of Experts visited Senegal during June 1970 in connexion with their investigation, among other things, of grave manifestations of colonialism in the African territories under Portuguese domination. See report of the *Ad Hoc* Working Group of Experts prepared in accordance with resolution 21 (XXV) of the Commission on Human Rights (E/CN.4/1050).

⁴¹ In the second and third paragraphs of resolution 273 (1969), the Security Council had called upon Portugal to desist forthwith from violating the sovereignty and territorial integrity of Senegal and had declared that in the event of failure by Portugal to comply with its call, the Council would meet to consider other measures.

⁴² S/10255, OR, 26th yr., Suppl. for July-Sept. 1971, pp. 29-30.

⁴³ See foot-note 40 above.

³⁸ 1558th meeting, para. 101. For the vote see *ibid.*, para. 101. For the decision on the composition of the special mission to Guinea see the report of the President of the Security Council and the Secretary-General of 24 November 1970. S/9999, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 53.

³⁹ For texts of relevant statements, see: 1569th meeting: Senegal,* paras. 15, 17, 20-60; 1570th meeting: Somalia, paras. 101-102; 1571st meeting: Sierra Leone, para. 77; 1572nd meeting: China, para. 42; France, para. 57; Italy, para. 70; Japan, paras. 8-9; Somalia, paras. 27, 31, 32, 33-36; United Kingdom, paras. 89-91; United States, paras. 77, 79.

the relevant documents available to the members of the Security Council before its next meeting.⁴⁴

At the 1571st meeting on 14 July 1971, the representative of Sierra Leone contended that Portugal had shown contempt for the United Nations by bombing Senegalese territory while the members of the group of experts sent by the United Nations were making on-the-spot investigation. Although due to the report of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights there was no need, in the view of his Government, for further evidence of Portuguese hostility, he urged that a special mission of the Security Council be sent to investigate the reports and satisfy those who still might entertain some doubts.

At the 1572nd meeting on 15 July 1971, the representative of Japan expressed the view that a fact-finding mission should be established immediately for the purpose of an on-the-spot investigation of the charges made by Senegal against Portugal. He held that the mission should be given a broad mandate and should be able to conduct its business freely and independently.

The representative of Somalia, invoking Article 34 of the Charter, held that the Security Council should use to the full its investigative powers so that any action it deemed necessary might be taken on an informed basis. Having noted that the report of the *Ad Hoc* Group of Experts of the Commission on Human Rights contained revealing evidence obtained at first-hand about the situation on the border between Senegal and Guinea (Bissau), he expressed the belief that an on-the-spot investigation by the Council was necessary to dispel any remaining doubts as to whether there was a proper basis for the charges against Portugal. He believed that the Security Council should send a special mission to investigate the charges and to report fully to the Council on the situation prevailing along the frontier of Senegal. In his opinion, the character of the hostile acts about which Senegal complained required both political and military expertise; the military experts could be provided by the States that would be appointed to the special mission. He stressed that the mission's report should clarify the nature and extent of military activities that had taken, or were taking place on the frontier of Senegal and should suggest measures necessary to prevent a recurrence of the hostile acts alleged by Senegal. He suggested that an investigation by such a mission would help the Council to decide on the peace-keeping machinery and political action which should be applied to ensure a return to peace and stability in the area. To this end, the members of the Afro-Asian Group of the Security Council had reached agreement on a draft resolution⁴⁵ jointly sponsored by the delegations of Burundi, Japan, Sierra Leone, Somalia and Syria which was being prepared for circulation.

The representative of China stated that it would be judicious and useful to have a special mission investigate the conditions on the spot in the border area between Senegal and Guinea (Bissau).

The representative of France, having emphasized that Senegal had to obtain the assurance that its sovereignty, its security and its territorial integrity were and would be respected, expressed the belief that there was a need to send to the area, with the approval of

the States concerned, a mission consisting of Council members, assisted by their military experts, to carry out the inquiry.

After a brief suspension of the meeting, the President (France) announced⁴⁶ that the Council would presently consider the five-Power draft resolution (S/10266).⁴⁷ Under the terms of that draft resolution, the Security Council, *inter alia*, "having taken note of the report of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights concerning Portuguese acts of violence in Senegalese territory",⁴⁸ would, among other things, condemn "the acts of violence and destruction perpetrated since 1963 by the Portuguese armed forces of Guinea (Bissau) against the population and villages of Senegal"⁴⁹ and request:

"... the President of the Security Council and the Secretary-General to send to the spot, as a matter of urgency, a special mission of members of the Council assisted by their military experts to carry out an inquiry into the facts of which the Council has been informed, to examine the situation along the border between Guinea (Bissau) and Senegal and to report to the Council, making any recommendations aimed at guaranteeing peace and security in this region."⁵⁰

The representative of Italy, while giving the support of his delegation to the five-Power draft resolution, expressed doubts concerning operative paragraph 2, whereby the Security Council would condemn acts of violence perpetrated since 1963 by the Portuguese armed forces of Guinea (Bissau) against Senegal. In his delegation's view that operative paragraph passed a judgement based upon the report of a group of experts, i.e., *Ad Hoc* Working Group of Experts of the Commission on Human Rights, whose nomination and mandate were not decided upon by the Security Council itself. The representative of the United States agreed with the reservation expressed by the representative of Italy and requested⁵¹ that a separate vote be taken on operative paragraph 4, which his delegation was ready to support even though it would abstain in the vote on the draft resolution as a whole.

Subsequently, in conformity with rule 32 of the rules of procedure, and in the absence of objection, paragraph 4 of the draft resolution was put to the vote and adopted unanimously. The Council then proceeded to vote on the draft resolution as a whole which was adopted by 13 votes in favour, none against with 2 abstentions.⁵²

After the adoption of the resolution, the representative of the United Kingdom observed that the debate in the Council had ranged far beyond the specific complaints made by the Government of Senegal and that subsequently the Council members had been asked to consider and condemn the series of incidents itemized in the report of the *Ad Hoc* Working Group of Experts of the Commission on Human Rights. The resolution, in its second paragraph, allocated responsibility to Portugal for the incidents catalogued in the report of the *Ad Hoc* Working Group of Experts, al-

⁴⁶ 1572nd meeting, para. 61.

⁴⁷ See foot-note 45 above.

⁴⁸ S/10266, preambular para. 10.

⁴⁹ *Ibid.*, para. 2.

⁵⁰ *Ibid.*, para. 4.

⁵¹ 1572nd meeting, paras. 79-80.

⁵² For the vote on paragraph 4 of the draft resolution, see *ibid.*, paras. 82-84. For the vote on the draft resolution as a whole, see *ibid.*, para. 85.

⁴⁴ 1570th meeting, paras. 104-109.

⁴⁵ S/10266, adopted without change as resolution 294 (1971).

though such responsibility had been denied by the representative of Portugal in a letter dated 8 March 1971 to the Chairman of the Commission on Human Rights (E/CN.4/1064). He emphasized that there had been no investigation by or under the authority of the Security Council and since there existed ground for doubt as to what had actually occurred, the condemnation in paragraph 2 and implications of some other paragraphs, in his opinion, were not justified. The important point at issue was that the Security Council should not condemn any country or particular act before the truth of what has been alleged is established.

On 21 July 1971, in a report jointly submitted by the President of the Security Council and the Secretary-General, they informed the Council that the Special Mission would be composed of Nicaragua (Chairman), Belgium, Burundi, Japan, Poland and Syria.⁵³

CASE 3.⁵⁴ COMPLAINT BY GUINEA: In connexion with a draft resolution jointly submitted by Burundi, Sierra Leone, Somalia and Syria (S/10281), voted upon and adopted on 3 August 1971; [Resolution 295 (1971)] and, in connexion with the consensus of the Council as expressed by the President on 26 August 1971.

[Note: Consultations among the members of the Council resulted in unanimous agreement on a four-Power draft resolution to send to the Republic of Guinea a special mission to report on the situation immediately. After some delay, the President of the Security Council and the Secretary-General concluded their consultations regarding the membership of the special mission and the mission was dispatched.]

At the 1573rd meeting on 3 August 1971, the representative of Guinea* recalled that his country had been the victim of continuous acts of aggression by Portugal for twelve years and that the special mission of inquiry sent to Guinea by the Security Council in connexion with the most recent instance of such aggression, i.e., the incident of 22 November 1970,⁵⁵ had found incontrovertible and tangible evidence on the basis of which the Security Council had, by resolution 290 (1970) of 8 December 1970, strongly condemned the Government of Portugal for its invasion of Guinea.⁵⁶ He observed that despite that resolution, Portuguese violations of Guinean air space and territory had continued.

In the present instance his Government had decided to bring to the Council's attention further aggression by land, sea and air that Portugal was preparing against the Republic of Guinea. He read to the members of the Council a message from the Guinean Chief of State which stated that Guinean Intelligence Service had intercepted, on 2 August 1971, conversations between Overseas Marine Units and two other headquarters units of the Portuguese Colonial Army discussing imminent military aggression by Portugal against Guinea presumably to liberate mercenaries and others implicated in the aggression of 22 November 1970. He also reiterated the request contained in the message of the Guinean Chief of State that the Security Council take all necessary steps to safeguard the territorial integrity and the peace and security of the Republic of Guinea.

⁵³ See S/10274, OR, 26th yr., Supplement for July-September 1971, p. 40.

⁵⁴ For texts of relevant statements, see: 1573rd meeting: Guinea,* paras. 19-23; Somalia, paras. 40-41, 65-71; 1576th meeting: President (Italy), paras. 1-6.

⁵⁵ See Case 1, pp. 178-179 above.

⁵⁶ Resolution 290 (1970), oper. para. 2.

At the same meeting, the representative of Somalia stated that the Afro-Asian members of the Council had held consultations on this question and that in their view the situation warranted immediate action by the Council. To that end, he presented, on behalf of the delegation of Burundi, Sierra Leone, Syria and Somalia, a draft resolution,⁵⁷ under the second and third operative paragraphs of which the Security Council, to be appointed after consultation between the President of the Council and the Secretary-General, to the Republic of Guinea to consult the authorities and to report on the situation immediately.

After a brief suspension of the meeting, the representative of Somalia stated that the four-Power draft resolution had been revised as a result of consultations among the various delegations. Among other changes, operative paragraphs two and three had been revised⁵⁸ to read as follows:

"The Security Council,

" . . .

"2. Decides to send a special mission of three members of the Security Council to the Republic of Guinea to consult the authorities and to report on the situation immediately;

"3. Decides that this special mission be appointed after consultation between the President of the Security Council and the Secretary-General;

" . . ."

The representative of Somalia expressed the hope of the sponsors that if the draft resolution was adopted, the President of the Security Council and the Secretary-General would ensure the appointment of representatives of ambassadorial rank to the special mission.

The draft resolution was put to the vote and adopted unanimously.⁵⁹

At the 1576th meeting on 26 August 1971, the President of the Security Council (Italy) recalled that the consultations between the President and the Secretary-General concerning the appointment of the members of the special mission to the Republic of Guinea had been suspended following the receipt of a letter⁶⁰ dated 4 August 1971 from the representative of Guinea to the President of the Council requesting to delay the dispatch of the mission. Since, by a subsequent letter⁶¹ dated 12 August 1971, he had informed the President that his Government was prepared to receive the special mission as soon as possible, the consultations between the President of the Council and the Secretary-General had been resumed and after possible candidates had been sounded out, additional consultations had been held with all Council members.

As a result of those consultations, the President of the Security Council had been authorized to make the following statement expressing the consensus⁶² of the Council:

"It is the consensus of the Security Council that the Special Mission called for in resolution 295 (1971) should be composed of two members of the Council instead of three. The Special Mission will

⁵⁷ S/10281, incorporated in the text of 1573rd meeting, para. 40. Adopted after amendments as resolution 295 (1971).

⁵⁸ 1573rd meeting, paras. 68-69.

⁵⁹ *Ibid.*, para. 80.

⁶⁰ S/10283, OR, 26th yr., Suppl. for July-Sept. 1971, p. 42.

⁶¹ S/10287, OR, 26th yr., Suppl. for July-Sept. 1971, p. 44.

⁶² Decision of 26 August 1971, OR, 26th yr., Resolutions and Decisions of the Security Council 1971, pp. 4-5.

proceed to Conakry to consult the Government of the Republic of Guinea on its complaint and will report back to the Council as soon as possible.”

In the absence of objections, the President declared

the consensus formally approved⁶³ by the Security Council.

⁶³ 1576th meeting, para. 5.

Part III

APPLICATION OF THE PROVISIONS OF ARTICLE 35 OF THE CHARTER

NOTE

During the period under review, eleven⁶⁴ questions involving the maintenance of international peace and security were brought to the attention of the Security Council, all by Members of the United Nations.⁶⁵ The relevant data regarding the submission of these questions are summarized in the appended tabulation.

The Security Council has continued to consider, at the request of the parties or other Members of the United Nations, questions that had previously been included in the agenda: complaint by the Government of Cyprus;⁶⁶ the situation in Namibia;⁶⁷ the situation in the Middle East;⁶⁸ the situation in Southern Rhodesia;⁶⁹ complaint by Zambia;⁷⁰ complaint by Senegal;⁷¹ complaint by the Republic of Guinea;⁷² and the question of race conflict in South Africa.⁷³

SUBMISSION BY MEMBERS OF THE UNITED NATIONS

Members of the United Nations have generally submitted questions to the Security Council by means of a communication addressed to the President of the Security Council, although Article 35 was cited only once⁷⁴ as the basis for submission.⁷⁵

No question was submitted to the Council as a dispute. In seventeen instances⁷⁶ questions were explicitly

described as situations; in twenty-one,⁷⁷ the letter of submission contained terms similar to those of Article 39; in three of these cases Chapter VII of the Charter was invoked. In one instance,⁷⁸ a number of Member States complained about the failure of another Member State to comply with a Security Council resolution regarding a Territory under the direct responsibility of the General Assembly. In another instance,⁷⁹ a meeting was requested to consider “continued defiance” by one Member State of a particular Security Council resolution. In three instances,⁸⁰ reports submitted to the Council for its consideration occasioned requests by Member States for a Council meeting. On one occasion,⁸¹ several Member States requested a meeting implementing a resolution by a regional international organization of which they are members. On another occasion⁸² a Member State asked for a meeting in order to make a statement on a matter of which the Council was already seized. In two instances,⁸³ the Council was requested to convene in view of certain political and economic developments in a Non-Self-Governing Territory.

STATES NOT MEMBERS OF THE UNITED NATIONS

During the period under review, there was no instance of a question being submitted by a non-member of the United Nations.

PROCEDURAL CONSEQUENCES OF SUBMISSION UNDER ARTICLE 35

Communications submitting questions for consideration by the Security Council have been dealt with in accordance with rules 6-9 of the provisional rules of procedure; material relating to the application of these rules is contained in chapter II, parts II and III, of this *Supplement*.

During the period under review, none of the letters of submission contained a draft resolution.

The Council has not considered whether or not to accept the designation of any of the new questions submitted for its consideration in the initial communication. Nor was any question raised as to the appropriate designation for a question included in the agenda at an earlier period.⁸⁴

⁶⁴ It should be noted that in a number of cases the question was described in terms similar to those of Article 39 of the Charter. In a few instances the letter of submission invoked Chapter VII of the Charter. These cases are marked accordingly by foot-notes *b* and *c* in the tabulation below.

⁶⁵ Prior to the request on 4 December 1971 by certain Member States for an urgent meeting of the Security Council, in connexion with the situation in the India-Pakistan sub-continent, the Secretary-General had, by a report dated 3 December 1971, informed the Council about his efforts under the broad terms of Article 99 but had indicated that it would be for the parties themselves or members of the Council to take the initiative in this matter. (S/10410 and Add.1, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 80-85.)

⁶⁶ During the period under review, no new complaints were submitted under this agenda item. Accordingly, the item is not included in the Tabulation. The Security Council, however, considered under this item the reports of the Secretary-General on the United Nations operation in Cyprus. See: S/9233, *OR*, 24th yr., *Suppl. for Apr.-June 1969*, pp. 175-185; S/9251 and Add.1, *OR*, 24th yr., *Suppl. for Oct.-Dec. 1969*, pp. 120-142; S/9814, *OR*, 25th yr., *Suppl. for April-June 1970*, pp. 190-201; S/10005, *OR*, 25th yr., *Suppl. for Oct.-Dec. 1970*, pp. 57-71; S/10199, *OR*, 26th yr., *Suppl. for Apr.-June 1971*, pp. 50-60; S/10401, *OR*, 26th yr., *Suppl. for Oct.-Dec. 1971*, pp. 42-55.

⁶⁷ See tabulation, section B, entry 1.

⁶⁸ See tabulation, section B, entry B, entry 2.

⁶⁹ See tabulation, section B, entry 3.

⁷⁰ See tabulation, section B, entry 4.

⁷¹ See tabulation, section B, entry 6.

⁷² See tabulation, section B, entry 7.

⁷³ See tabulation, section B, entry 9.

⁷⁴ See tabulation, section B, entry 5.

⁷⁵ In another instance, Article 51 was cited by the submitting State in connexion with the argument that the application of its inherent right of self-defence as recognized in that Article might bring about a more serious situation.

⁷⁶ See tabulation, section B: entries 1(i), (ii); 2(iv), (v), (vi), (vii), (ix), (x); 3(i), (iii); 4(iv); 5; 7(ii); 9; 10; 11(i), (ii).

⁷⁷ See tabulation, section B: entries 2(i), (ii), (iv), (v), (vii), (viii), (ix), (x); 3(i); 4(i), (ii), (iii); 6(ii), (iv), (v); 7(i); 7(ii), (iii), (iv); 11(iii); 12.

⁷⁸ See tabulation, section B, entry 1 (iii).

⁷⁹ See tabulation, section B, entry 2 (iii).

⁸⁰ See tabulation, section B, entries 1(iv) and 8(i) and (ii).

⁸¹ See tabulation, section B, entry 1(v).

⁸² See tabulation, section B, entry 3(v).

⁸³ See tabulation, section B, entries 3(ii) and (iv).

⁸⁴ In one instance, in connexion with an item placed on the provisional agenda of the Security Council—the situation in Northern Ireland—the invocation of Article 35 was contested on the grounds that the situation could in no way be considered a threat to international peace and security. Article 2(7) was mentioned as prohibiting the inclusion of this matter in the Council’s agenda and it was argued that neither Article 35, nor any other, could be regarded as prevailing over Article 2(7). After a brief exchange of views, the Council adjourned without taking a vote on the adoption of the agenda. See: chapter II, part III, Note; chapter VIII, pp. 139-140; chapter XII, part II, Case 12 of this *Supplement*.

Tabulation of questions submitted to the Security Council (1969-1971)

****SECTION A. QUESTIONS SUBMITTED BY MEMBERS AS DISPUTES
SECTION B. QUESTIONS SUBMITTED BY MEMBERS AS SITUATIONS**

<i>Questions</i>	<i>Submitted by</i>	<i>Other parties</i>	<i>Articles invoked in letter of submission</i>	<i>Description of question in letter of submission</i>	<i>Action required of the Security Council</i>	<i>Reference</i>
1. Situation in Namibia ^a (i) letter dated 14 March 1969)	Forty-six Member States		None	"... the deteriorating situation in Namibia."	"... to examine urgently this grave situation and to take ... appropriate measures and action to enable the people of Namibia to exercise their right to self-determination and independence."	S/9090 and Add.1-3, <i>OR</i> , 24th yr., <i>Suppl. for Jan.-March 1969</i> , pp. 126-127
(ii) letter of 24 July 1969)	Eleven Member States		None	"... the situation resulting from the wholly negative reaction of South Africa to ... [SC resolution 264 (1969) of 20 March 1969] and from the measures which it is continuing to take in defiance of the authority of the Security Council and the General Assembly."	"... urgently to convene in order that it may consider the situation ..."	S/9359, <i>OR</i> , 24th yr., <i>Suppl. for July-Sept. 1969</i> , p. 138
(iii) letter of 26 January 1970)	Sixty-six Member States		None	"... the failure of the Government of South Africa to comply with the letter and spirit of ... [SC resolution 269 (1969)] and in particular its paragraph 4".	"... to convene, on an urgent basis, ... in order to examine the failure of the Government of South Africa ..."	S/9616 and Add.1-3, <i>OR</i> , 25th yr., <i>Suppl. for Jan.-Mar. 1970</i> , pp. 112-113
(iv) letter of 23 July 1970)	Burundi, Finland, Nepal, Sierra Leone, Zambia		None	Submission by the <i>Ad Hoc</i> Subcommittee, established in pursuance of SC resolution 276 (1970), of its report [S/9863] to the Council.	"... to resume consideration of the question of Namibia".	S/9886, <i>OR</i> , 25th yr., <i>Suppl. for July-Sept. 1970</i> , p. 11
(v) letter of 17 September 1971)	Thirty-seven Member States		None	Adoption on 23 June 1971 of a resolution [AHG/Res.65 (VIII)] by the Assembly of Heads of State and Government of the Organization of African Unity, "urging the immediate summoning of a special session of the Security Council to discuss ways and means of enforcing the past decisions of the United Nations in the light of the legal obligation imposed on the world community by the decision of the International Court of Justice".	To convene "in order to enable ... current Chairman of the Organization of African Unity, to participate personally in the debates of the Security Council as the head of a large delegation of ministers".	S/10326, <i>OR</i> , 26th yr., <i>Suppl. for July-Sept. 1971</i> , p. 64

^a This item had initially been included in the agenda of the Security Council in 1968 under the heading "The Question of South West Africa". [SC, 23rd yr., 1387th mtg., para. 90; 1390th mtg., para. 17.] Subsequent to General Assembly resolution 2372 (XXII) of 12 June 1968—para. 1—whereby the Assembly decided that South West Africa would henceforth be known by the African name of Namibia, the previous heading of "The Question of South West Africa" was changed to "The Situation in Namibia" in the official records.

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
2. Situation in the Middle East (i) letter of 26 March 1969 (complaint by Jordan) ^b	Jordan	Israel	None	Execution by Israel jet fighters, on 26 March 1969, of "another grave attack, causing heavy loss of life and damage to property" in Jordanian villages and civilian centres in the area of Es Salt.	"... to consider these continuous and grave violations by Israel and to adopt more adequate and effective measures to check Israel acts of aggression and restore international peace and security."	S/9113, OR, 24th yr., Suppl. for Jan.-Mar. 1969, pp. 142-143
(ii) letter of 27 March 1969 (Complaint by Israel) ^b	Israel	Jordan	None	"... grave and continual violations by Jordan of the cease-fire ... including armed attacks, armed infiltration and acts of ... violence by terrorist groups operating from Jordan territory with the official support, aid and encouragement of the Jordanian Government and armed forces; ... and... the wanton shelling of Israel villages" by Jordanian forces.	"... to consider the complaint of grave and continual violations by Jordan of the cease-fire, the provisions of the United Nations Charter, and of international law ..."	S/9114, OR, 24th yr., Suppl. for Jan.-Mar. 1969, p. 143
(iii) letter of 26 June 1969)	Jordan	Israel	None	Israeli actions and planned measures "for the establishment of Israeli settlements in the [Holy] city" and replacement of the City's inhabitants in violation of basic human rights and in contravention of Security Council resolution 252 (1968).	"... to consider the continued Israeli defiance of its resolution 252 (1968) on Jerusalem."	S/9284, OR, 24th yr., Suppl. for April-June 1969, pp. 345-346
(iv) letter of 12 August 1969 (Complaint by Lebanon) ^b	Lebanon	Israel	None	"... the premeditated and unprovoked aggression committed by Israel against civilian villages in southern Lebanon..."	To convene an urgent meeting "in view of the gravity of the situation endangering the peace and security of Lebanon ..."	S/9385, OR, 24th yr., Suppl. for July-Sept. 1969, p. 153
(v) letter of 12 August 1969 (Complaint by Israel) ^b	Israel	Lebanon	None	"... the situation created by the intensification of armed attacks carried out against Israel from Lebanese territory."	To convene an urgent meeting "in view of the gravity of the armed attacks perpetrated against Israel from Lebanese territory ..."	S/9387, OR, 24th yr., Suppl. for July-Sept. 1969, p. 156
((vi) letter of 28 August 1969)	Twenty-five Member States		None	"... the grievous situation resulting from the extensive damage caused by arson to the holy Al Aqsa Mosque in Jerusalem."	To convene urgently "to consider the grievous situation ..."	S/9421 and Add.1 and 2, OR, 24th yr., Suppl. for July-Sept. 1969, p. 166

^b In this case, the letter of submission employs terms similar to those of Article 39 of the Charter.

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((vii) letter of 12 May 1970 (Complaint by Lebanon)) ^b	Lebanon	Israel	None	"This [penetration into Lebanese territory by Israeli armoured and infantry units and bombarding of several towns and villages by Israeli air force and artillery] act of aggression against Lebanon in . . . violation of the Lebanese-Israeli armistice agreement and the provisions of the . . . Charter."	To convene an urgent meeting "in view of the gravity of the situation endangering the peace and security of Lebanon and of the area . . ."	S/9794, OR, 25th yr., Suppl. for April-June 1970, p. 181
((viii) letter of 12 May 1970 (Complaint by Israel)) ^b	Israel	Lebanon	None	". . . acts of armed attack, shelling, incursion, murder and violence perpetrated from Lebanese territory against the territory and population of Israel in violation of the cease-fire and the . . . Charter."	To convene an urgent meeting to consider "these acts of aggression".	S/9795, OR, 25th yr., Suppl. for April-June 1970, p. 182
((ix) letter of 5 September 1970) ^b	Lebanon	Israel	None	Penetration into Lebanese territory by "two infantry companies of Israel armed forces under heavy air support . . . bombing civilian installations and opening roads for Israeli military use permitting further expansionist operations".	To convene an urgent meeting "in view of the gravity of the situation endangering the peace and security of Lebanon . . ."	S/9925, OR, 25th yr., Suppl. for July-Sept. 1970, p. 141
((x) letter of 13 September 1971) ^b	Jordan	Israel	None	"The situation created by . . . illegal Israeli measures constitutes a direct threat to the character of Jerusalem and the surrounding suburbs and villages, the lives and destiny of its people and international peace and security."	". . . to consider Israel's illegal measures in Jerusalem in defiance of Security Council resolution 252 (1968), 267 (1969) and 271 (1969)."	S/10313, OR, 26th yr., Suppl. for July-Sept. 1971, p. 63
3. Situation in Southern Rhodesia ((i) letter of 6 June 1969) ^b	Sixty Member States		None ^c	"The rapid deterioration in the situation [in Southern Rhodesia (Zimbabwe)] and the refusal of the Government of the United Kingdom to . . . resort to the use of force . . ."	". . . to examine as a matter of urgency the serious situation, which constitutes an increasing threat to international peace and security, and to take more energetic measures within the framework of Chapter VII of the Charter . . . so that the people of Southern Rhodesia (Zimbabwe) may exercise their right to self-determination in accordance with General Assembly resolution 1514 (XV)."	S/9237 and Add.1 and 2, OR, 24th yr., Suppl. for April-June 1969, p. 187

^c In this case, Chapter VII of the Charter was invoked.

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((ii) letter of 3 March 1970)	United Kingdom		None	The "illegal" declaration by "the illegal régime in Southern Rhodesia . . . [of] the dissolution of its illegal parliament and the assumption of republican status".	To convene an urgent meeting.	S/9675, OR, 25th yr., Suppl. for Jan.-Mar. 1970, p. 149
((iii) letter of 6 March 1970)	Thirty-eight Member States		None	". . . the deterioration in the situation in Southern Rhodesia as a result of the proclamation of a so-called Republic by the illegal racist minority régime in Salisbury, which is thereby endangering international peace and security."	". . . to consider the deterioration in the situation in Southern Rhodesia" and to "take all the necessary steps to safeguard the inalienable rights of the people of Zimbabwe to self-determination and independence".	S/9682, OR, 25th yr., Suppl. for Jan.-Mar. 1970, p. 153
((iv) letter of 9 November 1970)	Burundi, Nepal, Sierra Leone, Syria, Zambia		None	Occurrence of "a number of disturbing political and economic developments in that rebel territory" of Southern Rhodesia "since the adoption of [Security Council] resolution 277 (1970) . . ."	To convene an early meeting "to discuss the question of Southern Rhodesia" in view of disturbing developments "which require the close examination and attention of the Security Council".	S/9975/Rev.1, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 36
((v) letter of 24 November 1971)	United Kingdom		None	Readiness of the representative of the United Kingdom "to make a statement to the Council about the results of the recent discussions which the Secretary of State for Foreign and Commonwealth Affairs has had in Salisbury".	To hear a statement by the representative of the United Kingdom.	S/10396, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 40
4. Complaints by Zambia ((i) letter of 15 July 1969) ^b	Zambia	Portugal	51	". . . the recent calculated Portuguese violations of the territorial integrity of the Republic of Zambia, and also the bombing of a village, destruction of property and the wounding and killing of two innocent and unarmed civilians" in "one of the villages situated along the border of the Republic of Zambia and the Portuguese colony of Mozambique".	To discuss "the recent aggression" constituting "proof of the bellicose intentions of the Lisbon Government" and "to envisage corrective measures which will bring an end to these . . . acts which constitute a threat to international peace and security".	S/9331, OR, 24th yr., Suppl. for July-Sept. 1969, p. 127
((ii) letter of 6 October 1971) ^b	Zambia	South Africa	None	". . . repeated criminal acts of aggression against Zambia" by South African forces operating from "the bordering area between Zambia and the international Territory of Namibia and illegal crossing, on 5 October 1971, by "South African forces . . . into Zambian territory from the area . . ."	". . . to consider a series of serious incidents and violations of the sovereignty, air space and territorial integrity of . . . Zambia, by the forces of the . . . Government of South Africa . . ."	S/10352, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 20

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((iii) letter of 7 October 1971) ^b	Forty-seven Member States	South Africa	None	"... latest armed incursion by the South African military authorities not only constitutes a serious threat to the sovereignty and territorial integrity of Zambia but is also a threat to the peace and security of the region."	To convene an urgent meeting as requested by the Republic of Zambia and "to take immediate steps to end . . . illegal occupation of Namibia [by South Africa] and the consequent violation of the territorial integrity of a Member State . . ." in order "to avert further deterioration of the matter".	S/10364, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 24
((iv) letter of 11 October 1971)	Lesotho		None	A situation involving "direct responsibility" of the Security Council "for the maintenance of peace in the area and for underwriting the territorial integrity of Member States".	To convene a meeting as requested by the Republic of Zambia.	S/10368, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 25
5. Situation in Northern Ireland (letter of 17 August 1969)	Ireland	United Kingdom	35	"... a series of tragic events in [the six counties of Northern Ireland] set off by a parade in the city of Derry on 12 August . . .", the inability of the Belfast government to control the situation, "the intervention of British military forces" and rejection by the United Kingdom of proposals by Ireland either to apply to the United Nations "for the urgent dispatch of a peace-keeping force to the six counties of Northern Ireland" or to send "a joint peace-keeping force" to the area "composed of members of the British and the Irish Defence Forces".	To convene an "urgent meeting of the Security Council in connexion with the situation in the six counties of Northern Ireland" and to dispatch "to the area . . . a United Nations peace-keeping force".	S/9394, OR, 24th yr., Suppl. for July-Sept. 1969, p. 159
6. Complaints by Senegal ((i) letter of 27 November 1969)	Senegal	Portugal	None	Systematic and deliberate violation of Senegalese national territory by Portugal, in particular the shelling, on 25 November 1969, of "the village of Samine, situated in . . . the southern part of Senegal" by "the regular Portuguese Army, based at Bégène . . ."	To convene a meeting, "as quickly as possible, to consider this question".	S/9513, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 117

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((ii) letter of 2 December 1969) ^b	Thirty-six Member States	Portugal	None ^c	"... the recent deliberate violations of the territorial integrity of the Republic of Senegal by Portugal".	To convene a meeting, as requested by the Republic of Senegal and "to take the necessary action to put an end to . . . acts of overt aggression" committed by Portugal against the African States bordering on the Territories which are under Portuguese domination, "thereby acting in accordance with Chapter VII of the Charter . . ."	S/9524 and Add.1, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 144
((iii) letter of 7 December 1969)	Senegal	Portugal	None	Bombardment by Portuguese armed forces of the village of Samine and the announced Portuguese "intention of shelling . . . capital of the southern region of Casamance [the province bordering on Senegal, Guinea and Guinea (Bissau)]".	"... to convene an urgent meeting . . . to consider a further complaint by Senegal against Portugal . . ."	S/9541, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 151
((iv) letter of 6 July 1971) ^b	Senegal	Portugal	None	"... the laying of mines in Senegalese territory by the regular Portuguese armed forces constitutes a further obvious and flagrant violation of Senegal's sovereignty and territorial integrity . . ."	To convene a meeting "as a matter of urgency".	S/10251, OR, 26th yr., Suppl. for July-Sept. 1971, p. 28
((v) letter of 12 July 1971) ^b	Thirty-seven Member States	Portugal	None	"... the aggression and obvious and repeated violation of the territorial integrity of the Republic of Senegal due to the laying of mines in Senegalese territory by the regular Portuguese armed forces . . ."	To convene a meeting, as requested by the Republic of Senegal and "to take such measures as are necessary to ensure that Portugal conforms to the resolutions of the Security Council and the General Assembly by putting an end to . . . flagrant acts of aggression and by granting self-determination and independence to its colonies in accordance with . . . General Assembly resolution 1514 (XV)".	S/10259 and Add.1 and 2, OR, 26th yr., Suppl. for July-Sept. 1971, pp. 32-33

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
7. Complaints by the Republic of Guinea ((i) letter of 4 December 1969) ^b	Guinea	Portugal	None	"... another act of aggression by the... Portuguese Government against... national sovereignty [of the Republic of Guinea]" by the repeated shelling of "two Guinean frontier villages" by the regular Portuguese Army. ^d	"... to convene a meeting... to consider the... aggression recently committed by the Portuguese colonial army against the territorial integrity of the Republic of Guinea."	S/9528, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 147
((ii) letter of 5 December 1969) ^b	Forty Member States	Portugal	None ^c	"... the recent deliberate violations by Portugal of the territorial integrity of the Republic of Guinea."	To convene a meeting as requested by the Republic of Guinea and "to deal with the situation and take the necessary steps under Chapter VII of the Charter... to put an end to these flagrant acts of aggression".	S/9549, OR, 24th yr., Suppl. for Oct.-Dec. 1969, p. 154
((iii) letter of 22 November 1970) ^b	Guinea	Portugal	None	"... the national territory of Guinea was the object of an armed attack by Portuguese forces who landed at several points in the capital."	"... to convene... as a matter of extreme urgency" and to provide "immediate intervention by airborne United Nations troops to assist the National Army of the Republic of Guinea".	S/9987, OR, 25th yr., Suppl. for Oct.-Dec. 1970, p. 51
((iv) letter of 3 August 1971) ^b	Guinea	Portugal	None	Interception, on 2 August 1971, by the Intelligence Service of the Republic of Guinea of "conversations between Overseas Marine Units and two other headquarters units of the Portuguese Colonial Army discussing an imminent military aggression by Portugal against the Republic of Guinea... presumably intended to liberate mercenaries and others, persons implicated in the aggression of 22 November 1970 launched against the Republic of Guinea".	To convene "an immediate meeting" in view of an "imminent threat to international peace and security".	S/10280, OR, 26th yr., Suppl. for July-Sept. 1971, pp. 41-42
8. Question of Bahrain ((i) letter of 4 May 1970)	Iran		None	Submission by the Secretary-General to the Security Council of the report of his Personal Representative in charge of the Good Offices Mission, Bahrain, in pursuance of the request of, and as called for by the provisions of the agreement between, the Governments of Iran and the United Kingdom.	To convene for the purpose of considering the report of the Personal Representative of the Secretary-General in charge of the Good Offices Mission, Bahrain [S/9772].	S/9779, OR, 25th yr., Suppl. for Apr.-June 1970, p. 175

^d This description was contained in an earlier letter dated 2 December 1969 from the representative of Guinea to the President of the Security Council. (S/9525, O.R., 24th yr., Suppl. for Oct.-Dec. 1969, p. 145)

Tabulation of questions submitted to the Security Council (1969-1971) (continued)

Questions	Submitted by	Other parties	Articles invoked in letter of submission	Description of question in letter of submission	Action required of the Security Council	Reference
((ii) letter of 5 May 1970)	United Kingdom		None	Submission by the Secretary-General to the Security Council of the report of his Personal Representative [to Bahrain] on 30 April 1970.	To convene an early meeting "to consider the Report of the Secretary-General's Personal Representative" sent, at the request of the parties, to Bahrain "to ascertain the wishes of the people of Bahrain".	S/9783, OR, 25th yr., Suppl. for Apr.-June 1970, p. 178
9. Question of race conflict in South Africa (letter of 15 July 1970)	Forty Member States		None	". . . the refusal by a number of Member States to implement faithfully the arms embargo" and "the failure of the Security Council to denounce these violations" which has "encouraged others to reconsider their commitment to the observance of the embargo. These violations . . . have enabled the Government of South Africa to amass considerable military power, which it uses not only to impose its racist policies but also to flout the decisions of the United Nations with regard to Namibia, Southern Rhodesia . . . Angola and Mozambique" and also "to threaten the sovereignty of neighbouring independent African States".	". . . to resume the consideration of the question of race conflict in South Africa resulting from the policies of <i>apartheid</i> of the Government of the Republic of South Africa with a view to examining in particular the situation arising from violations of the arms embargo called for in Security Council resolutions 181 (1963) of 7 August 1963, 182 (1963) of 4 December 1963 and 191 (1964) of 18 June 1964" and to find "ways and means . . . to strengthen the arms embargo and secure its full implementation".	S/9867, OR, 25th yr., Suppl. for July-Sept. 1970, p. 106
10. Question concerning the islands of Abu Musa, the Greater Tunb and the Lesser Tunb (letter of 3 December 1971) ^b	Algeria, Iraq, Libyan Arab Republic, People's Democratic Republic of Yemen		None	". . . the dangerous situation in the Arabian Gulf area arising from the occupation by the armed forces of Iran of the Islands of Abu Musa, the Greater Tunb and the Lesser Tunb, on 30 November 1971."	To convene "an urgent meeting . . . to consider the dangerous situation in the Arabian Gulf area . . ."	S/10409, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 79
11. Situation in the Indo-Pakistan subcontinent ((i) letter of 4 December 1971)	Nine Member States		None	". . . the recent deteriorating situation which has led to armed clashes between India and Pakistan."	". . . to convene immediately an urgent meeting . . . to consider the recent deteriorating situation . . ."	S/10411, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 86
((ii) letter of 4 December 1971)	Tunisia		None	". . . the deteriorating situation between India and Pakistan".	To convene as requested by nine Member States.	S/10413, OR, 26th yr., Suppl. for Oct.-Dec. 1971, p. 89

Tabulation of questions submitted to the Security Council (1969-1971) (concluded)

<i>Questions</i>	<i>Submitted by</i>	<i>Other parties</i>	<i>Articles invoked in letter of submission</i>	<i>Description of question in letter of submission</i>	<i>Action required of the Security Council</i>	<i>Reference</i>
(iii) letter of 12 December 1971) ^b	United States		None	"The war on the Indian subcontinent continues to rage unabated. . . . One of the parties, Pakistan, has accepted the resolution [2793 (XXVI) adopted by the General Assembly under the "Uniting for Peace" procedure, "which <i>inter alia</i> called on India and Pakistan to institute a cease-fire and to withdraw troops from each other's territories"]. The other party, India, had not yet done so."	To convene an immediate meeting and to fulfil its "obligation to end this threat to world peace on a most urgent basis".	S/10444, OR, 26th yr., Suppl. for Oct.-Dec. 1971, pp. 104-105

Part IV

CONSIDERATION OF THE PROVISIONS OF ARTICLES 36-38
AND OF CHAPTER VI IN GENERAL

NOTE

Part IV deals with cases in which discussion has arisen regarding the responsibility of the Security Council for the settlement of particular disputes or situations under consideration in the light of the provisions of Chapter VI of the Charter.⁸⁵

In the period under review, debates preceding decisions of the Council in this field have dealt almost exclusively with the actual issues before the Council. There has been no sustained discussion regarding the constitutional framework of Chapter VI of the Charter within which the Council may participate in the pacific settlement of disputes and other forms of conflict. Therefore, evidence for the relation of the decisions by the Council to the provisions of Articles 36-38, i.e., the application of those Articles in the working of the Security Council, has continued to be scant.

As a guide to relevant decisions of the Council adopted during the period under review, the appropriate headings in the Analytical Table of Measures of chapter VIII of this *Supplement* should be consulted, as well as the materials in the other parts of chapter X.

For discussions bearing on procedures of pacific settlement that have occurred in connexion with situations submitted to the Council as threats to peace, breaches of the peace or acts of aggression, reference should be made to relevant entries in chapter XI of this *Supplement*.

It should be noted that during the period covered by this *Supplement*, eight resolutions were adopted by the Security Council in connexion with the complaint by the Government of Cyprus.⁸⁶ In each instance, the Council, while mainly concerned with the maintenance of peace on the island,⁸⁷ continued to address itself to

the corollary measures of pacific settlement. Thus in each resolution, the Council not only extended⁸⁸ the stationing of the United Nations Peace-keeping Force in Cyprus beyond the period previously decided upon, but it also urged⁸⁹ the parties concerned to act with the utmost restraint and to continue determined co-operative efforts to achieve the objectives⁹⁰ of the Security Council.

In connexion with the question concerning the islands of Abu Musa, the Greater Tunb and the Lesser Tunb, it was observed that it would be precipitate, at the given time, for the Council to recommend any measures under Article 36 since States friendly both to the complainants and the State subject of complaint had initiated governmental contact, in order to bring both sides together and resolve the matter with justice. Accordingly, it was suggested that consideration of this matter be postponed, with the understanding that if these third-party efforts were to fail, the Council could resume consideration of the question at the request of the complainants or at its own discretion.⁹¹ Subsequently, the President (Sierra Leone) announced,⁹² that in the absence of objections, the Council had decided⁹³ to defer consideration of this matter to a later date to allow sufficient time for intensive third-party efforts.

⁸⁸ See preambular para. 2 and para. 3 in each of the resolutions cited above.

⁸⁹ See para. 2 in each of the resolutions cited above.

⁹⁰ See resolutions 186 (1964) of 4 March 1964 and 244 (1967) of 22 November 1967 for the objectives of the Security Council, including pacific settlement through the good offices of a Mediator and later of the Secretary-General. Note that in each of the resolutions adopted subsequent to resolution 186 (1964), the Security Council reaffirmed all of its earlier resolutions and expressions of consensus on this question. For treatment of the complaint by the Government of Cyprus in previous supplements, see *Repertoire of the Practice of the Security Council, Supplement 1964-1965*, chapter VIII, pp. 108-127, and chapter X, Case 8; *Supplement 1966-1968*, chapter VIII, pp. 105-113, and chapter X, Case 5.

⁹¹ 1610th meeting: Somalia, paras. 280, 281.

⁹² *Ibid.*, para. 282.

⁹³ Decision of 9 December 1971, *OR*, 26th yr., *Resolutions and Decisions of the Security Council 1971*, p. 11.

⁸⁵ For general criteria for entries under this part, see *Repertoire of the Practice of the Security Council 1946-1951*, pp. 296 and 410.

⁸⁶ Resolutions 266 (1969) of 10 June 1969; 274 (1969) of 11 December 1969; 281 (1970) of 9 June 1970; 291 (1970) of 10 December 1970; 293 (1971) of 26 May 1971; and, 305 (1971) of 13 December 1971.

⁸⁷ See preambular para. 1 in each of the resolutions cited above.