
Part VI

Consideration of the provisions of Chapter VI of the Charter

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Introductory note

Part VI of the present Supplement covers the practice of the Security Council with regard to the peaceful settlement of disputes within the framework of Chapter VI (Articles 33 to 38) and Articles 11 and 99 of the Charter of the United Nations. It is divided into four main sections.

Section I illustrates how States brought disputes or situations to the attention of the Security Council during the period under review, pursuant to Article 35 of the Charter. It also surveys the practice of the General Assembly and the Secretary-General, under Articles 11 (3) and 99 of the Charter, respectively, in drawing the attention of the Council to situations which are likely to threaten the maintenance of international peace and security. Section II describes investigative and fact-finding activities performed by the Council and other bodies that may be deemed to fall under the scope of Article 34, including Security Council missions. Section III provides an overview of the decisions of the Council taken with regard to the peaceful settlement of disputes. It specifically illustrates recommendations of the Council to parties to a conflict and its support for the efforts of the Secretary-General in the peaceful settlement of disputes. Section IV reflects constitutional discussions on the interpretation or application of the provisions of Chapter VI and Article 99 of the Charter.

The practice of the Council with respect to the peaceful settlement of disputes is not discussed in an exhaustive manner in part VI, which focuses instead on selected materials that highlight the interpretation and application of the provisions of Chapter VI of the Charter in the decisions and deliberations of the Council during the period under review. Actions with regard to the peaceful settlement of disputes in the context of the United Nations field missions authorized under Chapter VII of the Charter are covered in the relevant sections of parts VII and X. Joint or parallel efforts undertaken by the Council and regional arrangements or agencies in the peaceful settlement of disputes during the period under review are covered in part VIII.

During the years 2016 and 2017 (see section I) only one new situation or dispute was brought to the attention of the Council, in connection with the peace process in Colombia; most communications contained information relating to matters already under its consideration.

The Council dispatched 10 missions to Africa and the Americas (see section II), visiting destinations in Angola, Burkina Faso, Burundi, Cameroon, Chad, Colombia, the Democratic Republic of the Congo, Egypt, Ethiopia, Guinea-Bissau, Haiti, Kenya, Mali, Mauritania, the Niger, Nigeria, Senegal, Somalia and South Sudan. The Council also requested and supported investigations by the Secretary-General concerning possible violations of international humanitarian law and human rights law in the Central African Republic and Mali, the use of chemical weapons against civilians in the Syrian Arab Republic and war crimes, crimes against humanity or genocide committed in Iraq by Islamic State in Iraq and the Levant (ISIL, also known as Da'esh).

In its decisions during the biennium 2016–2017, the Council highlighted the importance of sustaining peace, preventing conflict and addressing its root causes and of utilizing the tools at its disposal to do so, including peacekeeping, peacebuilding and the good offices and mediation role of the Secretary-General (see section III). In respect of primarily intra-State conflicts, the Council called upon the

parties to cease hostilities, implement inclusive national reconciliation processes, fully implement existing peace agreements and engage in dialogue in order to resolve political and institutional crises. In that context, the Council requested the Secretary-General to provide good offices and mediation support through his special representatives and envoys and in coordination with regional and subregional organizations.

During the period under review, the discussions in the Council reflected the importance attributed by Council members to the peaceful settlement of disputes (see section IV). Council members and other speakers also highlighted the Council's investigatory tools under the Charter, the need for closer cooperation with regional and subregional organizations in the peaceful settlement of disputes, and the crucial role of the Secretary-General in drawing the attention of the Council to deteriorating situations or disputes and providing good offices support for the prevention and resolution of conflicts. Council members also discussed the distinction between Chapter VI and Chapter VII of the Charter in the context of peacekeeping operations and the power of Member States to bring a dispute or situation to the attention of the Council.

I. Referral of disputes or situations to the Security Council

Article 11

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

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 99

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

Note

Within the framework of the Charter of the United Nations, Articles 35 (1) and (2) are generally regarded as the basis on which Member States and States that are not members of the United Nations may refer disputes to the Security Council. Under Articles 11 (3) and 99, the General Assembly and the Secretary-General, respectively, may also bring to the attention of the Council situations that are likely to threaten the maintenance of international peace and security. The practice of the Council in this regard is described below in three subsections.

Subsection A provides an overview of the referrals of disputes or situations by States to the Security Council pursuant to Article 35. Subsections B and C deal with referrals to the Council by the Secretary-General and the General Assembly,

respectively, of matters likely to endanger international peace and security.

During the period under consideration, with the exception of the peace process in Colombia, Member States did not refer any new situation to the Council. No State which was not a member of the United Nations brought any dispute or situation to the attention of the Council under Article 35 during the period. Neither the General Assembly nor the Secretary-General explicitly referred to the Council matters likely to endanger international peace and security.

A. Referrals by States

During the period under review, certain situations were referred to the Security Council pursuant to Article 35 (1) by individual Member States and groups of affected or concerned Member States. Article 35 was expressly mentioned in five communications addressed to the President of the Council, namely, three from the Democratic People's Republic of Korea¹ and two from Eritrea.² No State which was not a member of the United Nations submitted any dispute or situation to the attention of the Council under Article 35 (2) during the biennium.

Communications in response to which the Council convened meetings, either in public or private, are shown in table 1. As in previous Supplements and owing to the large volume of communications received by the Council, communications from States that merely conveyed information about a dispute or situation and did not contain a request for a Council meeting or other specific Council action have not been included.

In 2016 and 2017, in their communications, Member States brought various matters to the attention of the Council. Only one communication referred to a matter of which the Council was not previously seized. In identical letters dated 19 January 2016 from the Permanent Representative of Colombia addressed to the Secretary-General and the President of the Security Council, the President of Colombia reported on the progress made in the peace negotiations between the Government of Colombia and the Revolutionary

¹ S/2016/251, S/2016/734 and S/2017/882.

² S/2016/568 and S/2016/569.

Armed Forces of Colombia – People’s Army (FARC-EP), on the basis of the General Agreement for the Termination of the Conflict and the Construction of a Stable and Lasting Peace, signed on 26 August 2012 in Havana.³ In the letter, the President of Colombia noted that an agreement had been achieved on fundamental issues concerning the end of the conflict; other issues, including the ceasefire and definitive cessation of hostilities, remained pending.⁴

Matters brought to the attention of the Council in communications submitted by Member States during the period under review often fell beyond the scope of Chapter VI of the Charter relating to the pacific settlement of disputes. For instance, in a letter dated 2 February 2016, the representative of the Syrian Arab Republic strongly condemned “the repeated crimes and aggression of Turkey against the Syrian people and the territorial integrity of the Syrian Arab Republic”.⁵ In another instance, in a letter dated 28 October 2016, Israel cited the continuing “aggression” against Israel and “gross violations” of resolution 1701 (2006) by Hizbullah through continuing illicit military activities south of the Litani River.⁶ In a letter dated 20 October 2017, the Democratic People’s Republic of Korea described the joint military exercise on the Korean peninsula by the United States and the Republic of Korea as a “clear threat to international peace and security”.⁷ The Council, however, did not determine the existence of any new threat to the peace, breach of the peace or act of aggression in connection with those communications.⁸

In most cases, the type of action requested by Member States was for the Council to convene a

³ S/2016/53, annex.

⁴ Ibid., second paragraph. For more information, see part I, sect. 17.

⁵ S/2016/101.

⁶ S/2016/917.

⁷ S/2017/882.

⁸ For more information concerning the determination of a threat to the peace, breach of the peace or act of aggression in accordance with Article 39 of the Charter, see part VII, sect. I.

meeting to consider the dispute or situation in question.⁹ However, in some instances, Member States requested more concrete or bolder action from the Council. In identical letters dated 19 January 2016 from the Permanent Representative of Colombia addressed to the Secretary-General and the President of the Security Council, the President of Colombia requested the participation of the United Nations, through a political mission made up of observers from member countries of the Community of Latin American and Caribbean States, as the international component of the tripartite monitoring and verification mechanism established under the peace agreement.¹⁰ In a letter dated 15 June 2017, the Minister for Foreign Affairs and International Cooperation of Djibouti described the withdrawal of Qatar from the mediation process in the territorial dispute between Djibouti and Eritrea as a significant threat to peace and security in the region and, recalling the Council’s previous resolutions on the matter, requested it “to instruct Eritrea to honour its commitments”.¹¹ In another instance, in a letter dated 22 July 2016, referring to the alleged use of chemical weapons in Idlib, Syrian Arab Republic, the representative of Turkey stated that his Government looked forward to the Organisation for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism’s swift finalization of its investigation and expected the Council to impose measures under Chapter VII of the Charter of the United Nations against the Syrian Arab Republic in the face of its non-compliance with Security Council resolution 2118 (2013) and its violations of international law and its commitments thereunder.¹²

Table 1 includes communications bringing disputes or situations to the attention of the Council that led to the holding of a meeting by the Council, whether they made explicit reference to Article 35 of the Charter or to rule 2 of the Provisional rules of procedure.

⁹ For more information on requests by Member States to convene a meeting of the Council, see part II, sect. I.

¹⁰ S/2016/53, annex.

¹¹ S/2017/506, annex.

¹² S/2016/654.

Table 1
**Communications bringing a dispute or situation to the attention of the Security Council,
2016–2017^a**

<i>Communications</i>	<i>Action requested of the Security Council</i>	<i>Meeting record and date</i>
Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53)		
Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53)	To establish a special political mission as the international component of the tripartite mechanism for monitoring and verification of the Agreement on the ceasefire and definitive and bilateral cessation of hostilities and the abandonment of arms signed between the Government of Colombia and the Revolutionary Armed Forces of Colombia – People’s Army	S/PV.7609 25 January 2016
The situation in the Democratic People’s Republic of Korea		
Letter dated 1 December 2016 from the Permanent Representatives of France, Japan, Malaysia, New Zealand, Spain, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay to the United Nations addressed to the President of the Security Council (S/2016/1034)	To hold a meeting on the situation in the Democratic People’s Republic of Korea pursuant to rule 2 of the provisional rules of procedure	S/PV.7830 9 December 2016
Non-proliferation/Democratic People’s Republic of Korea		
Letter dated 1 December 2017 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General (S/2017/1038)	To exert maximum pressure on the Democratic People’s Republic of Korea to change its course of action towards the denuclearization of the Korean peninsula and the abandonment of all other existing weapons of mass destruction and ballistic missile programmes, in a complete, verifiable and irreversible manner	S/PV.8137 15 December 2017
The situation in the Democratic People’s Republic of Korea		
Letter dated 1 December 2017 from the Permanent Representatives of France, Italy, Japan, Senegal, Sweden, Ukraine, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Uruguay to the United Nations addressed to the President of the Security Council (S/2017/1006)	To hold a meeting on the situation in the Democratic People’s Republic of Korea pursuant to rule 2 of the Provisional rules of procedure	S/PV.8130 11 December 2017

^a Only communications that resulted in a formal meeting of the Security Council are included in the table.

B. Referrals by the Secretary-General

Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. During the period under review, the Secretary-General did not invoke Article 99, directly or by

implication. Nevertheless, he continued drawing the attention of the Council to situations already on the Council’s agenda that were deteriorating and requested it to take appropriate action. Like Article 35, Article 99 does not specify the means by which the Secretary-General may bring to the attention of the Council any matter that may threaten the maintenance of international peace and security. In 2016 and 2017,

Member States made reference to horizon-scanning and situational awareness meetings in their communications to the Council in connection with the Council’s working methods.¹³ Discussions of relevance for Article 99 of the Charter are featured in cases 9 and 10.

In a presidential statement issued at its 8020th meeting, held on 9 August 2017 under the item entitled “Maintenance of international peace and security”, the Council welcomed the letters dated 21 February and 27 June 2017 from the Secretary-General regarding the risk of famine in northeast Nigeria, Somalia, South Sudan and Yemen. In the statement, the Council requested the Secretary-General to provide early warning when a conflict having devastating consequences and hindering an effective humanitarian response risked leading to an outbreak of famine.¹⁴

In a letter dated 2 September 2017, the Secretary-General shared his deep concern about the security, humanitarian and human rights situation in Rakhine State in Myanmar, in keeping with his “responsibility to engage in preventing the outbreak or escalation of conflict”. In the same letter he noted that the situation risked degenerating into a “humanitarian catastrophe

¹³ See [S/2016/506](#), p. 11; [S/2017/105](#), p. 4; and [S/2017/468](#), p. 20.

¹⁴ [S/PRST/2017/14](#), penultimate paragraph.

with implications for peace and security that could continue to expand beyond the borders of Myanmar”. The Secretary-General further underlined that it was important for the international community to send a strong message of support and cooperation towards a broader political strategy to help to end the vicious cycle of violence, and urged Council members to press for restraint and calm.¹⁵ At its 8060th meeting, on 28 September 2017, the Council discussed the item entitled “The situation in Myanmar” at a public meeting for the first time since 13 July 2009.¹⁶

C. Referrals by the General Assembly

Under Article 11 (3) of the Charter, the General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security. During the period under review, the General Assembly did not refer any such situations to the Council under that Article.¹⁷

¹⁵ See [S/2017/753](#), first, third, fifth and sixth paragraphs.

¹⁶ See [S/PV.8060](#). For more information, see part I, sect. 20, “The situation in Myanmar”.

¹⁷ For more information on the relations between the Security Council and the General Assembly, see part IV, sect. I.

II. Investigation of disputes and fact-finding

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.

Note

Article 34 of the Charter of the United Nations provides that the Security Council may investigate any dispute or any situation which might lead to international friction or give rise to a dispute. On that basis, the Council may determine whether the continuation of the dispute or situation is likely to endanger the maintenance of international peace and security. Article 34 does not prevent the Secretary-General or other organs from performing investigative functions, nor does it limit the Council’s general competence to obtain knowledge of the relevant facts

of any dispute or situation by dispatching a fact-finding or investigative mission.

Section II provides an overview of the practice of the Security Council relating to fact-finding and investigation in accordance with Article 34 of the Charter, in three subsections. Subsection A relates to Security Council missions; subsection B to investigative and fact-finding functions of the Secretary-General; and subsection C to other instances of investigative functions acknowledged by the Council.

During the period under review, the Council significantly increased the number of missions dispatched to conflict or post-conflict areas, with 10 such visits taking place in 2016 and 2017 to support peace processes and to assess the situation on the ground and the status of implementation of its resolutions. The Council acknowledged the investigative functions of the Secretary-General by calling for the implementation of the report of the International Commission of Inquiry on the Central

African Republic; giving the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) the task of mapping violations of international humanitarian law and abuses of human rights committed in the country since 2003; requesting the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) to support the establishment of the international commission of inquiry on Mali; twice renewing the mandate of the Joint Investigative Mechanism of the Organisation for the Prohibition of Chemical Weapons (OPCW) and the United Nations, the most recent until 17 November 2017; and requesting the Secretary-General to establish an investigative team to support domestic efforts in Iraq to hold Islamic State in Iraq and the Levant (ISIL, also known as Da'esh) accountable for acts that may amount to war crimes, crimes against humanity and genocide. In considering the matters before it, the Council also continued to acknowledge and rely upon investigations conducted by organs of the United Nations other than the Secretary-General, including the Human Rights Council; the Office of the High Commissioner for Human Rights in Burundi, Côte d'Ivoire, the Democratic Republic of the Congo and Myanmar; and the OPCW fact-finding mission in the Syrian Arab Republic.

A. Security Council missions

During the period under review, the Security Council dispatched 10 missions consisting of all 15 Council members, of which eight were deployed to Africa and the remaining two to Latin America and the Caribbean. None of the Council missions in the period under review was explicitly charged with investigative tasks. The most common objectives of the missions included calling for the implementation of peace agreements and inclusive political transition and national reconciliation processes; assessing the security and humanitarian situation in the countries concerned; drawing attention to the need for the protection of civilians and respect for human rights; calling on host Governments and relevant parties to fully cooperate with peacekeeping operations on the ground to ensure the full implementation of their mandates; and expressing or reaffirming support for regional and subregional organizations for the prevention and resolution of conflict and countering the spread of terrorism and violent extremism. For more information on the missions dispatched in 2016 and 2017, including their duration and composition and the related documents, see table 2.

Table 2
Security Council missions, 2016–2017

<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting record and date</i>	<i>Item</i>
21–23 January 2016	Africa (Ethiopia, Burundi)	Angola (co-leader for Burundi), China, Egypt (co-leader for Ethiopia), France (co-leader for Burundi), Japan, Malaysia, New Zealand, Russian Federation, Senegal, Spain, Ukraine, United Kingdom, United States (co-leader for Burundi), Uruguay, Venezuela (Bolivarian Republic of)	S/2016/55 20 January 2016		S/PV.7615 29 January 2016	Security Council mission
3–9 March 2016	Africa (Guinea-Bissau, Mali, Senegal)	Angola (co-leader for Guinea-Bissau, leader for Senegal), China, Egypt, France (co-leader for Mali), Japan, Malaysia, New Zealand, Russian Federation, Senegal (co-leader for Mali and Guinea-Bissau), Spain, Ukraine, United Kingdom, United States, Uruguay, Venezuela (Bolivarian Republic of)	S/2016/215 7 March 2016	S/2016/511 11 May 2016	S/PV.7647 16 March 2016	Security Council mission

Repertoire of the Practice of the Security Council, 2016–2017

<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting record and date</i>	<i>Item</i>
17–22 May 2016	Africa (Kenya, Somalia, Egypt)	Angola, China, Egypt (leader for Egypt and Kenya, co-leader for Somalia), France, Japan, Malaysia, New Zealand, Russian Federation, Senegal, Spain, Ukraine, United Kingdom (co-leader for Somalia), United States, Uruguay, Venezuela (Bolivarian Republic of)	S/2016/456 18 May 2016		S/PV.7696 25 May 2016	Security Council mission
2–5 September 2016	Africa (South Sudan, Ethiopia)	Angola, China, Egypt, France, Japan, Malaysia, New Zealand, Russian Federation, Senegal (co-leader), Spain, Ukraine, United Kingdom, United States (co-leader), Uruguay, Venezuela (Bolivarian Republic of)	S/2016/757 1 September 2016		No formal meeting took place	
10–14 November 2016	Africa (Democratic Republic of the Congo, Angola)	Angola (co-leader), China, Egypt, France (co-leader), Japan, Malaysia, New Zealand, Russian Federation, Senegal, Spain, Ukraine, United Kingdom, United States, Uruguay, Venezuela (Bolivarian Republic of)	S/2016/948 9 November 2016		S/PV.7819 23 November 2016	Security Council mission
1–7 March 2017	Africa (Cameroon, Chad, Niger, Nigeria)	Bolivia (Plurinational State of), China, Egypt, Ethiopia, France (co-leader), Italy, Japan, Kazakhstan, Russian Federation, Senegal (co-leader), Sweden, Ukraine, United Kingdom (co-leader), United States, Uruguay	S/2017/181 1 March 2017	S/2017/403 5 May 2017	S/PV.7894 9 March 2017	Security Council mission
3–5 May 2017	Latin America (Colombia)	Bolivia (Plurinational State of), China, Egypt, Ethiopia, France, Italy, Japan, Kazakhstan, Russian Federation, Senegal, Sweden, Ukraine, United Kingdom (co-leader), United States, Uruguay (co-leader)	S/2017/363 25 April 2017		S/PV.7941 16 May 2017	Security Council mission
22–24 June 2017	Haiti	Bolivia (Plurinational State of) (leader), China, Egypt, Ethiopia, France, Italy, Japan, Kazakhstan, Russian Federation, Senegal, Sweden, Ukraine, United Kingdom, United States, Uruguay	S/2017/511 15 June 2017		S/PV.7994 30 June 2017	Security Council mission
6–8 September 2017	Africa (Ethiopia)	Bolivia (Plurinational State of), China, Egypt, Ethiopia (leader), France, Italy, Japan, Kazakhstan, Russian Federation, Senegal, Sweden,	S/2017/757 5 September 2017	S/2017/1002 30 November 2017	S/PV.8043 12 September 2017	Security Council mission

<i>Duration</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Report</i>	<i>Meeting record and date</i>	<i>Item</i>
		Ukraine, United Kingdom, United States, Uruguay				
19–22 October 2017	Africa (Mali, Mauritania, Burkina Faso)	Bolivia (Plurinational State of), China, Egypt, Ethiopia (co-leader), France (co-leader), Italy (co-leader), Japan, Kazakhstan, Russian Federation, Senegal, Sweden, Ukraine, United Kingdom, United States, Uruguay	S/2017/871 16 October 2017		S/PV.8077 26 October 2017	Security Council mission

In addition, references to the utility of Security Council missions were made in the context of several open debates on the working methods of the Council. For example, during the Council’s 7703rd meeting, on 31 May 2016, under the item entitled “Implementation of the note by the President of the Security Council ([S/2010/507](#))”, the representative of New Zealand described Council missions as a very valuable tool to advance peace and security objectives and stated that they could also assist the Council in meeting its conflict-prevention responsibilities.¹⁸ At the 7740th meeting, held on 19 July 2016 under the same item, the representative of Ukraine welcomed the initial steps taken in 2010 to introduce formal guidelines with respect to the use of field missions. He expressed his country’s readiness to continue discussions within the Council to further develop and improve provisions on Council missions, including mission planning and decision-making regarding their dispatch, composition, reporting period and form of reporting as well as decision-making with respect to the outcome.¹⁹ The representative of the Republic of Korea highlighted the potential of dispatching field visits of the Peacebuilding Commission to complement the fact-finding missions of the Council.²⁰ At the Council’s 8038th meeting, on 30 August 2017, held under the same item, the representative of Japan pointed out that the revised note of the President of the Security Council on its working methods, dated 30 August 2017, referred for the first time to consideration of joint missions of the Security Council and the Peace and Security Council of the African Union to address conflict situations in Africa.²¹

¹⁸ [S/PV.7703](#), p. 14.

¹⁹ [S/PV.7740](#), p. 5.

²⁰ *Ibid.*, p. 42.

²¹ [S/PV.8038](#), p. 4; see also [S/2017/507](#), para. 122.

B. Investigative and fact-finding functions of the Secretary-General

In its decisions during the period under review, the Council acknowledged the investigative or fact-finding functions of the Secretary-General in connection with seven items on its agenda. The relevant provisions of those decisions are set out in table 3.

In connection with the item entitled “The situation in the Central African Republic,” the Council recalled the submission of the report of the International Commission of Inquiry established pursuant to resolution [2127 \(2013\)](#), and noted with concern its finding that the main parties to the conflict, including ex-Séléka, the anti-balaka and elements from the Armed Forces of the Central African Republic who collaborated with armed groups, had committed serious violations and abuses since 1 January 2013 that might amount to war crimes and crimes against humanity.²² In resolution [2301 \(2016\)](#), acting under Chapter VII of the Charter, the Council decided that the mandate of MINUSCA would include undertaking a mapping of violations of international humanitarian law and of abuses of human rights committed throughout the Central African Republic since 2003 to inform efforts to fight impunity.²³ Following the submission of the mapping report, in resolution [2387 \(2017\)](#), also acting under Chapter VII of the Charter, the Council took note of its content, and called upon the authorities of the Central African Republic to follow up on the recommendations.²⁴

In relation to the item entitled “The situation in Mali,” by resolution [2295 \(2016\)](#), under Chapter VII of the Charter, the Council decided that the mandate of

²² Resolutions [2301 \(2016\)](#), tenth preambular paragraph; and [2387 \(2017\)](#), eighth preambular paragraph.

²³ Resolution [2301 \(2016\)](#), para. 33(b)(i).

²⁴ Resolution [2387 \(2017\)](#), para. 26.

MINUSMA would include support for the implementation of the reconciliation and justice measures of the Agreement on Peace and Reconciliation in Mali of 2015, including with respect to the establishment of an international commission of inquiry, in consultation with the parties.²⁵ In resolution 2364 (2017), the Council noted the lack of progress in the creation and operationalization of the Commission of Inquiry, and expressed concern that this delay risked creating a culture of impunity by allowing human rights abuses and violations to go unaddressed.²⁶

During the period under review, in connection with the item entitled, “The situation in the Middle East”, the Council twice renewed the mandate of the OPCW-United Nations Joint Investigative Mechanism, which was established pursuant to resolution 2235 (2015) to identify individuals, entities, groups or Governments responsible for the use of chemicals as weapons in the Syrian Arab Republic.²⁷ The Joint Investigative Mechanism issued a total of seven reports to the Council detailing the progress of its work.²⁸ At the end of 2017, amid discussions about its performance and working methods, proposals to extend its mandate were not successful, and the mandate expired on 17 November 2017.²⁹ As shown in table 3,

the Council also referred to its work under the item entitled, “Non-proliferation of weapons of mass destruction”.³⁰ Case 1 provides greater detail on the discussions relating to the work of the Joint Investigative Mechanism.

In resolution 2379 (2017), in connection with the item entitled “Threats to international peace and security”, the Council requested the Secretary-General to establish an investigative team, headed by a Special Adviser, to support domestic efforts in Iraq to hold ISIL (Da’esh) accountable by collecting, preserving and storing evidence in Iraq of acts that might amount to war crimes, crimes against humanity and genocide by the terrorist group.³¹ In resolution 2388 (2017), under the item entitled “Maintenance of international peace and security”, the Council invited the Secretary-General to ensure that the work of the Investigative Team was informed by relevant anti-trafficking research and expertise, and that its efforts to collect evidence on trafficking in persons offences were gender-sensitive, victim centred, trauma-informed, rights-based and not prejudicial to the safety and security of victims.³² Case 2 provides further detail on the discussions in the Council concerning the establishment of the Investigative Team.

²⁵ Resolution 2295 (2016), para. 19(a)(iii).

²⁶ Resolution 2364 (2017), sixteenth preambular paragraph.

²⁷ Resolutions 2314 (2016), para. 1; and 2319 (2016), para. 1.

²⁸ S/2016/142, annex; S/2016/530, annex; S/2016/738, annex; S/2016/888, annex; S/2017/131, annex; S/2017/552, annex; and S/2017/904, annex.

²⁹ For more information on the Joint Investigative

Mechanism, see part I, sect. 24, “The situation in the Middle East”, and part IX, sect. III, “Investigative bodies”.

³⁰ Resolution 2325 (2016), sixth preambular paragraph.

³¹ Resolution 2379 (2017), para. 2.

³² Resolutions 2388 (2017), para. 29; and 2396 (2017), thirty-second preambular paragraph.

Table 3

Decisions relating to investigative and/or fact-finding activities by the Secretary-General, 2016–2017

Decision and date

Provision

The situation in the Central African Republic

Resolution
2301 (2016)
26 July 2016

Recalling the submission of the report of the International Commission of Inquiry on the Central African Republic, established pursuant to resolution 2127 (2013), noting with concern its finding that the main parties to the conflict, including ex-Séléka, the anti-balaka and elements from the Armed Forces of the Central African Republic who collaborated with armed groups, have committed violations of international humanitarian law and human rights violations and abuses since 1 January 2013 that may amount to war crimes and crimes against humanity, including ethnic cleansing by elements of the anti-balaka militia (tenth preambular paragraph)

Decides that the mandate of the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic shall include the following immediate priority tasks:

(b) *Promotion and protection of human rights*

...

<i>Decision and date</i>	<i>Provision</i>
Resolution 2387 (2017) 15 November 2017	<p>(i) To monitor, help to investigate and report publicly and to the Security Council on violations of international humanitarian law and on violations and abuses of human rights committed throughout the Central African Republic, including undertaking a mapping of such violations and abuses since 2003 to inform efforts to fight impunity (para. 33 (b) (i))</p> <p>Recalling the submission of the report of the International Commission of Inquiry on the Central African Republic, established by resolution 2127 (2013), noting with concern its finding that the main parties to the conflict, including ex-Séléka, the anti-balaka, and elements from the Armed Forces of the Central African Republic who collaborated with armed groups, have committed violations of international humanitarian law and human rights violations and abuses since 1 January 2013 that may amount to war crimes and crimes against humanity, including ethnic cleansing by elements of the anti-balaka militia (eighth preambular paragraph)</p> <p>Takes note in this regard of the report of the mapping project describing serious violations and abuses of international human rights and violations of international humanitarian law committed within the territory of the Central African Republic between January 2003 and December 2015, and further calls on the authorities of the Central African Republic to follow up on these recommendations (para. 26)</p>
The situation in Mali	
Resolution 2295 (2016) 29 June 2016	<p>Decides that the mandate of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) shall include the following priority tasks:</p> <p>(a) <i>Support to the implementation of the Agreement on Peace and Reconciliation in Mali</i></p> <p>...</p> <p>(iii) To support the implementation of the reconciliation and justice measures of the Agreement, especially in its part V, including with respect to the establishment of an international commission of inquiry, in consultation with the parties, and support the operationalization of the Truth, Justice and Reconciliation Commission (para. 19 (a) (iii))</p>
Resolution 2364 (2017) 29 June 2017	<p>Noting the lack of progress in the creation and operationalization mechanisms to promote reconciliation and justice, including the Commission of Inquiry as well as the Truth, Justice and Reconciliation Commission, and expressing concern that this delay risks creating a culture of impunity by allowing human rights abuses and violations to go unaddressed (sixteenth preambular paragraph)</p> <p>Decides that the mandate of MINUSMA shall include the following priority tasks:</p> <p>(a) <i>Support to the implementation of the Agreement on Peace and Reconciliation in Mali</i></p> <p>...</p> <p>(iii) To support the implementation of the reconciliation and justice measures of the Agreement, especially in its part V, including with respect to the establishment and operations of an international commission of inquiry, in consultation with the parties, and to support the operationalization of the Truth, Justice and Reconciliation Committee (para. 20 (a) (iii))</p>
The situation in the Middle East	
Resolution 2314 (2016) 31 October 2016	<p>Decides to renew the mandate of the Organisation for the Prohibition of Chemical Weapons (OPCW)-United Nations Joint Investigative Mechanism, as set out in resolution 2235 (2015), until 18 November 2016, and expresses its intention to consider a further extension before the expiration of this mandate (para. 1)</p> <p>Reaffirms paragraphs 1 to 4, 6 to 9, 12 and 15 of resolution 2235 (2015), and stresses the need for the full functioning of the Joint Investigative Mechanism during this period (para. 2).</p>
Resolution 2319 (2016) 17 November 2016	<p>Decides to renew the mandate of the OPCW-United Nations Joint Investigative Mechanism, as set out in resolution 2235 (2015), for a further period of one year from the date of adoption of the present resolution, with a possibility of further extension and update by the Security Council if it deems it necessary (para. 1)</p>

Encourages the Joint Investigative Mechanism, where relevant, to consult appropriate United Nations counter-terrorism and non-proliferation bodies, in particular the Committee established pursuant to resolution 1540 (2004) and the Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) concerning Islamic State in Iraq and the Levant (ISIL, also known as Da'esh), Al-Qaida and associated individuals, groups, undertakings and entities, in order to exchange information on non-State actor perpetration, organization, sponsorship or other involvement in use of chemicals as weapons in the Syrian Arab Republic where the OPCW fact-finding mission determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons (para. 4)

Invites the Joint Investigative Mechanism to engage relevant regional States in pursuit of its mandate, including in order to identify to the greatest extent feasible any individuals, entities or groups associated with ISIL (Da'esh) or Al-Nusra Front who were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons in the Syrian Arab Republic where the fact-finding mission determines or has determined that a specific incident in the Syrian Arab Republic involved or likely involved the use of chemicals as weapons, encourages relevant regional States to provide, as appropriate, to the Mechanism information on non-State actors' access to chemical weapons and their components or efforts by non-State actors to develop, acquire, manufacture, possess, transport, transfer or use chemical weapons and their means of delivery that occur under their jurisdiction, including relevant information from national investigations, and underscores the importance of the obligations of States parties under article VII of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction and the full implementation of paragraph 8 of resolution 2235 (2015), including with respect to information pertaining to non-State actors (para. 5)

Recalls article X.8 and X.9 of the Convention allowing any State party to request and receive assistance and protection against the use or threat of use of chemical weapons if it considers that chemical weapons have been used against it, recalls further that such requests, substantiated by relevant information, are transmitted by the Director General of OPCW to the Executive Council of the Organisation and all States parties to the Convention, and invites the Joint Investigative Mechanism to offer its services to OPCW in such circumstances if relevant to effectively fulfilling the mandate of the Mechanism (para. 6)

Reaffirms paragraph 7 of resolution 2235 (2015), including with respect to the ability of the Joint Investigative Mechanism to examine additional information and evidence that was not obtained or prepared by the fact-finding mission but that is related to the mandate of the Mechanism, and stresses the need for its full implementation, in particular the provision of information requested by the Joint Investigative Mechanism and the making available of witnesses (para. 7)

Requests the Joint Investigative Mechanism to complete a report within 90 days of adoption of the present resolution, and complete subsequent reports as appropriate thereafter, and requests the Mechanism to present the report, or reports, to the Security Council and inform the Executive Council, and invites the Mechanism to brief, as appropriate, the Committee established pursuant to resolution 1540 (2004), the Committee pursuant to resolutions 1267 (1999), 1989 (2011) and 2253 (2015) or other relevant counter-terrorism or non-proliferation bodies on relevant results of its work (para. 9)

Maintenance of international peace and security

<p>Resolution 2388 (2017) 21 November 2017</p>	<p>Invites the Secretary-General to ensure that the work of the Investigative Team established pursuant to resolution 2379 (2017) is informed by relevant anti-trafficking research and expertise, and that its efforts to collect evidence on trafficking in persons offences are gender-sensitive, victim centred, trauma-informed, rights-based and not prejudicial to the safety and security of victims (para. 29)</p>
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Non-proliferation of weapons of mass destruction

<p>Resolution 2325 (2016) 15 December 2016</p>	<p>Recalling the decision in resolutions 2118 (2013) of 27 September 2013 and 2298 (2016) of 22 July 2016 that Member States shall immediately inform the Security Council of any violation of resolution 1540 (2004), and recalling also the invitation in resolution 2319 (2016) for the Joint</p>
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Decision and date

Provision

Investigative Mechanism of the Organization for the Prohibition of Chemical Weapons and the United Nations, to brief, as appropriate, the Committee established pursuant to resolution [1540 \(2004\)](#) on relevant results of its work (sixth preambular paragraph)

Threats to international peace and security

Resolution
[2379 \(2017\)](#)

21 September 2017

Requests the Secretary-General to establish an investigative team, headed by a Special Adviser, to support domestic efforts to hold ISIL (Da'esh) accountable by collecting, preserving and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da'esh) in Iraq, to the highest possible standards, which should be addressed by the terms of reference referred to in paragraph 4, to ensure the broadest possible use before national courts, and complementing investigations being carried out by the Iraqi authorities, or investigations carried out by authorities in third countries at their request (para. 2)

Requests the Secretary-General to submit to the Security Council, for its approval, within 60 days, terms of reference acceptable to the Government of Iraq in order to ensure the Team can fulfil its mandate, and consistent with this resolution, in particular paragraph 6, regarding the operation of the Investigative Team in Iraq (para. 4)

Underlines that another Member State in whose territory ISIL (Da'esh) has committed acts that may amount to war crimes, crimes against humanity, or genocide, may request the Team to collect evidence of such acts, but only with the approval of the Security Council, which may request the Secretary-General to submit separate terms of reference with regard to the operation of the Team in that State (para. 11)

Threats to international peace and security caused by terrorist acts

Resolution
[2396 \(2017\)](#)

21 December 2017

Reaffirming its request in paragraph 2 of resolution [2379 \(2017\)](#) to establish an investigative team, to be headed by a Special Adviser, to support domestic efforts to hold ISIL (Da'esh) accountable by collecting, preserving and storing evidence in Iraq of acts that may amount to war crimes, crimes against humanity and genocide committed by the terrorist group ISIL (Da'esh) in Iraq, and recalling its invitation in paragraph 29 of resolution [2388 \(2017\)](#) to the Secretary-General to ensure that the work of the Investigative Team is informed by relevant anti-trafficking research and expertise and that its efforts to collect evidence on trafficking in persons offences are gender-sensitive, victim centred, trauma-informed, rights-based and not prejudicial to the safety and security of victims (thirty-second preambular paragraph)

During the reporting period, the Secretary-General undertook several other investigative actions, upon the request of the Council and in his capacity as Chief Administrative Officer of the Organization.

In a letter dated 19 April 2016, following an attack on the United Nations protection of civilians site in Malakal, South Sudan, on 17 and 18 February 2016, the President of the Council informed the Secretary-General that the issue of the ongoing challenges facing the sites for the protection of civilians established by the United Nations Mission in South Sudan (UNMISS) had been brought to the attention of the Council. The President further informed the Secretary-General that Council members had requested the Department of Peacekeeping Operations to provide a paper containing an analysis of the challenges inherent to the sites, the lessons learned since their establishment and the continuing implications of the sites for the Mission and its mandate, and requested that the Secretary-General

provide that information to coincide with the conclusion of the work of the board of inquiry into the attack.³³

In the aftermath of the violence and the assaults on civilians and United Nations staff in Juba, South Sudan, from 8 to 25 July 2016, the Secretary-General ordered an independent special investigation to review the actions of UNMISS in response to both the sexual violence and violence against civilians in Juba, and the Terrain Camp incident.³⁴ In a letter dated 1 November 2016, the Secretary-General submitted to the Council a summary of the investigation highlighting the key findings of the report, together with a list of recommendations to the parties concerned that pointed out issues specific to UNMISS and the systemic issues that the Mission would have to address to implement

³³ [S/2016/359](#).

³⁴ [S/2016/924](#).

the civilian protection mandate more efficiently.³⁵ On 17 April 2017, the Secretary-General submitted to the Council an update summarizing the overall achievements of UNMISS and the Secretariat in implementing the recommendations of the independent special investigation.³⁶

In connection with the situation in Liberia, on 4 April 2017 the Secretary-General submitted a peacebuilding plan to direct the role of the United Nations system and other relevant partners in supporting the transition of Liberia as requested by the Council in resolution [2333 \(2016\)](#).³⁷ As part of the plan, it was proposed that, in collaboration with the Government of Liberia, the United Nations system and international partners, the Economic Community of West African States (ECOWAS) would, *inter alia*, deploy a fact-finding team to the country to help with policy and strategic advice to contribute to the conduct of an inclusive and peaceful election in 2017.³⁸ In a presidential statement issued on 24 July 2017, the Council welcomed the submission of the peacebuilding plan.³⁹

In his capacity as the Chief Administrative Officer of the United Nations, the Secretary-General continued to establish boards of inquiry to review and investigate incidents related to attacks on United Nations personnel or premises. In several of these instances, he reported the findings of the boards of inquiry to the Council. For example, following the 19 September 2016 attack on a United Nations-Syrian Arab Red Crescent convoy at Urem al-Kubra, Syrian Arab Republic, which resulted in the death of at least 10 persons, the injury of at least 22 persons and the destruction of vehicles and property, the Secretary-General, in a letter dated 21 December 2016, transmitted to the Council a detailed summary of the report of the United Nations Headquarters Board of Inquiry, established on 21 October 2016 to review and investigate the incident. The Board submitted its report to the Secretary-General on 16 December 2016.⁴⁰

Following the deaths in March 2017 of two members of the Group of Experts on the Democratic Republic of the Congo, a United Nations Security Management System Board of Inquiry was convened to establish the facts of the incident, to evaluate the United Nations response to it and to provide recommendations on actions that should be taken to

avoid such incidents in the future. The Board of Inquiry was convened by the Under-Secretary-General for Safety and Security, in consultation with the Executive Office of the Secretary-General and the Under-Secretaries-General for Political and Legal Affairs, on 24 April 2017. It submitted its final report on 2 August 2017. In a letter dated 15 August 2017, the Secretary-General transmitted to the Council a summary of the report, which provided a synopsis of the findings and recommendations contained therein.⁴¹ In a letter dated 31 October 2017, the Secretary-General informed the Council of his intention, as agreed with the Government of the Democratic Republic of the Congo, to deploy a team to assist with the national investigation into the incident and to report periodically to the Council on the work of the team.⁴²

Case 1 The situation in the Middle East

At its 7815th meeting, held on 17 November 2016 under the item entitled “The situation in the Middle East”, the Council unanimously adopted resolution [2319 \(2016\)](#), in which it renewed for a period of one year the mandate of the OPCW-United Nations Joint Investigative Mechanism, as established under resolution [2235 \(2015\)](#), to identify individuals, entities, groups or Governments that were perpetrators, organizers, sponsors or otherwise involved in the use of chemicals as weapons in the Syrian Arab Republic.⁴³ In the explanation of their votes, some Council members noted the importance of the Joint Investigative Mechanism in identifying those involved in the use of chemical weapons, its deterrent effect on the use of such weapons and the need for the Mechanism to continue its work.⁴⁴ Removing the threat of chemical weapons, according to the representative of Ukraine, was an “essential element in creating proper conditions for de-escalating tensions on the ground, tackling extremism and reaching a sustainable political solution to the crisis”.⁴⁵ The representative of Japan stated that by renewing the mandate of the Mechanism, the Council was sending a strong and clear message to those responsible for the use of

³⁵ *Ibid.*, annex.

³⁶ [S/2017/328](#).

³⁷ [S/2017/282](#), annex.

³⁸ *Ibid.*, para. 63 (b).

³⁹ [S/PRST/2017/11](#).

⁴⁰ [S/2016/1093](#), annex.

⁴¹ [S/2017/713](#), annex.

⁴² [S/2017/917](#).

⁴³ [S/PV.7815](#), p. 2. The Council, by resolution [2314 \(2016\)](#) of 31 October 2016, had previously renewed the mandate of the OPCW-United Nations Joint Investigative Mechanism until 18 November 2016. See [S/PV.7798](#), p. 2.

⁴⁴ [S/PV.7815](#), p. 3 (United States); p. 5 (France); and p. 6 (Spain).

⁴⁵ *Ibid.*, p. 6.

chemical weapons in the Syrian Arab Republic.⁴⁶ The representative of the Russian Federation reiterated his country's scepticism regarding the conclusions of the Mechanism's reports and the modalities of its work, and stated that his delegation trusted that the members of the Mechanism's team would continue to remember their "own responsibility and ensure impartial, objective work".⁴⁷ The representative of the People's Republic of China called upon the Joint Investigative Mechanism to respect the sovereignty of the countries concerned and pay more attention to the use of chemical weapons by non-State actors and terrorist groups.⁴⁸

At the 7893rd meeting, held on 28 February 2017, a draft resolution submitted by 42 Member States,⁴⁹ which would have provided for the imposition of sanctions measures under Chapter VII of the Charter with respect to individuals and entities found responsible for the use of chemical weapons in the Syrian Arab Republic, was not adopted owing to the negative vote of two permanent members.⁵⁰ In their statements before and after the vote, several Council members stated that the responsibility of the Government of the Syrian Arab Republic and ISIL (Da'esh) for the use of chemical weapons had been established by the Joint Investigative Mechanism.⁵¹ They underlined the duty of the Council to hold those responsible accountable for their actions.⁵² The representative of the Russian Federation disagreed and argued that the conclusions of the Mechanism in its third and fourth reports were "not based on convincing facts on which any sort of charges could be founded" and questioned the sources of its information and geographical makeup of its personnel.⁵³ He added that the Russian Federation was seeing a clear trend of bringing powerful political pressure to bear on the

Mechanism and pre-programming the results of the investigation, as a result of which it was being "forced" to set aside the principles of objectivity, independence and impartiality which were set forth in the resolution that established it.⁵⁴ While also calling for objective and fair investigation criteria, several other Council members were of the view that the draft resolution constituted a premature judgment on the reports of the Mechanism.⁵⁵ The representative of the Plurinational State of Bolivia expressed concern about the proposed sanctions measures. He questioned the process for the elaboration of the list of individuals and entities that would have been subject to the measures, stating that it had not been compiled by the Mechanism and that it therefore violated the right to due process.⁵⁶

At the Council's 8090th meeting, on 7 November 2017, the Under-Secretary-General and High Representative for Disarmament and the Head of the OPCW-United Nations Joint Investigative Mechanism briefed the Council on the work of the Mechanism and on that of the OPCW fact-finding mission established to determine the existence of a chemical weapons attack.⁵⁷ The Under-Secretary-General described the most recent findings of the fact-finding mission in connection with the alleged chemical attack at Ltamenah on 30 March 2017 as deeply concerning, all the more so in view of the expiration of the mandate of the Joint Investigative Mechanism on 16 November 2017.⁵⁸ The Head of the Joint Investigative Mechanism noted that according to the seventh report, submitted on 26 October 2017,⁵⁹ there was sufficient evidence of a "credible and reliable nature" to conclude that chemical weapons were used by ISIL (Da'esh) at Umm Hawsh on 15 and 16 September 2016 and by the Syrian Arab Republic at Khan Shaykun on 4 April 2017.⁶⁰ He elaborated on the methodology used by the Mechanism in reaching its conclusions, and concluded by underlining the importance for the international community of ensuring that it had effective ways to respond rapidly to any future use of chemical weapons, including acts of chemical terrorism.⁶¹

In the discussion that ensued, several Council members stated that the Joint Investigative Mechanism had conducted its work in accordance with its terms of reference, and called upon the Council to renew its

⁴⁶ *Ibid.*, p. 7.

⁴⁷ *Ibid.*, p. 4.

⁴⁸ *Ibid.*, p. 5 (China).

⁴⁹ Draft resolution (S/2017/172) submitted by Albania, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Qatar, Romania, Saudi Arabia, Slovakia, Spain, Sweden, Turkey, Ukraine, United Arab Emirates, United Kingdom and United States.

⁵⁰ S/PV.7893, p. 4.

⁵¹ *Ibid.*, p. 3 (France); pp. 4–5 (United States); p. 6 (United Kingdom); p. 9 (Uruguay); and p. 14 (Sweden).

⁵² *Ibid.*, p. 3 (France); pp. 4–5 (United States); p. 6 (United Kingdom); pp. 8–9 (Japan); p. 9 (Uruguay); p. 10 (Italy); and p. 14 (Sweden).

⁵³ *Ibid.*, p. 7.

⁵⁴ *Ibid.*, pp. 7–8.

⁵⁵ *Ibid.*, p. 9 (China); p. 11 (Plurinational State of Bolivia); p. 12 (Egypt); and p. 13 (Ethiopia).

⁵⁶ *Ibid.*, p. 11.

⁵⁷ S/PV.8090, pp. 2–7.

⁵⁸ *Ibid.*, p. 3.

⁵⁹ S/2017/904, annex.

⁶⁰ S/PV.8090, p. 3.

⁶¹ *Ibid.* pp. 3–7.

mandate to ensure accountability for and prevent future use of chemical weapons in the Syrian Arab Republic.⁶² The representative of the United Kingdom maintained that the Mechanism had built its case on the totality of evidence available to it, as “any professional, rational investigation would do”.⁶³ The representative of the Russian Federation questioned the methodologies of the Mechanism and the OPCW fact-finding mission, citing “systemic deficiencies” and stating that their mandates had been implemented selectively, without the use of the whole range of methods and means based on the standard of the Chemical Weapons Convention, including witness interviews and a site visit. The result, he stated, was a “series of gross errors” in the report of the Mechanism. He also expressed the view that, without comprehensive changes in its working methods, the Mechanism would not achieve its intended goal of closing a large gap in international tools used to address such issues as investigating cases of chemical terrorism and being a preventive mechanism aimed at deterrence.⁶⁴ While expressing overall support for the Mechanism, several other Council members also pointed to inconsistencies in the report’s conclusions and highlighted the need for improvement in its methodology in the future.⁶⁵

The Council continued to discuss the renewal of the mandate of the Joint Investigative Mechanism, failing to adopt two draft resolutions at the 8105th meeting, held on 16 November 2017, and a third at the 8107th meeting, held on 17 November 2017, owing to negative votes cast by permanent members of the Council.⁶⁶ In a letter dated 27 December 2017, transmitting to the Council the fifty-first monthly report of the Director General of OPCW, submitted pursuant to paragraph 12 of resolution 2118 (2013), the Secretary-General noted that, with the end of the mandate of the Joint Investigative Mechanism, there was now a gap in collective efforts to identify those responsible for the use of chemical weapons. He therefore reiterated his call upon the Council to give all

due attention to the ongoing reports of the use of chemical weapons in the Syrian Arab Republic to preclude any impression that such weapons may be used without consequence.⁶⁷

Case 2 Threats to international peace and security

On 21 September 2017, at its 8052nd meeting, held at the ministerial level under the item entitled “Threats to international peace and security”, the Council adopted a resolution sponsored by 47 Member States,⁶⁸ in which the Council requested the Secretary-General to establish an investigative team to support domestic efforts to hold ISIL (Da’esh) accountable for war crimes, crimes against humanity and genocide in Iraq.⁶⁹ In the explanation of his vote during the high-level meeting, the representative of the United Kingdom described the resolution as a vital step in bringing ISIL (Da’esh) to justice and, in doing so, also in “seeking to heal the sectarian divides that Da’esh has exploited and enflamed”.⁷⁰ The representative of Sweden described the resolution as an example of how the Council could take action in support of accountability, and that accountability was critical to delivering on the Council’s aims of reconciliation and sustaining peace. She welcomed the global advocacy role of the Special Adviser established under the resolution, as well as the fact that other Member States could request assistance from the team with the approval of the Council.⁷¹ Other representatives highlighted the importance of the decision in the context of international efforts to combat terrorism.⁷² The representatives of France and Sweden expressed the position that the investigative team should not contribute to trials that may lead to capital punishment.⁷³

A number of Council members emphasized the need for such international investigative mechanisms

⁶² Ibid., p. 8 (United States); p. 9 (Ukraine); p. 10 (France); p. 12 (Japan); p. 14 (Uruguay); p. 18 (United Kingdom); and p. 22 (Sweden).

⁶³ Ibid., p. 18.

⁶⁴ Ibid., pp. 14, 15 and 17.

⁶⁵ Ibid., p. 11 (Egypt); p. 12–13 (Kazakhstan); p. 19 (China); p. 20 (Plurinational State of Bolivia); and p. 21 (Ethiopia).

⁶⁶ S/PV.8105, pp. 3 and 19; and S/PV.8107, p. 2. See also draft resolution submitted by France, Italy, Japan, Sweden, Ukraine, United Kingdom and United States (S/2017/962); draft resolution submitted by Bolivia (Plurinational State of) (S/2017/968); and draft resolution submitted by Japan (S/2017/970).

⁶⁷ S/2017/1119.

⁶⁸ Australia, Austria, Bahrain, Belgium, Bulgaria, Cambodia, Canada, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Estonia, Ethiopia, Finland, France, Germany, Hungary, Iceland, Iraq, Israel, Italy, Japan, Kazakhstan, Latvia, Lithuania, Luxembourg, Morocco, Netherlands, Nigeria, Norway, Oman, Peru, Poland, Qatar, Saudi Arabia, Senegal, Slovakia, Slovenia, Spain, Sweden, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States and Uruguay.

⁶⁹ Resolution 2379 (2017), para. 2.

⁷⁰ S/PV.8052, pp. 2–3.

⁷¹ Ibid., p. 4.

⁷² Ibid., p. 5 (Kazakhstan); p. 8 (China); p. 10 (Uruguay); and p. 11 (Egypt).

⁷³ Ibid., p. 4 (Sweden); and p. 7 (France).

to fully respect the sovereignty of Member States.⁷⁴ The representative of the Russian Federation added that resolution 2379 (2017) did not undermine the tenet that the primary responsibility to bring terrorists to justice rested with States and did not create any new precedents in that regard.⁷⁵ The representative of Iraq expressed the view that the resolution fully respected the sovereignty of his country and that it was founded on three pillars, namely, providing international assistance in evidence collection, in line with robust international legal standards; the sharing of international legal expertise with Iraqi experts and judges; and Iraq's readiness to assist other countries whose nationals might be members of the terrorist group by sharing evidence with them.⁷⁶

In letters dated 20 November and 13 December 2017, the Secretary-General requested the Council to extend the deadline for the submission of the terms of

⁷⁴ Ibid., p. 6 (Russian Federation); p. 8 (China); p. 9 (Plurinational State of Bolivia); p. 11 (Egypt); and p. 12 (Ethiopia).

⁷⁵ Ibid., p. 6.

⁷⁶ Ibid., p. 13.

reference for the investigative team in order to reach a final satisfactory outcome of the discussions with the Government of Iraq concerning the sharing of evidence by the team in respect of any criminal proceedings in which capital punishment could be imposed or carried out.⁷⁷

C. Other instances of investigative functions acknowledged by the Security Council

During the period under review, in its decisions, the Council also recognized the investigative functions performed by the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Human Rights Council and OPCW in relation to the situations in Burundi, the Central African Republic, Côte d'Ivoire, the Democratic Republic of the Congo, Myanmar and the Syrian Arab Republic. The provisions of decisions of the Council referring to such functions are set out in table 4.

⁷⁷ S/2017/989 and S/2017/1072.

Table 4
Decisions relating to investigation and inquiry by United Nations bodies and related organizations, 2016–2017

<i>Decision and date</i>	<i>Provision</i>
The situation in Burundi	
Resolution 2279 (2016) 1 April 2016	Noting with satisfaction the cooperation and access to some political prisoners provided by the Burundian authorities to the independent experts of the Office of the High Commissioner on Human Rights (OHCHR) on the ground (twelfth preambular paragraph)
Resolution 2303 (2016) 29 July 2016	Noting further the visits to Burundi from 1 to 8 March and from 13 to 17 June 2016 of the experts of the United Nations Independent Investigation on Burundi requested by the Human Rights Council in its resolution of 17 December 2015 (ninth preambular paragraph)
S/PRST/2017/13 2 August 2017	...The Security Council further calls on the Government of Burundi to cooperate with the Commission of Inquiry on Burundi mandated under Human Rights Council resolution 33/24 (twelfth paragraph)
The situation in the Central African Republic	
Resolution 2301 (2016) 26 July 2016	Stressing the urgent and imperative need to end impunity in the Central African Republic and to bring to justice perpetrators of violations of international humanitarian law and of abuses and violations of human rights, underlining in this regard the need to bolster national accountability mechanisms, including the Special Criminal Court, and underlining also its support for the work of the Independent Expert of the Human Rights Council on human rights in the Central African Republic (twelfth preambular paragraph)

<i>Decision and date</i>	<i>Provision</i>
Resolution 2387 (2017) 15 November 2017	Stressing the urgent and imperative need to end impunity in the Central African Republic and to bring to justice perpetrators of violations of international humanitarian law and of abuses and violations of human rights, welcoming in this regard the progressive operationalization of the Special Criminal Court, and underlining the need to bolster the other national accountability mechanisms as well as the support for the work of the Independent Expert of the Human Rights Council on human rights in the Central African Republic (eleventh preambular paragraph)

The situation in Côte d'Ivoire

Resolution 2284 (2016) 28 April 2016	Decides that until 30 April 2017, the mandate of the United Nations Operation in Côte d'Ivoire shall be the following: ... (d) Support for compliance with international humanitarian and human rights law To contribute to the promotion and protection of human rights in Côte d'Ivoire, including through early warning activities and in close coordination with the Independent Expert established pursuant to Human Rights Council resolution 17/21 of 17 June 2011, and to monitor, help to investigate and report to the Security Council abuses and violations of human rights and violations of international humanitarian law in order to prevent such abuses and violations and contribute to ending impunity (para. 15 (d))
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The situation concerning the Democratic Republic of the Congo

Resolution 2348 (2017) 31 March 2017	Condemns the violence witnessed in the Kasai region over recent months, expresses grave concern at serious violations of international humanitarian law committed by local militia in the region, including those involving attacks on security forces of the Democratic Republic of the Congo and symbols of State authority, recruitment and use of children in violation of applicable international law, and further expresses serious concerns at the recent reports of mass graves and of killings of civilians by members of the security forces of the Democratic Republic of the Congo, all of which might constitute war crimes under international law, welcomes the announcement by the Government of the Democratic Republic of the Congo that it will conduct investigations into violations of international humanitarian law and violations or abuses of human rights in the Kasais jointly with the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and the United Nations Joint Human Rights Office, and in collaboration with the African Union, in order to bring to justice and hold accountable all those responsible, and looks forward to their results (para. 10)
Resolution 2360 (2017) 21 June 2017	Reiterating the importance and urgency of prompt and transparent investigations into violations of international humanitarian law and violations and abuses of human rights in the Kasai region, further reiterating its intention to closely monitor progress of the investigations into these violations, including the disproportionate use of force, which will be conducted jointly by the Government of the Democratic Republic of the Congo, MONUSCO and the United Nations Joint Human Rights Office, and in collaboration with the African Union, as announced by the Government of the Democratic Republic of the Congo, in order to bring to justice and hold accountable all those responsible, and looking forward to their results (eleventh preambular paragraph)
S/PRST/2017/12 26 July 2017	The Security Council reiterates the importance and urgency of prompt and transparent investigations into violations of international humanitarian law and violations or abuses of human rights in the Kasai region. It welcomes the dispatch of a team of international experts to work in cooperation with the Government of the Democratic Republic of the Congo. The Council reiterates its intention to closely monitor progress of the investigations into these violations and abuses, including the joint investigations by the Government of the Democratic Republic of the Congo, MONUSCO and the United Nations Joint Human Rights Office, in order to bring to justice and hold accountable all those responsible, and it looks forward to their report (seventh paragraph)

The situation in the Middle East

Resolution 2314 (2016) 31 October 2016	Noting that additional allegations of chemical weapons use in the Syrian Arab Republic are being investigated by the fact-finding mission of OPCW (second preambular paragraph)
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<i>Decision and date</i>	<i>Provision</i>
Resolution 2319 (2016) 17 November 2016	Noting that additional allegations of chemical weapons use in the Syrian Arab Republic are being investigated by the fact-finding mission of OPCW (second preambular paragraph)
The situation in Myanmar	
S/PRST/2017/22 6 November 2017	The Council stresses the importance of undertaking transparent investigations into alleged human rights abuses and violations, including sexual violence and abuse and violence against children, and of holding to account all those responsible for such acts to provide justice for victims (seventeenth paragraph) In this regard, the Council calls upon the Government of Myanmar to cooperate with all relevant United Nations bodies, mechanisms and instruments, in particular the Office of the United Nations High Commissioner for Human Rights, and to continue further consultations on opening a country office of OHCHR (eighteenth paragraph)

During the meetings of the Council and in some of the written communications, Council members made reference to the investigative function of the Human Rights Council and the Office of the High Commissioner for Human Rights and the outcome of their investigations. For example, speakers before the Council acknowledged the work of the United Nations independent investigation on Burundi⁷⁸ and of the Independent International Commission of Inquiry on the Syrian Arab Republic, both of which were established by the Human Rights Council.⁷⁹ Cases 3 and 4 illustrate the discussions of the Council concerning the investigative work of the Human Rights Council and OHCHR in relation to the situation in the Democratic People's Republic of Korea (case 3) and the situation in Myanmar (case 4).

In a letter dated 27 April 2017, following an Arria-formula meeting with the Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic on 21 April 2017, France and the United Kingdom drew the attention of the Council to the most recent report of the Commission, issued on 10 March 2017, presenting what the letter described as a “detailed and sobering account of widespread and systematic human rights violations that have been and are being committed”.⁸⁰

In a note verbale dated 18 April 2017, Ukraine, in the light of the briefing held at a meeting of the Council on the same date, under the item entitled

“Maintenance of international peace and security” in connection with human rights and prevention of armed conflict, recalled that its Government had invited a human rights monitoring mission to the country as “an immediate response to Russian aggression to prevent massive human rights violations”. In the note, Ukraine referred to the reports on the human rights situation released by the monitoring mission of OHCHR,⁸¹ and expressed the belief that consideration of human rights issues was an integral part of the Council's efforts in conflict prevention and resolution.⁸²

Case 3 The situation in the Democratic People's Republic of Korea

The Council discussed the human rights situation in the Democratic People's Republic of Korea at its 7830th meeting, on 9 December 2016, held under the item entitled “The situation in the Democratic People's Republic of Korea”. The Council had before it a letter submitted by nine Council members.⁸³ Following the adoption of the provisional agenda, the Deputy Secretary-General stated that the recommendations of the commission of inquiry of the Human Rights Council, contained in its report of February 2014, were instrumental in reframing the efforts of the United Nations to improve the country's human rights

⁷⁸ [S/PV.7664](#), p. 5 (Ukraine); [S/PV.7752](#), p. 7 (United States); and [S/PV.8013](#), p. 6 (Uruguay).

⁷⁹ [S/PV.7673](#), Resumption 1, p. 2 (Brazil); [S/PV.7795](#); p. 13 (France); [S/PV.7915](#); p. 12 (Sweden); [S/PV.7919](#), p. 15 (Sweden); [S/PV.7931](#), p. 9 (Senegal); and p. 10 (Uruguay); [S/PV.7955](#), p. 12 (Senegal); [S/PV.8058](#), p. 10 (United States); and [S/PV.8105](#), p. 4 (United States).

⁸⁰ [S/2017/372](#).

⁸¹ Available at www.ohchr.org/EN/Countries/ENACARRegion/Pages/UARReports.aspx.

⁸² [S/2017/334](#).

⁸³ Letter dated 1 December 2016 from the Permanent Representatives of France, Japan, Malaysia, New Zealand, Spain, Ukraine, the United Kingdom, the United States and Uruguay addressed to the President of the Security Council ([S/2016/1034](#)). For more information on the discussion concerning the adoption of the agenda, see part II, sect. II.C, case 2.

situation.⁸⁴ He added that this process had been carried further by the adoption of resolution [2321 \(2016\)](#), in which the Council requested the Government of the Democratic People’s Republic of Korea to respect and ensure the “welfare and inherent dignity” of people in its territory.⁸⁵ In his remarks, the Assistant Secretary-General for Human Rights stated that accountability was vital and that he hoped the Council would remain seized of the matter. He mentioned that the General Assembly had again encouraged the Security Council to take appropriate action, including through consideration of a referral of the situation in the Democratic People’s Republic of Korea to the International Criminal Court.⁸⁶

Citing a lack of overall progress since the publication of the report in 2014, several Council members underscored the importance of holding a Council meeting to discuss the human rights situation in the Democratic People’s Republic of Korea.⁸⁷ The representative of Japan stated that there was a clear linkage between the human rights violations in the Democratic People’s Republic of Korea and the instability of the region.⁸⁸ The representative of Ukraine expressed his country’s strong support for the conclusions and recommendations of the commission of inquiry and for the establishment of the Office of the High Commissioner for Human Rights in Seoul, Republic of Korea one year earlier to monitor and report on the situation.⁸⁹ The representative of New Zealand welcomed the appointment by the Human Rights Council of a new Special Rapporteur on the situation of human rights.⁹⁰ The representative of the United States stated that the Council had an important role to play by, *inter alia*, considering the recommendation by the commission of inquiry that the situation in the Democratic People’s Republic of Korea be referred to the International Criminal Court.⁹¹ In contrast, the representatives of China, Egypt, the Russian Federation and the Bolivarian Republic of Venezuela expressed disagreement with the decision to hold the meeting, noting that the issue of human rights in the Democratic People’s Republic of Korea did not fall within the Council’s purview.⁹²

At its 8130th meeting, on 11 December 2017, the Council, having before it a letter submitted by nine Council members,⁹³ again considered the situation of human rights in the Democratic People’s Republic of Korea. Several of them emphasized that the recommendations of the commission of inquiry remained pertinent and needed to be implemented.⁹⁴ The representative of Senegal encouraged the Democratic People’s Republic of Korea to better cooperate with the relevant mechanisms on the promotion of human rights, including the commission of inquiry.⁹⁵ The representative of the United Kingdom deplored the lack of action on the report, and called upon the Democratic People’s Republic of Korea to allow human rights actors immediate and unhindered access to the country.⁹⁶ The representative of Japan cited the commission’s report, in which it stated that the Democratic People’s Republic of Korea had engaged in the abduction of foreign nationals. He stated that abduction was a grave issue and posed a threat to international peace and security.⁹⁷ The representative of Egypt, citing his country’s commitment to the principles of the Charter, including sovereign equality of Member States and non-interference in their internal affairs, expressed the view that the Council was not the relevant international forum to address the internal human rights situation in countries, unless the matter concerned acts of genocide or ethnic cleansing, which had a direct impact on international peace and security.⁹⁸ The representative of Kazakhstan opined that the Human Rights Council was a more appropriate platform to discuss country-specific human rights issues. He said that such issues must be seen in an impartial and objective way, in keeping with the accepted principles of international law, and should be realized through diplomacy, mediation, inclusive dialogue and capacity-building.⁹⁹ The representative of Ethiopia, in addition to expressing serious concern about the human rights situation in the Democratic People’s Republic of Korea, stated that the Council should devote all its time and energy to finding a peaceful and diplomatic

(Bolivarian Republic of Venezuela); and p. 13 (Egypt).

⁹³ Letter dated 1 December 2017 from the Permanent Representatives of France, Italy, Japan, Senegal, Sweden, Ukraine, the United Kingdom, the United States and Uruguay addressed to the President of the Security Council ([S/2017/1006](#)).

⁹⁴ [S/PV.8130](#), p. 10 (United States); p. 10 (France); p. 12 (Sweden); and p. 17 (Italy).

⁹⁵ *Ibid.*, p. 13.

⁹⁶ *Ibid.*, p. 14.

⁹⁷ *Ibid.*, p. 19.

⁹⁸ *Ibid.*, p. 3.

⁹⁹ *Ibid.*, p. 18.

⁸⁴ [S/PV.7830](#), p. 5. See also [A/HRC/25/63](#).

⁸⁵ [S/PV.7830](#), p. 5.

⁸⁶ *Ibid.*, p. 8.

⁸⁷ *Ibid.*, pp. 2 and 13–15 (United States); p. 8 (Japan); p. 9 (United Kingdom); pp. 11–12 (France); and p. 20 (Spain).

⁸⁸ *Ibid.*, p. 8.

⁸⁹ *Ibid.*, p. 11.

⁹⁰ *Ibid.*, p. 17.

⁹¹ *Ibid.*, p. 15.

⁹² *Ibid.*, p. 2 (China); p. 3 (Russian Federation); p. 4

solution to the situation on the Korean peninsula through dialogue and negotiation.¹⁰⁰

Case 4

The situation in Myanmar

On 28 September 2017, at its 8060th meeting, the Secretary-General briefed the Council on the crisis in Myanmar following the escalation of fighting in northern Rakhine state in August 2017, and underscored that there was a clear need to ensure accountability for the perpetrators of human rights violations, to curb violence and prevent future abuses.¹⁰¹ Several Council members urged the Government of Myanmar to cooperate with and provide full access to the independent international fact-finding mission, established by the Human Rights Council on 3 April 2017 to investigate human rights abuses and violations in Myanmar, and in Rakhine state in particular.¹⁰² The representative of Italy suggested that the fact-finding mission, in cooperation with the Special Rapporteur on the situation of human rights in Myanmar, could complement Government efforts by exhaustively and impartially assessing the situation and facilitating reconciliation.¹⁰³

¹⁰⁰ Ibid., pp. 4–5.

¹⁰¹ S/PV.8060, p. 4.

¹⁰² Ibid., p. 5 (United Kingdom); p. 11 (Sweden); p. 12 (France); pp. 12–13 (Kazakhstan); and p. 18 (Uruguay); see also Human Rights Council resolution 34/22.

¹⁰³ S/PV.8060, p. 17.

At the 8133rd meeting, on 12 December 2017, the representative of the United States deplored the lack of any concrete action to hold accountable those responsible for the atrocities, and stated that allowing full access for the United Nations fact-finding mission to gather information and evidence on the ground was vital to accountability and a solution to the crisis.¹⁰⁴ The representative of France stated that incitement to hatred was designed to dehumanize communities such as the Rohingya and to continue to fuel the root causes of violence. He underlined the need to establish serious measures to enable the investigation of violations and the prosecution of the perpetrators to put an end to the atmosphere of impunity.¹⁰⁵ The representative of Bangladesh, participating under rule 37 of the provisional rules of procedure, pointed out that Myanmar continued to deny access to the fact-finding mission even after the mission had put forward a constructive proposal for gathering a group of interlocutors from concerned entities of the Government to engage with them in a transparent manner.¹⁰⁶ The representative of Ethiopia recognized the critical need to investigate allegations of sexual violence committed in Rakhine State and welcomed the planned visit to Myanmar by the Special Representative of the Secretary-General on sexual violence in conflict.¹⁰⁷

¹⁰⁴ S/PV.8133, p. 8.

¹⁰⁵ Ibid., p. 14.

¹⁰⁶ Ibid., p. 23.

¹⁰⁷ Ibid., p. 13.

III. Decisions of the Security Council concerning the 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 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.

Note

Article 33 (1) of the Charter of the United Nations expressly provides the framework for parties to settle their disputes by peaceful means. According to Article 33 (2) of the Charter, the Security Council shall call on the parties to settle their disputes by such peaceful means as provided for in Article 33 (1). The Council may recommend appropriate procedures or methods of adjustment for the settlement of disputes under Article 36 (1). According to Article 36 (2) of the Charter, the Council should take into consideration procedures for the settlement of the dispute already adopted by the parties. Article 36 (3) provides further that legal disputes should, as a general rule, be referred by the parties to the International Court of Justice. Article 37 (2) envisages that, following a referral, the Council shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate. Article 38 provides that the Council may make recommendations to the parties with a view to a pacific settlement of the dispute.

Section III examines the decisions of the Security Council in 2016 and 2017 in connection with the peaceful settlement of disputes within the framework of Chapter VI of the Charter. Decisions explicitly adopted under Chapter VII of the Charter have not been considered for the purposes of this section. Subsections A to C illustrate ways in which the Council addressed the pacific settlement of disputes in the context of, respectively, thematic issues, country-specific and regional situations, and the settlement of disputes involving the Secretary-General. Subsection D addresses regional arrangements and agencies, noting

that decisions of the Council in support of the pacific settlement of disputes by regional organizations are covered in part VIII.

A. Decisions of the Security Council concerning thematic issues

The present subsection provides an overview of the decisions of the Security Council adopted on thematic issues that relate to the pacific settlement of disputes. During the period under review, the Council's decisions highlighted the importance of sustaining peace, preventing conflict and addressing its root causes, as well as the primacy of political approaches at all stages of conflict. Regarding the tools at the disposal of the international community, the Council emphasized the importance of peacekeeping, peacebuilding and the good offices and mediation role of the Secretary-General. The Council also consistently underlined the need for inclusive peace agreements, political transition and national reconciliation processes and close cooperation with regional and subregional organizations. A more detailed description of the decisions of the Council relating to these subjects is set out below.

Sustaining peace and political solutions to conflict

The Council recognized in its decisions the notion of “sustaining peace” as a shared responsibility between Governments and national stakeholders, which encompassed activities aimed at preventing the outbreak, escalation, continuation and recurrence of conflict, addressing root causes, assisting parties to conflict to end hostilities, ensuring national reconciliation and moving towards recovery, reconstruction and development.¹⁰⁸ In addition, the Council emphasized that sustaining peace was a shared task and responsibility that needed to be fulfilled by the Government and all other national stakeholders, and should flow through all three pillars of the United Nations' engagement at all stages of conflict.¹⁰⁹

The Council stressed that the primacy of politics should be the hallmark of the approach of the United Nations to the resolution of conflict, including through mediation, the monitoring of ceasefires and assistance

¹⁰⁸ Resolution 2282 (2016), twelfth preambular paragraph; and S/PRST/2017/27, third paragraph.

¹⁰⁹ Resolution 2282 (2016), eighth preambular paragraph; and S/PRST/2017/27, third paragraph.

to the implementation of peace accords.¹¹⁰ The Council recognized the need to weigh the full range of responses when addressing a situation which might endanger international peace and security, and to deploy United Nations peacekeeping missions and pursue peacebuilding efforts as an accompaniment not as an alternative, to a political strategy that addressed, among other elements, the root causes of conflict.¹¹¹ In addition, the Council recognized that peacebuilding was an inherently political process aimed at preventing the outbreak, escalation, recurrence or continuation of conflict, and that it encompassed a wide range of political, development and human rights programmes and mechanisms.¹¹² The Council acknowledged the importance of strong coordination, coherence and cooperation with the Peacebuilding Commission, including to assist with the longer-term perspective required for sustaining peace being reflected in the formation, review and drawdown of peacekeeping operations and the mandates of special political missions.¹¹³

During the period under review, the Council stressed that a comprehensive approach to transitional justice, including through promotion of healing and reconciliation, security sector reform and effective demobilization, disarmament and reintegration programmes was critical to the consolidation of peace and stability.¹¹⁴ The Council also recognized the positive contribution that mine action activities had made to stabilization and peace-sustaining efforts, and encouraged their inclusion in relevant ceasefire and peace agreements.¹¹⁵

Good offices and mediation

In several of its decisions on thematic items, the Council recognized the important role of the good offices of the Secretary-General, and encouraged the Secretary-General to continue to use mediation to help to resolve conflicts peacefully, working closely with regional and subregional organizations in that regard.¹¹⁶ The Council stressed the important role of the Special Representative of the Secretary-General for

Children and Armed Conflict and the importance of her country visits in, inter alia, enhancing dialogue with concerned Governments and parties to an armed conflict. The Council encouraged her to carry out lessons learned initiatives to compile best practices on the children and armed conflict mandate, including practical guidance on the integration of child protection issues in peace processes.¹¹⁷

In addition, the Council reaffirmed the duty of all States to settle their international disputes by peaceful means through, inter alia, negotiation, enquiry, good offices, mediation, conciliation, arbitration and judicial settlement, or other peaceful means of their own choice. It also stressed that the prevention of conflicts remained a primary responsibility of States and that actions undertaken by the United Nations within the framework of conflict prevention should support and complement the conflict prevention roles of national Governments.¹¹⁸

Inclusive political processes

The decisions of the Council during the period under review made reference to inclusivity and national ownership in the pacific settlement of disputes as a significant factor in the sustainability of peace agreements. Specifically, the Council called for the greater participation of women at all levels of conflict prevention and resolution and in the implementation of peace agreements facilitated by the United Nations, regional and subregional organizations, and emphasized the important role women and civil society could play in exerting influence over parties to armed conflict.¹¹⁹ The Council encouraged the Secretary-General to promote the gender dimensions of peacebuilding, including through strengthening women's meaningful participation in peacebuilding and supporting women's organizations and through monitoring, tracking and reporting on achievement.¹²⁰ The Council highlighted the need for greater participation of women at all stages of mediation and post-conflict resolution, including within the Mediation Support Unit of the Department of Political Affairs.¹²¹

¹¹⁰ S/PRST/2017/27, seventh paragraph; and resolution 2378 (2017), para. 1.

¹¹¹ S/PRST/2017/27, twelfth paragraph.

¹¹² S/PRST/2016/12, second paragraph.

¹¹³ S/PRST/2017/27, twenty-third paragraph.

¹¹⁴ Resolution 2282 (2016), para. 12.

¹¹⁵ Resolution 2365 (2017), para. 9.

¹¹⁶ Resolution 2320 (2016), para. 10; and resolution 2378 (2017), para. 4.

¹¹⁷ S/PRST/2017/21, thirty-seventh and thirty-eighth paragraphs.

¹¹⁸ Resolution 2378 (2017), paras. 2 and 3.

¹¹⁹ S/PRST/2016/9, third, fifth and seventh paragraphs; S/PRST/2016/12, ninth paragraph; and S/PRST/2016/8, fourteenth paragraph.

¹²⁰ Resolution 2282 (2016), para. 22.

¹²¹ S/PRST/2016/9, fifth and seventh paragraphs. For more

The Council urged regional support for initiatives aimed at promoting inclusive dialogue among national stakeholders and stressed the importance of opening political space to enable the full and free participation of peaceful political parties, civil society and the media in the political process, including through peaceful, inclusive and credible elections.¹²² The Council stressed the importance of promoting policies and adopting tailored approaches for youth that would positively contribute to peacebuilding efforts, including social and economic development, supporting projects designed to grow local economies, and providing youth employment opportunities, fostering their education, and promoting youth entrepreneurship and constructive political engagement.¹²³

B. Recommendations of the Security Council concerning country-specific and regional situations

Article 33 (2) of the Charter provides that the Council shall call upon the parties to settle disputes by the means established in Article 33 (1), when deemed necessary. In addition, Article 36 (1) of the Charter provides that the Council may recommend appropriate procedures or methods of adjustment. Article 37 (2) establishes further that if the 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 provides that, without prejudice to Articles 33 to 37, the Council may make recommendations to the parties with a view to a pacific settlement of the dispute, if all the parties so request.

This subsection provides an overview of the practice of the Council relating to the pacific settlement of disputes in situations specific to a country or region. In dealing with complex situations in which the Council determined the existence of a threat to international peace and security, the Council utilized the tools available under Chapter VII of the Charter in parallel with those available under Chapter VI with a view to restoring peace and to

recommending procedures or methods for the pacific settlement of disputes. Decisions adopted expressly under Chapter VII of the Charter are covered in parts VII and X.

In 2016 and 2017, the Council made a wide range of recommendations for the peaceful settlement of disputes, largely in connection with intra-State conflicts. The Council called upon parties (a) to cease hostilities and implement ceasefires; (b) to implement inclusive national reconciliation processes; (c) to fully implement existing peace agreements; (d) to engage in dialogue to ensure the peaceful transfer of power and the resolution of political and institutional crises; and (e) to engage in dialogue to resolve long-standing disputes.

Cessation of hostilities and ceasefire

With grave security and humanitarian conditions in Myanmar, South Sudan, the Syrian Arab Republic and Yemen, the Council urged warring parties to cease hostilities and engage in dialogue on a permanent ceasefire.

On 6 November 2017, the Council issued a presidential statement under the item entitled “The situation in Myanmar”, calling upon the Government of Myanmar to ensure no further excessive use of military force, to restore civilian administration and apply the rule of law, and to take all necessary measures to restore peace and inter-communal harmony through, *inter alia*, dialogue and a comprehensive reconciliation process.¹²⁴ The Council also called upon the Government to address the root causes of the crisis by respecting, promoting and protecting human rights, and welcomed the Government’s commitment to implement the recommendations of the Advisory Commission on Rakhine State.¹²⁵

Under the item entitled “The situation in the Middle East”, in connection with the conflict in the Syrian Arab Republic, in resolution [2268 \(2016\)](#), the Council endorsed the joint statement of the United States and the Russian Federation, as Co-Chairs of the International Syria Support Group, on the cessation of hostilities, demanded the full and immediate implementation of resolution [2254 \(2015\)](#) to facilitate a Syrian-led and Syrian-owned political transition in order to end the conflict, and also demanded that all

information on measures relating to women and peace and security, see part I. sect. 33.

¹²² [S/PRST/2016/2](#), ninth paragraph.

¹²³ [S/PRST/2016/12](#), tenth paragraph. See also resolution [2282 \(2016\)](#), para. 23.

¹²⁴ [S/PRST/2017/22](#), sixth and seventh paragraphs.

¹²⁵ *Ibid.*, fifteenth and sixteenth paragraphs.

parties fulfil their commitments.¹²⁶ On 31 December 2016, following a new ceasefire agreement concluded by the warring parties the day before, the Council adopted resolution [2336 \(2016\)](#), in which it expressed support for the efforts of the Russian Federation and Turkey to end violence in the Syrian Arab Republic and jumpstart a political process, and looked forward to the meeting to be held in Astana, Kazakhstan, between the Government of the Syrian Arab Republic and the representatives of the opposition.¹²⁷

In connection with the conflict in Yemen, under the item entitled “The situation in the Middle East”, the Council welcomed the commencement of a nationwide cessation of hostilities that began on 10 April 2016 and the launch, on 21 April, of peace talks hosted by Kuwait, and led and facilitated by the Special Envoy of the Secretary-General for Yemen. The Council called upon all parties to develop a road map for the implementation of interim security measures, withdrawals, handover of heavy weapons, restoration of State institutions and the resumption of political dialogue in line with relevant Council decisions, the Gulf Cooperation Council initiative and implementation mechanism, and the outcomes of the comprehensive National Dialogue Conference. The Council stressed that a political solution to the crisis was essential to address, in a durable and comprehensive manner, the threat of terrorism in Yemen.¹²⁸ With the continuation of fighting in 2017, the Council reiterated its call to all parties to engage in peace talks in a flexible and constructive manner without preconditions, and in good faith.¹²⁹

Under the item entitled “Reports of the Secretary-General on the situation in the Sudan and South Sudan”, in connection with the conflict in South Sudan, the Council called upon the Government and the Sudan People’s Liberation Movement in Opposition to adhere to the permanent ceasefire pursuant to the Agreement on the Resolution of the Conflict in South Sudan of 2015,¹³⁰ and urged all parties to engage constructively and without

preconditions in the high-level revitalization forum convened by the Intergovernmental Authority on Development (IGAD) as a means of resolving the crisis.¹³¹ Taking note of the announcement by President Salva Kiir of the launch of a national dialogue in December 2016, the Council stated that such a process must be inclusive. The Council also stressed that actions by the parties that threatened the peace, security or stability of South Sudan might be subject to sanctions under resolutions [2206 \(2015\)](#) and [2290 \(2016\)](#).¹³²

National reconciliation and political transition

Underlining the importance of addressing the root causes of conflict for sustainable peace, the Council called upon Governments and other political stakeholders in Afghanistan, Burundi, the Central African Republic and Somalia to implement inclusive national reconciliation and political transition processes. With preparations under way for the closure of the United Nations Operation in Côte d’Ivoire (UNOCI), the Council also emphasized the importance of inclusive national reconciliation in that country.

In connection with the situation in Afghanistan, the Council welcomed the continuing efforts of the Government of Afghanistan to advance the peace process to promote an inclusive, Afghan-led and Afghan-owned dialogue on reconciliation and political participation, as well as its commitment to strengthen the participation of women in Afghan political life, and recalled that women play a vital role in the peace process.¹³³ Welcoming the establishment of the Quadrilateral Coordination Group on the Afghan Peace and Reconciliation Process in January 2016, consisting of Afghanistan, China, Pakistan and the United States, the Council took note of the Group’s work towards holding early direct peace talks between the Government and the Taliban groups.¹³⁴

In connection with the situation in Burundi, the Council urged the Government and all parties to refrain from any action that would threaten peace and stability and to extend full cooperation to the East African Community-led, African Union-endorsed Mediator and his Facilitator, in order to urgently agree on a timetable

¹²⁶ Resolution [2268 \(2016\)](#), paras. 1, 2 and 3. For more information, see part I, sect. 25, “The situation in the Middle East”.

¹²⁷ Resolution [2336 \(2016\)](#), paras. 1 and 3.

¹²⁸ [S/PRST/2016/5](#), third, fifth and eighth paragraphs.

¹²⁹ [S/PRST/2017/7](#), fifth paragraph.

¹³⁰ [S/PRST/2016/1](#), sixth paragraph; [S/PRST/2017/4](#), first paragraph; and [S/PRST/2017/25](#), first paragraph. For more information, see part I, sect. 11, “Reports of the Secretary-General on the Sudan and South Sudan”.

¹³¹ [S/PRST/2017/25](#), third paragraph.

¹³² [S/PRST/2017/4](#), fifth and ninth paragraphs.

¹³³ Resolution [2274 \(2016\)](#), paras. 14 and 52. For more information, see part I, sect. 18, “The situation in Afghanistan”.

¹³⁴ Resolution [2274 \(2016\)](#), para. 16.

and list of participants in an inclusive and genuine inter-Burundian dialogue.¹³⁵ The Council also expressed its intention to pursue targeted measures against all actors who threatened the peace and security of Burundi.¹³⁶

Regarding the situation in the Central African Republic, the Council acknowledged the election of President Faustin Archange Touadera, the formation of a new Government and the establishment of the National Assembly in 2016, and welcomed the steps taken in the peace process with the signing of the national strategy on disarmament, demobilization, rehabilitation and reintegration and the internal security forces development plan and national reconciliation strategy. The Council emphasized that the only viable way forward towards the consolidation of peace was for all parties to address the root causes of the conflict, recalled the inclusive and comprehensive manner in which the Bangui Forum on National Reconciliation of 2015 was held, and encouraged the Central African Republic authorities to urgently address the continued presence of armed groups, including by deepening and accelerating the disarmament, demobilization, reintegration and repatriation of armed groups and the dialogue with their representatives.¹³⁷ In 2017, the Council encouraged the President to lead an inclusive political process that would involve men and women of all backgrounds without delay, and welcomed the African Union Initiative for Peace and Reconciliation in the Central African Republic.¹³⁸

With respect to the situation in Somalia, during the review period, the Council welcomed the commitment of the Federal Government of Somalia to an inclusive and credible electoral process, emphasized the importance of reconciliation across the country and continued progress towards universal elections by 2020, and underlined the urgent need for progress in the constitutional review process.¹³⁹ In 2017, the

Council commended the swift and gracious transfer of power after the completion of the elections and the increased participation and representation of the people in the process. In terms of the way forward in the political transition, the Council emphasized the need to accelerate agreement between federal and regional authorities on the security sector and accelerate the peacebuilding and State-building process.¹⁴⁰

In relation to the situation in Côte d'Ivoire, the Council stressed the need for, *inter alia*, the advancement of national reconciliation and social cohesion and the full and equal participation of women in government and public institutions.¹⁴¹

Full implementation of peace agreements

With respect to the peace processes in Colombia, Darfur, Libya and Mali, the Council called upon the signatories of the relevant agreements to fully implement their security and political commitments.

Following the signing of the Final Peace Agreement between the Government and FARC-EP in 2016, the Council welcomed the progress made in its implementation and noted that, in addition to the laying down of arms, the adoption of all agreed measures to ensure effective reincorporation and reconciliation, with the full participation of women, would be vital to securing lasting peace in Colombia.¹⁴² Upon the completion of the first phase of the General Agreement to End the Conflict and Build a Stable and Lasting Peace, the Council congratulated the parties and added that Colombia's peace process retained the potential to set an example for peace processes elsewhere in the world.¹⁴³

Under the item entitled "Reports of the Secretary-General on the Sudan and South Sudan," in relation to Darfur, the Council encouraged all parties to the conflict to engage constructively with the African Union High-level Implementation Panel-led mediation to implement the road map agreement, and urged the Sudan Liberation Army-Abdul Wahid to join the peace

¹³⁵ Resolutions 2279 (2016), paras. 1 and 5; and 2303 (2016), paras. 1 and 6. For more information, see part I, sect. 4, "The situation in Burundi".

¹³⁶ Resolutions 2279 (2016), para. 9; and 2303 (2016), para. 5.

¹³⁷ S/PRST/2016/17, first, second, fourth and fifth paragraphs. For more information, see part I, sect. 7, "The situation in the Central African Republic".

¹³⁸ S/PRST/2017/9, sixth and ninth paragraphs.

¹³⁹ Resolution 2275 (2016), paras. 8 and 9. See also S/PRST/2016/13, second and sixth paragraphs. For further information, see part I, sect. 3, "The situation in Somalia".

¹⁴⁰ S/PRST/2017/3, first, second, eighth and ninth paragraphs.

¹⁴¹ S/PRST/2017/8, ninth paragraph. For more information, see part I, sect. 9, "The situation in Côte d'Ivoire".

¹⁴² S/PRST/2017/6, third and fifth paragraphs. For more information, see part I, sect. 17, "Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53)".

¹⁴³ S/PRST/2017/18, third paragraph.

process, without preconditions, in order to achieve a cessation of hostilities as a first step towards a comprehensive and sustainable peace agreement.¹⁴⁴ The Council also urged the signatory parties to the Doha Document for Peace in Darfur to implement it in full, and encouraged the Government of the Sudan to support an environment conducive to the participation of the opposition in political processes, including the implementation of National Dialogue recommendations.¹⁴⁵

After the signing of the Libyan Political Agreement in December 2015, which outlined the way forward for the holding of elections and the political transition, the Council urged the Government of National Accord and all Libyans to work towards the peaceful conclusion of the transitional phase, and repeated its call to respect the ceasefire.¹⁴⁶ The Council also strongly urged all Libyans to work together in a spirit of compromise and to engage constructively in the inclusive political process set out in the action plan of 20 September 2017, and reiterated the importance of the meaningful participation of women.¹⁴⁷

In 2016, in connection with the situation in Mali, the Council urged the armed group signatories to the Agreement on Peace and Reconciliation in Mali to cease hostilities, strictly adhere to the ceasefire arrangements and resume dialogue without delay for the implementation of the Agreement.¹⁴⁸ In 2017, under the item entitled “Peace and security in Africa”, the Council renewed its urgent call upon the Government of Mali and the Plateforme and Coordination armed groups to fully and expeditiously deliver on their remaining obligations under the Agreement through the operationalization of interim administrations, progress in disarmament, demobilization and reintegration as well as security sector reform, decentralization and ensuring full and equal women’s participation.¹⁴⁹ The Council underlined that engaging in hostilities in violation of the Agreement or in actions obstructing its implementation, including by prolonged delay,

constituted a basis for the designation of sanctions pursuant to resolution [2374 \(2017\)](#).¹⁵⁰

In addition, under the item entitled “The situation in the Middle East”, in regard to the Golan Heights, the Council stressed the obligation of Israel and the Syrian Arab Republic to scrupulously and fully respect the terms of the 1974 disengagement of forces agreement, and encouraged them to take advantage of the liaison function of the United Nations Disengagement Force (UNDOF) to address issues of mutual concern.¹⁵¹

Resolution of political crises and peaceful transfer of power

In respect of the Democratic Republic of the Congo, Guinea-Bissau, Lebanon and the Gambia, the Council encouraged political actors in those countries to engage in dialogue to resolve the ongoing political and institutional crises and ensure the peaceful transition of power.

Regarding the situation concerning the Democratic Republic of the Congo, the Council was encouraged by the unanimous commitment of Congolese actors to continue inclusive discussions to reach a broad consensus towards free, fair, credible, inclusive, transparent, peaceful and timely presidential and legislative elections leading to a peaceful transfer of power.¹⁵² In a presidential statement issued on 4 January 2017, the Council welcomed the signing of the comprehensive and inclusive political agreement on 31 December 2016, encouraged political parties which had not yet signed the agreement to do so, and expressed hope for a swift implementation of the agreement, in order to organize the elections no later than December 2017, leading to a peaceful transfer of power.¹⁵³

From a regional perspective, in connection with the item entitled “The situation in the Great Lakes region”, the Council called upon all signatories of the Peace, Security and Cooperation Framework for the Democratic Republic of the Congo and the Region to fully implement their commitments, including not interfering in the affairs of neighbouring countries, not supporting armed groups and not harbouring war

¹⁴⁴ Resolution [2363 \(2017\)](#), para. 23.

¹⁴⁵ Resolutions [2296 \(2016\)](#), para. 9; and [2363 \(2017\)](#), para. 22.

¹⁴⁶ [S/PRST/2017/26](#), ninth and fifteenth paragraphs. For more information, see part I, sect. 14, “The situation in Libya”.

¹⁴⁷ [S/PRST/2017/19](#), fourth paragraph.

¹⁴⁸ [S/PRST/2016/16](#), first paragraph. For more information, see part I, sect. 15, “The situation in Mali”.

¹⁴⁹ Resolution [2391 \(2017\)](#), para. 25.

¹⁵⁰ *Ibid.*, para. 27.

¹⁵¹ Resolutions [2294 \(2016\)](#), para. 2; [2330 \(2016\)](#), para. 2; [2361 \(2017\)](#), para. 2; and [2394 \(2017\)](#), para. 2.

¹⁵² [S/PRST/2016/18](#), fourth paragraph. For more information, see part I, sect. 6, “The situation concerning the Democratic Republic of the Congo”.

¹⁵³ [S/PRST/2017/1](#), first, second and third paragraphs.

criminals. The Council demanded that all armed groups operating in the Democratic Republic of the Congo lay down their arms, and called upon States in the region to cooperate in their disarmament and repatriation. It also called upon Member States in the region to ensure peace and security through timely, peaceful, inclusive and credible elections and, noting the link between justice and conflict prevention, to actively pursue accountability for perpetrators of violations and abuses of international human rights law.¹⁵⁴

Under the item entitled “The situation in Guinea-Bissau”, the Council called upon the President, Prime Minister, Speaker of Parliament and heads of political parties to bring political stability and all relevant stakeholders to work together to address the root causes of instability.¹⁵⁵ In 2017, the Council recalled that the Conakry Agreement of 14 October 2016, based on the ECOWAS six-point road map entitled “Agreement on the resolution of the political crisis in Guinea-Bissau”, was the primary framework for a peaceful resolution of the crisis, and called upon political leaders to abide by their commitment by engaging in genuine dialogue, including on the constitutional review, finding common ground and refraining from rhetoric and acts likely to undermine peace and national cohesion.¹⁵⁶

Underscoring its deepest concern over the two-year-long vacancy in the presidency of Lebanon and the resulting political paralysis, in connection with the situation in the Middle East, the Council called upon all Lebanese parties, including in the Parliament, to apply mechanisms provided for by the Constitution with regard to the presidential election, and to engage in negotiating a compromise agreement with the aim of ending the crisis.¹⁵⁷ Following the election of President Michel Aoun on 31 October 2016, the Council urged him and Lebanese leaders to build on their efforts thus far by continuing to work constructively to promote the country’s stability and by swiftly forming a government.¹⁵⁸ The Council also strongly called upon all parties to respect the cessation of hostilities, and urged them to cooperate with the Council and the

Secretary-General to make tangible progress towards a permanent ceasefire and a long-term solution as envisioned in resolution 1701 (2006).¹⁵⁹

In connection with the item entitled “Peace consolidation in West Africa”, the Council addressed the political crisis in the Gambia by urging all parties and stakeholders to respect the outcome of the election, held on 1 December 2016, and requested former President Yahya Jammeh to carry out a peaceful transition process, and to transfer power to President Adama Barrow in accordance with the Gambian Constitution. The Council also requested all stakeholders, within and outside the Gambia, to exercise restraint, respect the rule of law and ensure the peaceful transfer of power, and stressed the duty of the Gambian defence and security forces to place themselves at the disposal of the democratically elected authorities.¹⁶⁰

The Council welcomed the peaceful transitions following elections in Haiti and Liberia and, particularly in the context of the drawdown of United Nations peacekeeping operations, highlighted their importance for sustainable peace. In relation to the item entitled “The question concerning Haiti”, the Council welcomed the presidential elections held in 2016 and 2017, which had paved the way to consolidate Haiti’s democratic institutions through a peaceful transfer of power, and reaffirmed the need for political dialogue as a peaceful resolution to help defuse tensions between competing groups and to address ongoing socioeconomic grievances in the country.¹⁶¹ In connection with the situation in Liberia, the Council called upon all stakeholders to ensure that the October 2017 elections would be free, fair credible and transparent, including through the participation of women, and that any dispute would be resolved peacefully through established mechanisms and in accordance with the law. In the context of the termination of the mandate of the United Nations Mission in Liberia, scheduled for March 2018, the Council took note of the peacebuilding plan and actions to be taken in support of the Government’s commitment to develop, before the Mission’s departure, of durable national capacities to sustain

¹⁵⁴ Resolution 2389 (2017), paras. 1, 5, 6, 8, 9, 12 and 13.

For more information, see part I, sect. 5, “The situation in the Great Lakes region”.

¹⁵⁵ Resolution 2267 (2016), paras. 4 and 5. For more information, see part I, sect. 8, “The situation in Guinea-Bissau”.

¹⁵⁶ S/PRST/2017/17, third paragraph.

¹⁵⁷ S/PRST/2016/10, third and fifth paragraphs.

¹⁵⁸ S/PRST/2016/15, second paragraph.

¹⁵⁹ Resolution 2305 (2016), paras. 6 and 9.

¹⁶⁰ Resolution 2337 (2017), paras. 1, 7, 9 and 10. For more information, see part I, sect. 12, “Peace consolidation in West Africa.”

¹⁶¹ S/PRST/2017/20, third and fifth paragraphs. For more information, see part I, sect. 16, “The question concerning Haiti”.

peace, and emphasized the need for expanded efforts by Liberian authorities to, *inter alia*, address root causes of conflict, reinvigorate reconciliation processes and promote women's active participation in peacebuilding.¹⁶²

Peace negotiations on long-standing disputes

The Council also addressed long-standing disputes and urged parties in Cyprus, Israel and Palestine, the Sudan and South Sudan, and Western Sahara to engage in peace talks in good faith.

Against the backdrop of positive momentum in the negotiations, in connection with the situation in Cyprus, the Council encouraged Greek and Turkish Cypriot leaders to grasp the opportunity to secure a comprehensive settlement.¹⁶³ The Council urged both sides to implement confidence-building measures and further mutually acceptable steps, and to continue to engage, as a matter of urgency, in consultations with the United Nations Peacekeeping Force in Cyprus (UNFICYP) on the demarcation of the buffer zone, and on the United Nations 1989 aide-memoire, with a view to reaching early agreement on outstanding issues.¹⁶⁴

Under the item entitled "The situation in the Middle East, including the Palestinian question", the Council stressed that the cessation of all Israeli settlement activities was essential for salvaging the two-State solution, and called for affirmative steps to be taken to immediately reverse the negative trends on the ground that were imperilling it. The Council also called upon both parties to act on the basis of international law and their previous agreements and obligations, demonstrating a genuine commitment to the two-State solution, and to exert collective efforts to launch credible negotiations on all final status issues in the Middle East peace process.¹⁶⁵

Regarding the disputed Abyei Area, under the item entitled "Reports of the Secretary-General on the Sudan and South Sudan", the Council urged the Governments of the Sudan and South Sudan to resume direct negotiations in order to urgently agree on a final settlement of the issue, and to implement confidence-

building measures among the respective communities, ensuring women were involved at all stages.¹⁶⁶ Expressing concern regarding the delays in the full operationalization of the Joint Border Verification and Monitoring Mechanism, the Council called upon the two Governments to make timely and effective use of the Mechanism, and to uphold their commitments under the border security agreements, including taking the necessary operational decisions related to their agreement on the Safe Demilitarized Border Zone.¹⁶⁷

In relation to the situation concerning Western Sahara, the Council called upon the Government of Morocco and the Frente POLISARIO to resume negotiations without preconditions and in good faith, taking into account the efforts made since 2006 and subsequent developments, with a view to achieving a just, lasting and mutually acceptable political solution.¹⁶⁸ The Council invited Member States to lend appropriate assistance to the talks.¹⁶⁹

C. Decisions involving the Secretary-General in the Council's efforts at the pacific settlement of disputes

While Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security, the Charter does not specifically define the role of the Secretary-General in relation to matters of peace and security. The work of the Council regarding conflict prevention and the peaceful settlement of disputes has, however, required the involvement of the Secretary-General in all relevant aspects of that agenda.

During the period under review, the Council recognized the work of the Secretary-General in connection with the pacific settlement of disputes, particularly in the area of conflict prevention and sustaining peace. The Council acknowledged, and in some cases requested, the use of the good offices and mediation role of the Secretary-General, and those of his special representatives and envoys, in relation to

¹⁶² S/PRST/2017/11, second and fourth paragraphs.

¹⁶³ Resolution 2338 (2017), para. 1. For more information, see part I, sect. 21, "The situation in Cyprus".

¹⁶⁴ Resolution 2263 (2016), paras. 4 and 8; 2300 (2016), paras. 5 and 9; and 2338 (2017), paras. 5 and 9.

¹⁶⁵ Resolution 2334 (2016), paras. 4, 7 and 8. For more information, see part I, sect. 25, "The situation in the Middle East, including the Palestinian question".

¹⁶⁶ Resolutions 2352 (2017), paras. 4 and 16; and 2386 (2017), paras. 6 and 16.

¹⁶⁷ Resolution 2352(2017), paras. 6 and 7.

¹⁶⁸ Resolutions 2285 (2016), para. 9; and 2351 (2017), para. 8. For more information, see part I, sect. 1, "The situation concerning Western Sahara".

¹⁶⁹ Resolution 2351 (2017), para. 9.

the cessation of hostilities and the implementation of permanent ceasefires, the implementation of inclusive reconciliation processes, the full implementation of peace agreements, the peaceful transfer of power and the resolution of political and institutional crises, the resolution of protracted conflicts and the addressing of cross-border challenges.

Good offices to end violence

With respect to the conflicts in Myanmar, the Syrian Arab Republic and Yemen, the Council requested the Secretary-General to utilize his good offices to put an end to the violence.

In connection with the situation in Myanmar, having called for an end to the fighting and for the Government to assume its responsibility to protect civilians, the Council requested the Secretary-General to continue to provide his good offices and to pursue his discussions with the Government, involving all relevant stakeholders, to offer assistance to the Government in that regard, and encouraged him to consider, as appropriate, appointing a Special Adviser on Myanmar.¹⁷⁰

In connection with the situation in the Middle East, with regard to the conflict in the Syrian Arab Republic, the Council requested the Secretary-General, through his good offices and the efforts of the Special Envoy for Syria, to resume the formal negotiations between the representatives of the Government and the opposition, under the auspices of the United Nations.¹⁷¹

Regarding Yemen, in April 2016, the Council welcomed the launch of Yemeni-Yemeni peace talks, hosted by Kuwait, and facilitated by the Special Envoy of the Secretary-General for Yemen.¹⁷² In 2017, the Council expressed its continued support for the tireless efforts of the Special Envoy to bring the parties to negotiations to swiftly reach a final and comprehensive agreement to end the conflict.¹⁷³

Good offices in support of political processes

The Council also highlighted the role of the Secretary-General in supporting inclusive national reconciliation processes in Burundi, Darfur, Guinea-Bissau, Libya and Somalia.

In connection with the situation in Burundi, the Council requested the Secretary-General, through the good offices of his Special Adviser on Conflict Prevention, to support the inter-Burundian dialogue in coordination with the East African Community-led and African Union-endorsed Mediator and his Facilitator, and to provide all necessary technical and substantive support to the mediation.¹⁷⁴ The Council also requested the Secretary-General to establish a United Nations police officers component in Burundi to monitor the security situation and support the monitoring of human rights.¹⁷⁵

In relation to Guinea-Bissau, the Council commended the good offices role of the Special Representative of the Secretary-General in supporting the Government, and invited the Secretary-General to reinforce the capacities of the United Nations Integrated Peacebuilding Office in Guinea-Bissau in that regard and to continue to strengthen the coordination of international support.¹⁷⁶

In connection with the situation in Somalia, the Council underscored the importance of the support of the United Nations Assistance Mission in Somalia to the political process, including the provision of good offices functions for the peace and reconciliation process, in particular with regard to the completion of the state formation and constitutional review processes, as well as preparation of a free, fair and transparent electoral process in 2016 and universal elections by 2020.¹⁷⁷

In connection with the situation in Libya, the Council endorsed the United Nations Action Plan for an inclusive Libyan-owned political process presented by the Special Representative of the Secretary-General on 20 September 2017, welcomed his objective to support a Libyan-led transition leading to the establishment of stable, unified, representative and effective governance under the framework of the Libyan Political Agreement, and stressed that all initiatives aimed at strengthening political dialogue in the country should be consolidated under the leadership of the United Nations as called for by the Secretary-General.¹⁷⁸

¹⁷⁰ S/PRST/2017/22, penultimate paragraph.

¹⁷¹ Resolution 2268 (2016), para. 7.

¹⁷² S/PRST/2016/5, third paragraph.

¹⁷³ S/PRST/2017/7, fifth paragraph.

¹⁷⁴ Resolutions 2279 (2016), para. 7; and 2303 (2016), para. 7.

¹⁷⁵ Resolution 2303 (2016), para. 13.

¹⁷⁶ Resolutions 2267 (2016), para. 17; and 2343 (2017), para. 20.

¹⁷⁷ Resolution 2275 (2016), paras. 2 and 8.

¹⁷⁸ S/PRST/2017/19, second and seventh paragraphs.

As part of its consideration of the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, in relation to the situation in Darfur, the Council commended the efforts of the African Union-United Nations Joint Special Representative for Darfur/Joint Chief Mediator for Darfur and Head of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) to revitalize the peace process and to increase its inclusiveness, including through renewed engagement with the non-signatory movements, and welcomed his strengthened coordination with the African Union High-level Implementation Panel and the Special Envoy of the Secretary-General for the Sudan and South Sudan in synchronizing their mediation efforts.¹⁷⁹

Good offices in support of the implementation of peace agreements

Concerning the situation in Mali, the Council urged the Government to engage with the Secretary-General, through his Special Representative, to establish concrete benchmarks to assess the implementation of the Agreement on Peace and Reconciliation in Mali, and emphasized the central role of the Special Representative of the Secretary-General for Mali in supporting and overseeing its implementation.¹⁸⁰

In relation to the dispute over the Abyei Area, under the item entitled “Reports of the Secretary-General on the Sudan and South Sudan”, the Council encouraged the African Union High-level Implementation Panel and the Special Envoy of the Secretary-General for the Sudan and South Sudan to continue coordinating efforts towards calling on the Governments of the Sudan and South Sudan to fully implement the 2011 agreements.¹⁸¹

Good offices in support of the resolution of political and institutional crises

The Council also highlighted the role of the Secretary-General in supporting the resolution of political and institutional crises in the Democratic Republic of the Congo, the Gambia and Lebanon.

In connection with the situation concerning the Democratic Republic of the Congo, following the

signing of the December 2016 agreement aimed at resolving the political crisis in the country, the Council reiterated its support to the efforts of the Special Representative of the Secretary-General, MONUSCO, the African Union and regional organizations in helping to ensure its full implementation.¹⁸² Under the item entitled “The situation in the Great Lakes region”, the Council called upon the United Nations Special Envoy for the Great Lakes region to continue his regional and international engagement in furtherance of peace and stability in the Democratic Republic of the Congo and the region, including through the promotion of timely, credible and inclusive national elections, regional dialogue and by continuing, in close coordination with the Special Representative of the Secretary-General for the Democratic Republic of the Congo and Head of MONUSCO, to lead, coordinate and assess the implementation of commitments under the Peace and Security Framework.¹⁸³

In relation to the political crisis in the Gambia, under the item entitled “Peace consolidation in West Africa”, the Council requested the Secretary-General, including through his Special Representative for West Africa and the Sahel, to facilitate political dialogue between the Gambian stakeholders to ensure a peaceful transition of power in the Gambia, and to provide technical assistance to ECOWAS mediation where required.¹⁸⁴

In connection with the situation in the Middle East, in regard to Lebanon, the Council encouraged the United Nations Special Coordinator for Lebanon, in the context of her good offices role and in close coordination with the members of the International Support Group, to conduct intensified contacts with Lebanon’s partners and engage key national and regional stakeholders with the aim of helping Lebanon towards a solution to the presidential vacancy.¹⁸⁵

Good offices in support of the resolution of protracted disputes

The Council also referred to the good offices role of the Secretary-General for the resolution of long-standing disputes. In connection with the situation concerning Western Sahara, the Council affirmed its full support for the commitment of the Secretary-

¹⁷⁹ Resolution 2296 (2016), para. 8.

¹⁸⁰ S/PRST/2016/16, fifth and sixth paragraphs.

¹⁸¹ Resolutions 2352 (2017), para. 4; and 2386 (2017), para. 6.

¹⁸² S/PRST/2017/12, eleventh paragraph.

¹⁸³ Resolution 2389 (2017), para. 22.

¹⁸⁴ S/PRST/2016/19, eighth paragraph; and resolution 2337 (2017), para. 12.

¹⁸⁵ S/PRST/2016/10, fourteenth paragraph.

General and his Personal Envoy to relaunch the negotiating process with the aim of reaching a mutually acceptable political solution.¹⁸⁶ In connection with the situation in Cyprus, the Council requested the Secretary-General to intensify transition planning in relation to a settlement between the Greek and Turkish Cypriot parties, guided by developments in negotiations, and encouraged the sides to engage with each other and with UNFICYP and the United Nations good offices mission on issues related to the implementation of a settlement.¹⁸⁷

Good offices to address cross-border challenges

Concerning the Sahel, under the item entitled “Peace consolidation in West Africa,” the Council expressed full support to the Special Representative of the Secretary-General for West Africa and looked forward to efforts to enhance ongoing activities undertaken by the United Nations Office for West Africa and the Sahel in the areas of conflict prevention, mediation and good offices, subregional and regional

¹⁸⁶ Resolutions [2285 \(2016\)](#), para. 8; and [2351 \(2017\)](#), para. 7.

¹⁸⁷ Resolutions [2300 \(2016\)](#), para. 4; and [2338 \(2017\)](#), para. 4.

cooperation to address cross-border and cross-cutting threats to peace and security, the implementation of the United Nations integrated strategy for the Sahel, as well as the promotion of good governance, respect for the rule of law and human rights, and gender mainstreaming.¹⁸⁸

D. Decisions involving regional arrangements or agencies

During the period under review, pursuant to Article 52 of the Charter, the Council expressed support for the crucial role of regional and subregional organizations and other arrangements in the pacific settlement of disputes, and encouraged them to continue with those efforts and enhance their cooperation and coordination with the United Nations in this regard. Decisions of the Council regarding joint or parallel efforts undertaken by the Council and regional organizations, arrangements or agencies in the pacific settlement of disputes during the period under review are covered in part VIII.

¹⁸⁸ [S/PRST/2017/2](#), third paragraph; and [S/PRST/2017/10](#), second paragraph.

IV. Discussion on the interpretation or application of the provisions of Chapter VI of the Charter

Note

Section IV features the main discussions in the Security Council in 2016 and 2017 with regard to the interpretation of specific provisions of Chapter VI of the Charter concerning the role of the Council and the Secretary-General in the peaceful settlement of disputes. It excludes those that concern regional organizations, which are covered in part VIII.

During the period under review, explicit references were made to Article 33,¹⁸⁹ Article 36¹⁹⁰ and

Article 99,¹⁹¹ as well as to Chapter VI¹⁹² of the Charter during deliberations, but in most cases this did not give

the situation in Afghanistan, see [S/PV.7722](#), p. 6 (Afghanistan); in connection with peacebuilding and sustaining peace, see [S/PV.7750](#), p. 14 (Senegal); and in connection with the situation in Somalia, see [S/PV.8099](#), p. 13 (Djibouti).

¹⁹⁰ In connection with the maintenance of international peace and security, see [S/PV.7621](#), p. 10 (Egypt).

¹⁹¹ In connection with the protection of civilians in armed conflict, see [S/PV.7606](#), p. 42 (Luxembourg); [S/PV.7951](#), p. 8 (Deputy Executive Director for Advocacy of Human Rights Watch); and p. 11 (Ukraine); in connection with the maintenance of international peace and security, see [S/PV.7621](#), p. 3 (Secretary-General); p. 70 (United Arab Emirates); and p. 82 (Costa Rica); [S/PV.7857](#), p. 7 (Kazakhstan); p. 11 (United States); p. 13 (France); p. 16 (Japan); p. 18 (Ukraine); p. 32 (Netherlands); p. 45 (Lebanon); p. 47 (European Union); p. 50 (Australia); p. 72 (Kuwait); and p. 79 (Portugal); [S/PV.7886](#), p. 14 (Ukraine); p. 56 (Australia); and p. 59 (New Zealand); [S/PV.7926](#), p. 8 (Kazakhstan); and [S/PV.8144](#), p. 21

¹⁸⁹ In connection with the maintenance of international peace and security, see [S/PV.7621](#), p. 17 (Ukraine); p. 37 (Viet Nam); p. 56 (Kuwait); and p. 89 (Netherlands); [S/PV.7857](#), p. 52 (Viet Nam); and p. 70 (Panama); [S/PV.7886](#), p. 53 (Bolivarian Republic of Venezuela); and [S/PV.8144](#), p. 44 (Qatar); in connection with the implementation of the note by the President of the Security Council ([S/2010/507](#)), see [S/PV.7633](#), p. 3 (Bolivarian Republic of Venezuela); in connection with

rise to a constitutional discussion. No explicit references were made to Articles 37 or 38 of the Charter.

Section IV is divided into four subsections: A. Reference to peaceful means of settlement in the light of Article 33 of the Charter; B. Relevance of the provisions of Chapter VI in comparison to the provisions of Chapter VII; C. Utilization of Article 35 by Member States; and D. Utilization of Article 99 by the Secretary-General for the peaceful settlement of disputes. The section features cases in which relevant constitutional discussions took place during the period under review.

(Italy); and p. 43 (Ecuador); in connection with the implementation of the note by the President of the Security Council (S/2010/507), see S/PV.7740, p. 25 (Australia); and p. 35 (Belgium); and in connection with United Nations peacekeeping operations, see S/PV.8051, p. 12 (Ukraine).

¹⁹² In connection with the protection of civilians in armed conflict, see S/PV.7606, p. 4 (Deputy Secretary-General); in connection with the implementation of the note by the President of the Security Council (S/2010/507), see S/PV.7616, p. 10 (Bolivarian Republic of Venezuela); and S/PV.7766, p. 8 (Bolivarian Republic of Venezuela); in connection with general issues relating to sanctions, see S/PV.7620, p. 24 (Islamic Republic of Iran); and S/PV.8018, p. 9 (Plurinational State of Bolivia); in connection with the maintenance of international peace and security, see S/PV.7621, p. 14 (Senegal); p. 51 (Colombia); p. 53 (Italy); p. 59 (Pakistan); p. 66 (Morocco); p. 70 (United Arab Emirates); p. 72 (Thailand); p. 75 (Nigeria); p. 77 (Tunisia); and p. 83 (Turkey); S/PV.7653, p. 43 (Italy); S/PV.7857, p. 4 (Secretary-General); p. 5 (Sweden); p. 15 (United Kingdom); p. 40 (Colombia); p. 51 (Canada); p. 56 (Indonesia); p. 72 (Kuwait); p. 77 (United Arab Emirates); p. 81 (Slovenia); and p. 83 (Morocco); and S/PV.7886, p. 14, (Ukraine); and p. 53 (Bolivarian Republic of Venezuela, on behalf of the Movement of Non-Aligned Countries (NAM)); in connection with reports of the Secretary-General on the Sudan and South Sudan, see S/PV.7691, p. 2 (Russian Federation); in connection with the non-proliferation of weapons of mass destruction, see S/PV.7837, p. 2 (Spain); and p. 3 (Deputy Secretary-General); in connection with United Nations peacekeeping operations, see S/PV.7947, p. 2 (Under-Secretary-General for Peacekeeping Operations); pp. 4–7 (Head of Mission and Force Commander of the United Nations Disengagement Observer Force); and p. 7 (Force Commander of MINUSCA); and in connection with the Security Council mission to Haiti (22 to 24 June 2017), see S/PV.7994, pp. 2–3 (Plurinational State of Bolivia).

A. Reference to peaceful means of settlement in the light of Article 33 of the Charter

Article 33 of the Charter stipulates that any dispute that is likely to endanger the maintenance of international peace and security should first be addressed through negotiation, mediation or other peaceful means, and states that the Council can call upon the parties to settle their disputes by such means. During the period under review, discussions with respect to Article 33 were held in connection with the following items, “Maintenance of international peace and security” (case 5) and “Women and peace and security” (case 6).

Case 5 Maintenance of international peace and security

On 15 February 2016, the Council convened its 7621st meeting under the item entitled “Maintenance of international peace and security” and the sub-item entitled “Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security”, having before it a concept note circulated by the Bolivarian Republic of Venezuela, which held the Presidency during that month.¹⁹³ Opening the high-level debate, the Secretary-General underlined that the primary responsibility for preventing conflict and protecting human rights lay with Member States. He added that the Council had many tools with which to encourage and seek to secure the peaceful resolution of disputes before they escalated, but that ultimately the unity of the Council was the crucial factor.¹⁹⁴

In the ensuing discussion, many Council members and speakers invited under rules 37 and 39 of the provisional rules of procedure cited the obligation of Member States under the Charter, including under Chapter VI and Article 33, to seek the peaceful settlement of disputes.¹⁹⁵ Several speakers made

¹⁹³ Letter dated 1 February 2016 from the Permanent Representative of the Bolivarian Republic of Venezuela to the United Nations addressed to the Secretary-General (S/2016/103, annex).

¹⁹⁴ S/PV.7621, p. 3.

¹⁹⁵ *Ibid.*, p. 4 (Bolivarian Republic of Venezuela); p. 7 (Angola); p. 10 (Egypt); pp. 14–15 (Senegal); p. 17 (Ukraine); p. 21 (Uruguay); p. 24 (Japan); p. 25 (China); p. 28 (Russian Federation); p. 33 (Islamic Republic of Iran, on behalf of NAM); p. 34 (Brazil); pp. 37–38 (Viet

reference to the tools provided to the Council for the peaceful settlement of disputes under Article 33 of the Charter, namely negotiation, mediation, arbitration, reconciliation and judicial settlement.¹⁹⁶ The representative of Egypt referred to the Council's engagement of the good offices of the Secretary-General, the gathering of information from fact-finding committees, requesting advisory opinions of the International Court of Justice and referring legal disputes to the Court under Article 36 (3) of the Charter.¹⁹⁷ The representatives of Japan and the Netherlands called for more Member States to accept the Court's compulsory jurisdiction.¹⁹⁸ The representative of Senegal noted, given the strong regional dimension of most conflicts, the importance of placing the action of regional organizations at the heart of peace efforts.¹⁹⁹ The representative of Hungary emphasized the importance of conflict prevention and stated that the Council should use all of the elements in its toolbox, including means related to the peaceful settlement of disputes, cooperation with regional organizations, the adoption of smart targeted sanctions and the referral of situations to the International Criminal Court.²⁰⁰

In connection with the same item and having before it the concept note circulated by Sweden, which held the Presidency during that month,²⁰¹ the Council, at its 7857th meeting, on 10 January 2017, held a high-level open debate in relation to the sub-item "Conflict prevention and sustaining peace". Presenting his vision for the reform of the peace and security architecture of the Secretariat, the Secretary-General stated that the international community must commit to a surge in diplomacy for peace, in partnership with regional organizations. Taking note of the intention of the

Secretariat to enhance its mediation capacity, he asked the Council to make greater use of the options laid out in Chapter VI of the Charter, and expressed his readiness to support the Council through his own good offices and personal engagement.²⁰²

In subsequent remarks, the representative of Viet Nam noted the "urgent need to put conflict prevention and dispute settlement at the core of the Organization's work, as provided for in Article 33", and that in order to achieve such goals, the Council should continue to promote robust leadership and actively assume its primary responsibility to maintain international peace and security.²⁰³ Several Council members and Member States invited under rule 37 of the provisional rules of procedure called for greater unity in the Council to enable it to utilize all of the conflict prevention tools at its disposal such as negotiation, mediation, conciliation or judicial settlement.²⁰⁴ The representative of the Republic of Korea stated that the Council should make better use of its investigatory tools under Article 34 of the Charter.²⁰⁵ The representative of the United States maintained that identifying who is responsible for abuses and violations of the Charter, in public, in the Council, is an antidote to impunity and may have some deterrent effect.²⁰⁶

Other speakers drew attention to the preventative role of sanctions and peacekeeping operations,²⁰⁷ cooperation with regional and subregional organizations,²⁰⁸ greater inclusion and participation of women in peace processes²⁰⁹ and justice and reconciliation.²¹⁰ The representative of the United States argued that the important principle of State sovereignty could not keep the Council and the Secretary-General from taking necessary action to respond to urgent, life-threatening crises.²¹¹ The representative of Norway added that preventing conflict and sustaining peace, with the assistance of the

Nam); p. 38 (Sweden); p. 39 (Syrian Arab Republic); p. 48 (Kazakhstan); p. 50 (Colombia); p. 55 (Kuwait); p. 58 (Algeria); p. 60 (Bangladesh); p. 66 (Morocco); p. 69 (Ecuador); p. 70 (United Arab Emirates); p. 72 (Thailand); p. 73 (Poland); p. 73 (Maldives); p. 75 (Nigeria); p. 78 (Peru); p. 80 (Guyana); and p. 89 (Netherlands).

¹⁹⁶ Ibid., p. 9 (Spain); p. 27 (United States); p. 38 (Sweden); p. 60 (Bangladesh); p. 70 (United Arab Emirates); and p. 73 (Poland).

¹⁹⁷ Ibid., p. 10.

¹⁹⁸ Ibid., p. 24 (Japan); and p. 89 (Netherlands).

¹⁹⁹ Ibid., p. 15.

²⁰⁰ Ibid., pp. 41–42.

²⁰¹ Letter dated 4 January 2017 from the Permanent Representative of Sweden to the United Nations addressed to the Secretary-General (S/2017/6, annex).

²⁰² S/PV.7857, p. 4.

²⁰³ Ibid., pp. 51–52.

²⁰⁴ Ibid., p. 5 (Sweden); p. 15 (United Kingdom); p. 24 (Senegal); p. 36 (Finland); p. 48 (Ecuador); p. 51 (Canada); p. 70 (Panama); p. 77 (United Arab Emirates); and p. 89 (Djibouti).

²⁰⁵ Ibid., p. 34.

²⁰⁶ Ibid., p. 11.

²⁰⁷ Ibid., p. 13 (France).

²⁰⁸ Ibid., p. 7 (Italy); p. 9 (Ethiopia); p. 14 (France); p. 15 (United Kingdom); p. 18 (Ukraine); p. 19 (Uruguay); p. 21 (Russian Federation); and p. 25 (Senegal).

²⁰⁹ Ibid., p. 36 (Finland); and 70 (Panama).

²¹⁰ Ibid., p. 81 (Slovenia).

²¹¹ Ibid., p. 10.

international community, did not undermine State sovereignty but strengthened it.²¹² The representative of the Plurinational State of Bolivia, however, stressed that the Council's work should be carried out with commitment and respect for the sovereignty, independence, unity, territorial integrity, non-interference in countries' internal affairs and equality of all States.²¹³

At its 8144th meeting, on 20 December 2017, held under the same item to discuss the sub-item entitled "Addressing complex contemporary challenges to international peace and security", the Council had before it a concept note circulated by Japan, which held the Presidency of the Council during that month.²¹⁴ In his remarks, the representative of Japan stated that, to more effectively address complex challenges facing international peace and security, the Council needed to increase its focus and effectiveness throughout the whole conflict cycle.²¹⁵ In that regard, the representative of Sweden highlighted the need to place conflict prevention at the core of the Council's actions, and suggested that the United Nations system enhance its joint analysis and integrated strategic planning capabilities to address conflict at its early stages.²¹⁶

The representatives of Kazakhstan and Uruguay underscored the importance of mediation as part of comprehensive approaches to sustaining peace.²¹⁷ The representatives of Ecuador and Senegal commended the establishment by the Secretary-General of the High-level Advisory Board on Mediation.²¹⁸ The representative of the Plurinational State of Bolivia opined that the implementation of the provisions of Chapter VII for settling disputes must not be considered until those under Chapters VI and VIII had been exhausted, and must be implemented only as a last resort.²¹⁹ The representative of Azerbaijan maintained that, apart from preventive diplomacy efforts and the peaceful settlement of disputes and

conflicts, the most effective deterrent was ensuring a speedy end to impunity.²²⁰

Case 6 Women and peace and security

On 28 March 2016, the Council held its 7658th meeting, under the item entitled "Women and peace and security". The Council considered the sub-item entitled "The role of women in conflict prevention and resolution in Africa", on the basis of a concept note circulated by Angola,²²¹ which held the Presidency during that month. The representative of Angola stated that all three major peace and security reviews launched by the Secretary-General in 2015, including the global study on the implementation of resolution [1325 \(2000\)](#), stressed the value added of the women and peace and security agenda to conflict prevention and the potential for early warning in gender-sensitive analysis by identifying the drivers of conflict. She added that women's participation in prevention could take different forms, including direct involvement in formal peace negotiations, consultative commissions, public policies, decision-making, national dialogues, peacebuilding and comprehensive reforms, leading to democratization processes.²²²

Council members and speakers invited under rules 37 and 39 of the provisional rules of procedure concurred regarding the clear connection between the participation of women and the sustainability of peace processes.²²³ The representative of Malaysia highlighted three areas in which the involvement of women would greatly enhance conflict-prevention and resolution, namely, political participation, early warning mechanisms and building long-term resilience against conflict.²²⁴ The representative of China called for encouraging women to become important players in mediation and fully leverage their advantage in advocating for a culture of peace.²²⁵ The representative of France noted that the decision-making power of

²¹² *Ibid.*, p. 42.

²¹³ *Ibid.*, p. 26.

²¹⁴ Letter dated 1 December 2017 from the Permanent Representative of Japan to the United Nations addressed to the Secretary-General ([S/2017/1016](#)).

²¹⁵ [S/PV.8144](#), p. 4.

²¹⁶ *Ibid.*, p. 8.

²¹⁷ *Ibid.*, p. 13 (Kazakhstan); and p. 14 (Uruguay).

²¹⁸ *Ibid.*, p. 16 (Senegal); and p. 43 (Ecuador).

²¹⁹ *Ibid.*, p. 9.

²²⁰ *Ibid.*, p. 45.

²²¹ [S/2016/219](#).

²²² [S/PV.7658](#), p. 11.

²²³ *Ibid.*, p. 4 (Assistant Secretary-General for Political Affairs); p. 11 (Angola); p. 12 (United Kingdom); p. 13 (United States); p. 15 (Uruguay); p. 17 (China); p. 18 (Ukraine); pp. 19–20 (New Zealand); p. 28 (Spain); pp. 34–35 (Sweden); p. 36 (Australia); p. 44 (Islamic Republic of Iran, on behalf of NAM); and p. 45 (Morocco).

²²⁴ *Ibid.*, p. 20.

²²⁵ *Ibid.*, p. 17 (China).

women in peace processes must be enhanced by facilitating the participation of civil society.²²⁶ The representative of Senegal stated that effective women’s participation in the peace and security agenda required “synergetic action” among the Security Council and the other members of the United Nations, including through coordination between the Informal Expert Group on Women and Peace and Security and the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa.²²⁷ Many speakers also took note of various African regional efforts, including the Gender, Peace and Security Programme of the African Union and the appointment of the Special Envoy of the Chairperson of the African Union Commission on Women, Peace and Security.²²⁸

On 27 October 2017, at its 8079th meeting, the Council held a high-level open debate under the sub-item “Realizing the promise of the women and peace and security agenda: ensuring its full implementation, including the participation of women”, having before it a concept note circulated by France, which held the Presidency for the month.²²⁹ Opening the meeting, the Chef de Cabinet referred to the plan of the Secretary-General to achieve gender parity across the United Nations and to efforts to increase the pool of women mediators, including through the High-level Advisory Board on Mediation.²³⁰

The representative of France stated that the participation of women in political processes and in conflict prevention remained “grossly inadequate”.²³¹ The majority of speakers reiterated that the participation of women in peace processes, as well as in early warning, negotiation, conflict prevention, resolution, reconciliation and peacebuilding was an underutilized tool that could contribute to more comprehensive and sustainable peace agreements.²³²

²²⁶ Ibid., p. 26.

²²⁷ Ibid., p. 23.

²²⁸ Ibid. p. 20 (New Zealand); p. 22 (Senegal); p. 26 (France); p. 27 (Russian Federation); p. 28 (Spain); p. 30 (Kazakhstan); p. 32 (Brazil); p. 35 (European Union); p. 40 (Ethiopia); p. 41 (Israel); p. 43 (Canada); p. 44 (Islamic Republic of Iran, on behalf of NAM); p. 52 (Algeria); p. 54 (Thailand); and pp. 56–57 (Indonesia).

²²⁹ S/2017/889.

²³⁰ S/PV.8079, p. 3.

²³¹ Ibid., p. 29.

²³² Ibid., p. 11 (Ukraine); p. 13 (Sweden); p. 14 (United Kingdom); pp. 15–16 (Plurinational State of Bolivia); p. 17 (Senegal); p. 18 (Italy); p. 20 (United States); p. 22 (Ethiopia); p. 25 (Japan); p. 30 (France); p. 35 (Panama,

The representative of Switzerland commended General Assembly resolution 70/304 of 26 September 2016, on the role of mediation, which called upon Member States to promote the equal, full and effective participation of women in all forums and at all levels of the peaceful settlement of disputes and conflict prevention and resolution.²³³ In that connection, several speakers highlighted the importance of creating the necessary political space, empowering civil society and capacity-building.²³⁴ A number of speakers also cited the joint high-level mission led by the Deputy Secretary-General with the African Union to the Democratic Republic of the Congo and Nigeria in July 2017 as a good example of advancing the agenda in conflict and post-conflict areas.²³⁵ Others reiterated the importance of gender parity in United Nations peacekeeping operations and called upon the Council to ensure that the women and peace and security agenda remained a priority in that context.²³⁶

B. Relevance of the provisions of Chapter VI in comparison to the provisions of Chapter VII

During the period under review, some discussions in the Council touched upon the distinction between Chapter VI and Chapter VII of the Charter. This was the case in connection with the question concerning Haiti (see case 7).

on behalf of the Human Security Network); p. 36 (Liechtenstein); p. 41 (Canada, on behalf of the Group of Friends of Women, Peace and Security); p. 43 (Islamic Republic of Iran); p. 52 (Belgium); p. 57 (Morocco); p. 75 (Netherlands); and p. 96 (Portugal).

²³³ Ibid., p. 59.

²³⁴ Ibid., p. 14 (Sweden); p. 17 (Senegal); p. 23 (Ethiopia); p. 27 (Kazakhstan); p. 36 (Panama, on behalf of the Human Security Network); and p. 59 (Switzerland).

²³⁵ Ibid., p. 14 (Sweden); p. 21 (Egypt); p. 22 (Ethiopia); and p. 27 (Kazakhstan).

²³⁶ Ibid., p. 13 (Sweden); pp. 14–15 (United Kingdom); p. 20 (United States); p. 21 (Egypt); p. 23 (Russian Federation); p. 26 (Japan); p. 26 (Kazakhstan); p. 29 (Uruguay); p. 34 (Germany); p. 35 (Guatemala); p. 39 (Nepal); pp. 41–42 (Canada, on behalf of the Group of Friends of Women, Peace and Security); p. 48 (Brazil); p. 52 (Belgium); p. 56 (Peru); p. 57 (Argentina); p. 62 (Lithuania, on behalf of Estonia, Latvia and Lithuania); and p. 63 (Israel).

Case 7

The question concerning Haiti

At its 7924th meeting, on 13 April 2017, the Council, by resolution [2350 \(2017\)](#), acting under Chapter VII of the Charter, renewed the mandate of the United Nations Stabilization Mission in Haiti (MINUSTAH) for a final period of six months until 15 October 2017 and established the United Nations Mission for Justice Support in Haiti (MINUJUSTH). While the resolution was adopted unanimously, the representatives of the Plurinational State of Bolivia, China and the Russian Federation questioned the application of Chapter VII in the context of an improved situation in Haiti, which had been recognized by the Council.²³⁷ In particular, the representative of the Russian Federation affirmed that the mandate of the Mission was not clear. On the one hand, the Mission was to carry out the monitoring of human rights by itself or in support of the Government and, on the other, the decision was made in line with Chapter VII, which implied the use of force. He questioned whether, in spite of the improving situation in Haiti, the violations of human rights had become a threat to international peace and security, the only case in which it could become a situation for consideration by the Council. He recalled that the Blue Helmets were in Haiti because of issues unrelated to human rights.²³⁸ The representative of China added that the underlying tenet of Chapter VII was the maintenance of international peace and security, which did not involve human rights. He hoped that the Council would stay united in supporting the withdrawal of MINUSTAH and continue to promote stability and development in Haiti.²³⁹ The representative of the Plurinational State of Bolivia expressed the view that the reference to Chapter VII did not properly reflect the reality in the country, that each reality and set of circumstances were different and that the language of resolutions needed to be tailored to those different realities.²⁴⁰

At the 8005th meeting, on 18 July 2017, the representative of the Plurinational State of Bolivia expressed support for the request by the President of Haiti, conveyed to the Council during its visit in June 2017, to reclassify MINUJUSTH under Chapter VI. The representative emphasized the need to change the

mandate of the new mission under Chapter VI, especially as there was no threat to international peace and security.²⁴¹ Participating in the meeting under rule 37 of the provisional rules of procedure, the representative of Brazil opined that the fact that MINUJUSTH had been kept under Chapter VII failed to recognize the significant progress that had been achieved in Haiti during the 13 years of operation of MINUSTAH.²⁴²

C. Utilization of Article 35 by a Member State

Article 35 of the Charter provides that any Member of the United Nations may bring any dispute, or any situation which might lead to international friction or give rise to a dispute, to the attention of the Security Council or of the General Assembly. In consideration of the item entitled “Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53)”, the members of the Council made implicit references to Article 35 in connection with the decision of the Government of Colombia to refer to the Council the matter of the peace process with FARC-EP (see case 8).

Case 8

Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53)

At its 7609th meeting, held on 25 January 2016 under the item entitled “Identical letters dated 19 January 2016 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General and the President of the Security Council (S/2016/53)”, the Council unanimously adopted resolution [2261 \(2016\)](#) establishing the United Nations Mission in Colombia as the international component in the ceasefire and cessation of hostilities agreement signed between the Government of Colombia and FARC-EP. While acknowledging that a decision of a State to refer a situation concerning its own negotiated peace agreement to the Council was uncommon, the representatives of France, New

²³⁷ [S/PV.7924](#), p. 3 (Russian Federation); p. 5 (Plurinational State of Bolivia); and p. 7 (China).

²³⁸ *Ibid.*, p. 3.

²³⁹ *Ibid.*, p. 7.

²⁴⁰ *Ibid.*, p. 5.

²⁴¹ [S/PV.8005](#), p. 15.

²⁴² *Ibid.*, p. 21.

Zealand and the United Kingdom welcomed the decision of Colombia to do so.²⁴³ The representative of the United Kingdom added that this was exactly the sort of role the United Nations should be playing, namely, supporting conflict prevention and conflict resolution alongside others, including members of the Community of Latin American and Caribbean States.²⁴⁴ The representative of Ukraine expressed the belief that the Colombian initiative to engage the United Nations would help to bring stability to the region and that the experience should be replicated elsewhere.²⁴⁵ The representative of China expressed support for the role of the United Nations in the peace process, in accordance with the needs of the Government of Colombia, on the basis of respect for its sovereignty, independence and territorial integrity.²⁴⁶

Concluding the meeting, the Minister for Foreign Affairs of Colombia expressed the view that the Council's decision to support the Colombian peace process was a demonstration of its commitment to the peaceful settlement of disputes, and an opportunity for the United Nations and the international community to enjoy success by supporting the implementation of an agreement being resolved by national stakeholders through negotiation and dialogue.²⁴⁷

D. Utilization of Article 99 by the Secretary-General

Article 99 of the Charter stipulates that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. In the discussions of the Council presented below, Member States encouraged the Secretary-General to fully exercise his power under Article 99 and to strengthen the effectiveness of his good offices. References to the multiple tools available to the Secretary-General under Article 99 were discussed in connection with the item entitled “Maintenance of international peace and security”, as described in cases 9 and 10.

²⁴³ S/PV.7609, p. 2 (United Kingdom); p. 6 (France); and p. 7 (New Zealand).

²⁴⁴ Ibid., p. 2.

²⁴⁵ Ibid., p. 8.

²⁴⁶ Ibid., p. 6.

²⁴⁷ Ibid., p. 10.

Case 9 Maintenance of international peace and security

On 15 February 2016, at its 7621st meeting, the Council held an open debate on the sub-item entitled “Respect for the principles and purposes of the Charter of the United Nations as a key element for the maintenance of international peace and security”. At the meeting the Secretary-General pointed out that Article 99 of the Charter was formally invoked only rarely, but that did not mean it was no longer operative or relevant or that it could not be invoked in the future, and that it remained a key mechanism. He added that whether or not Article 99 was formally invoked might be secondary, and that it was first and foremost the responsibility of the Secretariat to alert the Council when there were situations that required its engagement.²⁴⁸

In connection with the role of the General Assembly under Article 11 and the role of the Secretary-General under Article 99 in bringing to the attention of the Council matters related to the maintenance of international peace and security, the representative of Algeria stated that those roles were not always and not sufficiently carried out, thus diminishing the effectiveness of the United Nations.²⁴⁹ Participating under rule 37 of the provisional rules of procedure, the representative of the United Arab Emirates agreed, expressing the view that the greater use of Article 99 would be welcomed, not instead of Council engagement, but alongside it.²⁵⁰ The representative of Costa Rica pointed out that the Charter granted the Secretary-General an early warning prerogative, and stated that it was an obligation and responsibility, given his access to relevant information and his strategic position, to warn the Council in a timely manner so that it could take the appropriate preventative measures.²⁵¹ In respect of good offices, the representative of Cyprus specifically acknowledged the negotiation process concerning Cyprus under the auspices of the Secretary-General and expressed hope for its successful conclusion.²⁵²

At the 7857th meeting, on 10 January 2017, during the high-level open debate in connection with the sub-item “Conflict prevention and sustaining

²⁴⁸ S/PV.7621, p. 3.

²⁴⁹ Ibid., p. 57.

²⁵⁰ Ibid., p. 70.

²⁵¹ Ibid., p. 82.

²⁵² Ibid., p. 76.

peace”, several Council members and invitees participating under rules 37 and 39 of the provisional rules of procedure referred to the need to fully empower the Secretary-General to utilize the conflict prevention tools at his disposal, including his good offices role and the bringing of matters to the Council’s attention under Article 99 of the Charter.²⁵³ The representative of Australia stated that independent, frank advice to the Council should be a key role for the Secretary-General and of the Secretariat broadly.²⁵⁴ A number of speakers highlighted horizon-scanning briefings by the Secretariat as an important conflict prevention tool for the Council.²⁵⁵ The representative of Portugal also referred to the utility of Arria-formula and informal interactive dialogue meetings of the Council, as well as open debates.²⁵⁶ The representative of France opined that the regular reports of the High Commissioner for Human Rights and the Special Adviser on the Prevention of Genocide were extremely useful for the Council’s work and underlined the need for the Council to make more systematic use of information provided via those channels.²⁵⁷

Case 10 Maintenance of international peace and security

On 12 October 2017, at its 8069th meeting, the Council held an open debate on the risk of famine in South Sudan, Somalia, Yemen and north-eastern Nigeria. Opening the debate, the Secretary-General stated that he had expressed his deep concern about the

risk of famine in those countries in two letters sent to Member States nine months earlier, in which he called for urgent action and support for humanitarian and development agencies.²⁵⁸

During the discussion, several Council members commended the call to action by the Secretary-General to avert a humanitarian disaster.²⁵⁹ The representative of Sweden stated that this type of interaction between the Council and the Secretary-General, with prevention at its heart, presented a model for the future, particularly as humanitarian crises were increasingly being driven by conflict.²⁶⁰ The representatives of Egypt and Italy paid tribute to the spirit of initiative and leadership shown by the Secretary-General, who exercised his function of providing early warning to the Council in his letters.²⁶¹ The representative of the Plurinational State of Bolivia stated that the Council must take preventive measures on the basis of early warnings issued by the Secretary-General, as such crises had humanitarian consequences and could lead to famine.²⁶² The representative of Japan recalled the presidential statement issued on 9 August 2017,²⁶³ in which the Council requested the Secretary-General to provide early warning when a conflict having devastating humanitarian consequences and hindering an effective humanitarian response risked leading to an outbreak of famine.²⁶⁴ He added that the Council continued to count on the efforts of the Secretary-General in that regard so that it could swiftly and effectively address the risk of famine and link its efforts to the goal of achieving long-term peace and security.²⁶⁵

²⁵³ S/PV.7857, p. 7 (Kazakhstan); p. 9 (Ethiopia); p. 11 (United States); p. 15 (United Kingdom); p. 16 (Japan); p. 18 (Ukraine); p. 32 (Netherlands); pp. 45–46 (Lebanon); p. 47 (European Union); p. 50 (Australia); p. 51 (Canada); and p. 72 (Kuwait).

²⁵⁴ Ibid., p. 50.

²⁵⁵ Ibid., p. 16 (Japan); p. 28 (Poland); p. 36 (Finland) p. 37 (Germany); p. 39 (Brazil); p. 47 (European Union); p. 55 (Estonia); and p. 79 (Portugal).

²⁵⁶ Ibid., p. 79.

²⁵⁷ Ibid., p. 13.

²⁵⁸ S/PV.8069, p. 2.

²⁵⁹ Ibid., p. 7 (Senegal); p. 8 (Kazakhstan); p. 9 (China); p. 13 (Italy); p. 14 (Plurinational State of Bolivia); and p. 14 (Egypt).

²⁶⁰ Ibid., p. 4.

²⁶¹ Ibid., p. 13 (Italy); and p. 14 (Egypt).

²⁶² Ibid., p. 14.

²⁶³ S/PRST/2017/14.

²⁶⁴ S/PV.8069, pp. 16–17.

²⁶⁵ Ibid., p. 17.