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## **Chapter VI**

### **Relations with other United Nations organs**

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## Introductory note

Chapter VI addresses in parts I-V, the relations of the Security Council with the other principal organs of the United Nations: the General Assembly (part I); the Economic and Social Council (part II); the Trusteeship Council (part III); the International Court of Justice (part IV); and the Secretariat (part V). It also includes, in part VI, material relating to the Military Staff Committee, which has been placed, by Articles 45, 46 and 47 of the Charter, in a special relationship with the Security Council.

## Part I Relations with the General Assembly

### Note

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

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

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

#### *Article 23*

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

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<sup>1</sup> By a letter dated 24 December 1991, the Secretary-General requested the President of the Security Council to bring to the attention of the members of the Council a letter of the same date from the representative of the Union of Soviet Socialist Republics, transmitting a letter, also of the same date, from the President of the Russian Federation, in which he informed the Secretary-General that the membership of the Union of Soviet Socialist Republics in the United Nations was being continued by the Russian Federation.

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

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

During the period under review, in accordance with Article 23 of the Charter, the General Assembly, at each regular session, elected five non-permanent members of the Security Council to replace those members whose terms of office were to expire on 31 December of the respective year. In each instance, the Assembly elected the five non-permanent members in the course of one plenary meeting. A table of those elections is set out below.

<i>General Assembly decision</i>	<i>Plenary meeting and date of election</i>	<i>Members elected to two-year terms beginning January of the following year</i>
55/305	32nd, 10 October 2000	Colombia Ireland Mauritius Norway Singapore
56/305	23rd, 13 September 2001	Bulgaria Cameroon Guinea Mexico Syrian Arab Republic
57/402	20th, 27 September 2002	Angola Chile Germany Pakistan Spain
58/403	42nd, 23 October 2003	Algeria Benin Brazil Philippines Romania

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

*Article 10*

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

*Article 11*

*1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.*

*2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.*

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

*4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.*

**Note**

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

In other instances, the General Assembly made recommendations to the Council with regard to specific questions relating to the maintenance of international peace and security, or requesting action from the Council with regard to such questions, in accordance with Article 11 (2) of the Charter. A table of recommendations related to Article 11 (2), which concern items already in the Council’s agenda, is set out in section 2.

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

## 1. Recommendations on matters relating to the Council's powers and functions or with regard to the general principles of cooperation in the maintenance of international peace and security

<i>General Assembly resolution</i>	<i>Item</i>	<i>Recommendation</i>
55/217 21 December 2000	Causes of conflict and the promotion of durable peace and sustainable development in Africa	Invites the Security Council to pursue its consideration of the follow-up to the recommendations in the areas of peace and security, with a view to ensuring coordinated and integrated implementation of the recommendations contained in the report of the Secretary-General.
56/87 12 December 2001	Implementation of the provisions of the Charter of the United Nations related to the assistance to third States affected by the application of sanctions	Renews its invitation to the Security Council to consider the establishment of further mechanisms or procedures, as appropriate, for consultations as early as possible under Article 50 of the Charter of the United Nations with third States which are or may be confronted with special economic problems arising from the carrying out of preventative or enforcement measures imposed by the Council under Chapter VII of the Charter, with regard to a solution of those problems, including appropriate ways and means for increasing the effectiveness of its methods and procedures applied in the consideration of requests by the affected States for assistance;
57/25 19 November 2002		Strongly recommends that the Council continue its efforts to enhance further the effectiveness and transparency of the sanctions committees, to streamline their working procedures and to facilitate access to them by representatives of States that find themselves confronted with special economic problems arising from the carrying out of sanctions;
58/80 9 December 2003		Invites the Security Council [...] to continue to ensure, as appropriate, that: [...] (d) where economic sanctions have had severe effects on third States, the Security Council is able to request the Secretary-General to consider appointing a special representative or dispatching, as necessary, fact-finding missions on the ground to undertake necessary assessments and to identify, as appropriate, possible ways of assistance; (e) The Security Council is able, in the context of situations referred to in subparagraph (d) above, to consider establishing working groups to consider such situations.

## Repertoire of the Practice of the Security Council

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<i>General Assembly resolution</i>	<i>Item</i>	<i>Recommendation</i>
57/337 annex 3 July 2003	Prevention of armed conflict	<p>Encourages the Security Council to give prompt consideration to early warning or prevention cases brought to its attention by the Secretary-General, and to use appropriate mechanisms [...] in accordance with Article 99 of the Charter of the United Nations;</p> <p>Further encourages the Security Council to keep under close review situations of potential armed conflict and to consider seriously cases of potential armed conflict brought to its attention by a State or the General Assembly or on the basis of information furnished by the Economic and Social Council;</p> <p>Recommends that the Security Council continue to mandate peacekeeping operations and include, as appropriate, peacebuilding elements therein, in such a way as to generate conditions which, to the maximum extent possible, help to avoid the recurrence of armed conflict;</p> <p>Encourages the Security Council to continue to invite the office of the United Nations Emergency Relief Coordinator and other relevant United Nations agencies to brief its members on emergency situations which it deems to represent a threat to international peace and security, and to support the implementation of protection and assistance activities by relevant United Nations agencies in accordance with their respective mandates;</p> <p>Encourages the Security Council to give, as appropriate, greater attention to gender perspectives in all its activities aimed at the prevention of armed conflict;</p> <p>Encourages the Security Council and the Economic and Social Council to strengthen their mutual cooperation and coordination, in accordance with their respective mandates, for the prevention of armed conflict.</p>



<i>General Assembly resolution</i>	<i>Item</i>	<i>Recommendation</i>
58/187 22 December 2003	Protection of human rights and fundamental freedoms while countering terrorism	Encourages the Security Council and its Counter-Terrorism Committee to continue to develop the cooperation with relevant human rights bodies, in particular with the Office of the United Nations High Commissioner for Human Rights, giving due regard to the promotion and protection of human rights in the ongoing work pursuant to relevant Security Council resolutions relating to terrorism.

## 2. Recommendations with regard to questions relating to the maintenance of international peace and security or requesting action on such questions by the Council

<i>General Assembly resolution</i>	<i>Title of agenda item</i>	<i>Recommendation</i>
ES-10/7 20 October 2000	Illegal Israeli actions in Occupied East Jerusalem and the rest of the occupied Palestinian Territory	Calls upon the members of the Security Council to follow the situation closely, including the implementation of Council resolution 1322 (2000), in fulfilment of the Council's primary responsibility for the maintenance of international peace and security.

### C. Practice in relation to Article 12 of the Charter

#### *Article 12*

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

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

#### **Note**

During the period under review, there was no discussion in the Security Council of the nature of the

limitation placed by Article 12 (1) upon the authority of the General Assembly to make recommendations. Neither did the Council request that the General Assembly make a recommendation in respect of a dispute or situation in accordance with the exception provided for in Article 12 (1). The General Assembly, however, after resuming the tenth emergency special session, adopted a resolution which in large part reproduced a draft resolution rejected earlier by the Security Council, owing to the negative vote of a permanent member. Thus, in effect, the Security Council and the General Assembly would have considered and made decisions on the same agenda item (case 1).

In accordance with Article 12 (2), the Secretary-General continued to notify the General Assembly of matters relative to the maintenance of international peace and security which were being dealt with by the Security Council and of matters with which the Council had ceased to deal.<sup>2</sup> The notifications were

<sup>2</sup> See notes by the Secretary-General entitled "Notification by the Secretary-General under Article 12, paragraph 2, of the Charter of the United Nations" (A/55/366, A/56/366, A/57/392 and A/58/354).

based upon the summary statement of matters of which the Security Council is seized and of the stage reached in their consideration, circulated each week to the members of the Security Council, in accordance with rule 11 of the provisional rules of procedure of the Council.<sup>3</sup> The items in the notifications were the same as those in the summary statements for the relevant period, apart from the omission of those items not considered to relate to the maintenance of international peace and security.

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

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

### Case 1

At the 4828th meeting of the Security Council, held on 16 September 2003 in connection with the situation in the Middle East, including the Palestinian question, a permanent member of the Council exercised its negative vote on the text of a draft resolution.<sup>4</sup> Following the meeting of the Council, the 22 members of the Arab League,<sup>5</sup> supported by the Non-Aligned Movement,<sup>6</sup> requested a resumption of the tenth emergency special session<sup>7</sup> of the General

Assembly “in the light of the inability of the Security Council to fulfil its responsibility for the maintenance of international peace and security due to the exercise by one of its permanent members of the veto”.<sup>8</sup> At the resumed tenth emergency session on the item entitled “Illegal Israeli actions in occupied East Jerusalem and the rest of the occupied Palestinian Territory”, convened on 19 September 2003 under the “Uniting for peace” formula, several speakers regretted the failure of the Security Council to discharge its responsibilities.<sup>9</sup> Condemning the exercise of the veto, several speakers underscored the need for the General Assembly to “assume that responsibility” and “try to remedy what occurred in the Security Council”.<sup>10</sup> At the end of the session, the General Assembly adopted resolution ES-10/12, which was similar in substance to the draft resolution vetoed in the Security Council, with identical provisions in two of the four paragraphs, which read:<sup>11</sup>

*The General Assembly,*

... *Reiterates* its demand for the complete cessation of all acts of terrorism, provocation, incitement and destruction;

*Demands* that Israel, the occupying Power, desist from any act of deportation and cease any threat to the safety of the elected President of the Palestinian Authority.

special session shall be convened within 24 hours at the request of the Security Council or a majority of the members of the United Nations. In recent practice, requests have tended to originate from, and be supported by, regional blocs.

<sup>8</sup> A/ES-10/237.

<sup>9</sup> A/ES-10/PV.20, pp. 1-4 (Palestine); pp. 4-5 (Sudan); pp. 7-9 (Cuba); pp. 9-10 (Malaysia); pp. 12-13 (South Africa); and pp. 15-16 (Iran (Islamic Republic of)).

<sup>10</sup> *Ibid.*, pp. 1-4 (Palestine); pp. 4-5 (Sudan); pp. 7-9 (Cuba); pp. 9-10 (Malaysia); p. 11 (Russian Federation); pp. 12-13 (South Africa); and p. 20 (Chile).

<sup>11</sup> Initially, draft resolution A/ES-10/L.12 was almost identical to the draft resolution submitted to the Council; however, following intensive consultations between the sponsors and the European Union, amendments to the draft resolution were introduced orally. For details, see A/ES-10/PV.20, p. 18.

<sup>3</sup> Rule 11 reads as follows: “The Secretary-General shall communicate each week to the representatives on the Security Council a summary statement of matters of which the Security Council is seized and of the stage reached in their consideration”.

<sup>4</sup> S/2003/891.

<sup>5</sup> A/ES-10/237.

<sup>6</sup> A/ES-10/238.

<sup>7</sup> Under resolution 377 A (V) on uniting for peace, adopted by the General Assembly in 1950, an emergency

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

### Note

On a number of matters, the Charter provides for joint decision-making by the Security Council and the General Assembly, but requires the decision by the Council to be taken first. This is the case, for instance, with respect to the admission, suspension or expulsion of Members (Articles 4, 5, and 6), the appointment of the Secretary-General (Article 97) and the conditions under which a State which is not a member of the United Nations may become a party to the Statute of the International Court of Justice (Article 93 (2)).<sup>12</sup> In addition, the Statutes of the International Tribunal for Rwanda<sup>13</sup> and the International Tribunal for the Former Yugoslavia provide for the Council to submit a list of candidates to the General Assembly, from which the Assembly would elect the judges of the Tribunals (Article 12 of the Statute of the International Tribunal for the Former Yugoslavia; Article 13 of the Statute of the International Tribunal for Rwanda).<sup>14</sup>

<sup>12</sup> The Statute of the International Court of Justice provides for the Security Council to make recommendations to the General Assembly regarding the conditions under which a State that is a party to the Statute but not a Member of the United Nations may participate in electing members of the Court, and in making amendments to the Statute (Article 4 (3) and 69 of the Statute).

<sup>13</sup> The official titles of the two Tribunals are as follows: International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994; and International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

<sup>14</sup> The procedure for the election of judges of the Tribunals is set out in Article 13 (2), (3) and (4) of the Statute of the International Tribunal for the Former Yugoslavia and Article 12 (2), (3), (4) and (5) of the Statute of the International Tribunal for Rwanda. In each case, in accordance with the Statute, the Secretary-General forwarded to the President of the Security Council the nominations received. The Security Council then

Section D considers briefly Security Council practice during the period under review in relation to the admission of Members and the appointment of the Secretary-General. No questions arose concerning the conditions of accession to the Statute of the International Court of Justice.

### 1. Membership in the United Nations

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

During the period under review, the Council recommended the admission of four States to membership in the United Nations.<sup>15</sup> It made no negative recommendations, requiring it to submit a special report to the General Assembly. The Council

convened a meeting, in accordance with the understanding reached in its prior consultations, and adopted a resolution establishing the list of candidates for judges. Subsequently, the President of the Security Council formally transmitted to the President of the General Assembly the text of the resolution. The Assembly then proceeded to elect the judges from the list contained in that resolution. During the period under review, the General Assembly reviewed the recommendations of the Council and elected 13 judges for the International Criminal Tribunal for Rwanda. In Respect of the International Criminal Tribunal for the Former Yugoslavia, the General Assembly recommended 14 judges and 27 *ad litem* judges.

<sup>15</sup> Tuvalu (A/54/758 and Security Council resolution 1290 (2000) of 17 February 2000); Federal Republic of Yugoslavia (A/55/535 and Security Council resolution 1326 (2000) of 31 October 2000; as from 4 February 2003, the name of the Federal Republic of Yugoslavia was changed to Serbia and Montenegro); Timor-Leste (A/57/258 and Security Council resolution 1414 (2002) of 23 May 2002); and Switzerland (A/57/259 and Security Council resolution 1426 (2002) of 24 July 2002). For details relating to the consideration by the Council of the aforementioned applications, see chapter VII of the present Supplement.

did not discuss or recommend the suspension or expulsion of any Member.

## 2. Appointment of the Secretary-General

### *Article 97*

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

### *Rule 48*

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

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

### Case 2

At its 4337th meeting, held in private on 27 June 2001, the Security Council considered the question of the recommendation for the appointment of the Secretary-General of the United Nations. Resolution 1358 (2001), recommending that Mr. Kofi Annan be appointed Secretary-General of the United Nations for a second term of office from 1 January 2001 to 31 December 2006, was adopted by acclamation.<sup>16</sup> The nomination took place several months before the

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<sup>16</sup> This was the third time a resolution had been adopted by acclamation in the Security Council. In 1996, the Security Council adopted by acclamation resolution 1090 (1996) recommending Mr. Annan's appointment as Secretary-General of the United Nations. At the same meeting, the Council also adopted by acclamation resolution 1091 (1996), recognizing Mr. Boutros Boutros-Ghali's service to the United Nations.

expiration of his first term in office. By letter dated 27 June 2001,<sup>17</sup> the President of the Security Council transmitted the recommendation to the President of the General Assembly.<sup>18</sup>

## E. Reports of the Security Council to the General Assembly

### *Article 24, paragraph 3*

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

### *Article 15, paragraph 1*

*The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.*

In accordance with Article 24 (3) of the Charter, during the period under review, the Security Council continued to submit annual reports to the General Assembly.<sup>19</sup>

At its 4375th meeting, the Council adopted, without a vote, its draft annual report to the General Assembly for the period from 16 June 2000 to 15 June 2001. After an explanatory statement by the Secretariat, a number of members made a statement. Noting at the outset that his delegation was not criticizing their colleagues or members of the

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<sup>17</sup> A/55/999.

<sup>18</sup> At its 105th plenary meeting, held on 29 June 2001, the General Assembly adopted resolution 55/277, by which it appointed Mr. Kofi Annan for a second term of office.

<sup>19</sup> Annual reports were adopted by the Security Council at the following public meetings: 55th report (covering the period 16 June 1999-15 June 2000), adopted at the 4192nd meeting held on 31 August 2000; 56th report (covering the period 16 June 2000-15 June 2001), adopted at the 4375th meeting held on 18 September 2001; 57th report (covering the period 16 June 2001-31 July 2002), adopted at the 4616th meeting held on 26 September 2002; 58th report (covering the period 1 August 2002-31 July 2003), adopted at the 4831st meeting held on 19 September 2003; 59th report (covering the period 1 August 2003 to 31 July 2004), adopted at the 5044th meeting held on 28 September 2004.

Secretariat, the representative of Singapore expressed reservations regarding the present format of the report and, echoed by the representative of Colombia, stated that it failed to achieve its objective of “illuminating the work of the Council to the General Assembly”.<sup>20</sup> Both speakers stressed that the analytical nature of the report had not been improved and looked forward to the participation of States Members of the United Nations at the General Assembly in suggesting changes to the report. At the same meeting, the President noted the decision, taken by Council members in prior consultations, to refer the matter to the Informal Working Group on Documentation and Procedural Questions, for review and possible change to the report’s format.

In a note by the President of the Security Council, dated 22 May 2002,<sup>21</sup> Council members, taking into account the views expressed during the debate on the Council’s annual report at the fifty-sixth session of the General Assembly, agreed to make a number of changes to the format and content of the report. In addition, members agreed that the report presented to the General Assembly at its fifty-seventh session would cover the period from 16 June 2001 to 31 July 2002.<sup>22</sup> Thereafter, the period of coverage for all future reports would be from 1 August of one year to 31 July of the next. The note by the President provided for an introduction to the report and the possibility for members of the Council who wished to do so to comment on the work of the Council at the meeting devoted to the adoption of the report. It also envisaged that the President of the Council for the month in which the report was presented to the Assembly would have the opportunity to make reference to the verbatim record of the Council’s discussion on the report. The note further stated that the Secretariat should post the annual report of the Security Council on the United Nations website.

The new format of the report comprised six main parts: part I provided a brief statistical description of the key activities of the Security Council in relation to all questions considered under its responsibility for the maintenance of international peace and security; part II provided a summary of the questions considered by the Security Council under its responsibility for the

maintenance of international peace and security organized by agenda item; part III dealt with “other matters” considered by the Council, such as the admission of new members, the appointment of the Secretary-General and the Council’s responsibilities regarding the election of members of the International Court of Justice; part IV provided an account of the work of the Military Staff Committee; part V contained matters that were brought to the attention of the Council but not discussed during the period covered by the report; and part VI dealt with the work of the subsidiary bodies of the Security Council.

At its 4616th meeting, held on 26 September 2002, the Security Council adopted the first draft report prepared in accordance with the provisions of the note by the President of the Council.<sup>23</sup> For the first time, the draft annual report was adopted at an open meeting of the Security Council during which Council members, following introductory remarks by the Secretariat, commented on the format and substance of the report before submitting it to the General Assembly. All speakers stated that they supported the report’s transformation. Speakers noted that it was “shorter, more analytical and more reflective”,<sup>24</sup> as well as “more focused and more organized”<sup>25</sup> and had become a “genuine working tool”.<sup>26</sup> The representative of Colombia noted that the new format was a concrete sign of a collective effort towards transparency and a clear signal of the Council’s intention to keep the General Assembly better informed. He further added that the new annual report was an acknowledgment of the existence of political points of connection between the two bodies.<sup>27</sup> In addition, several speakers commented on the improvement of the Council’s working methods during the period covered by the report,<sup>28</sup> with one speaker noting that the report itself clearly reflected the concrete steps taken by the Council to improve its working methods.<sup>29</sup>

<sup>20</sup> S/PV.4375, pp. 2-3 (Singapore); p. 3 (Colombia).

<sup>21</sup> S/2002/199.

<sup>22</sup> Since 1970, the report had covered the period of 16 June of one year to 15 June of the next.

<sup>23</sup> The decision was reflected in a note by the President (S/2002/1068).

<sup>24</sup> S/PV.4616, p. 7 (France).

<sup>25</sup> *Ibid.*, p. 17 (Mauritius).

<sup>26</sup> *Ibid.*, p. 12 (Ireland).

<sup>27</sup> *Ibid.*, p. 21 (Colombia).

<sup>28</sup> *Ibid.*, pp. 2-6 (Singapore); p. 7 (France); p. 11 (China); pp. 14-15 (Mexico); p. 16 (Guinea); p. 18 (Mauritius); p. 19 (United States).

<sup>29</sup> *Ibid.*, p. 22 (Russian Federation).

At its 4831st meeting, held on 19 September 2003, the Council adopted, without a discussion or formal vote,<sup>30</sup> its draft annual report to the General Assembly for the period 1 August 2002 to 31 July 2003, together with a corrigendum containing changes requested by two Council members. In his explanatory statement,<sup>31</sup> the Director of the Security Council Affairs Division noted that it was the second report prepared by the Secretariat in line with the revised format agreed upon by the Security Council in 2002. He noted that the introduction to the report was of particular interest, as it provided an analytical summary of the Council's work for the period covered.

During the period covered by this Supplement, the Council did not submit any special reports to the Assembly, under, for example, rule 60 (3) of the Council's provisional rules of procedure.<sup>32</sup>

## **F. Relations with subsidiary organs established by the General Assembly**

### **Note**

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

During the period under review, there was no constitutional discussion bearing on the relations between such subsidiary organs and the Security Council. Subsidiary organs still active included the following: the Special Committee on the Situation with regard to the Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples; the Open-Ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council; the Special Committee on Peacekeeping Operations; the

International Civilian Support Mission in Haiti (MICAH); and the Committee on the Exercise of the Inalienable Rights of the Palestinian People.

Those entities submitted reports and recommendations to the Security Council and/or the General Assembly. The table at the end of this section gives an account of communications from those organs to the Council.

During the period under consideration, no decisions adopted by the Security Council contained references to the Open-Ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council or the Committee on the Exercise of the Inalienable Rights of the Palestinian People. However, in a presidential statement dated 20 May 2002<sup>33</sup> in connection with the situation in East Timor, the Council expressed its appreciation for the efforts made by the General Assembly and the Special Committee on the situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples towards East Timor's achievement of independence. In a presidential statement of 15 March 2000,<sup>34</sup> the Council commended the Secretary-General for ensuring a phased transition to the International Civilian Support Mission in Haiti. In several instances, the Council made references to the Special Committee on Peacekeeping Operations established by the General Assembly (case 3).

Occasionally, during the period under review, invitations to attend Security Council meetings were addressed to representatives of a subsidiary organ of the General Assembly (see table).<sup>35</sup> Invitations were extended as a matter of course and without any discussion. The letters of request were read into the record of the meeting by the President of the Security Council and were generally not issued as documents. During the period under consideration, the President of the Security Council attended meetings of two subsidiary organs of the General Assembly (case 4).

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<sup>30</sup> See note by the President (S/2003/901).

<sup>31</sup> S/PV.4831, p.2.

<sup>32</sup> The rule provides that if the Security Council does not recommend an applicant State for membership or postpones the consideration of the application, it "shall submit a special report to the General Assembly with a complete record of the discussion".

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<sup>33</sup> S/PRST/2002/13.

<sup>34</sup> S/PRST/2000/8.

<sup>35</sup> The participation of the representatives of these organs in meetings of the Council is also covered in chapter 3 of the present Supplement.

<i>Person invited</i>	<i>Item</i>	<i>Meeting</i>	<i>Date</i>
Committee on the Exercise of the Inalienable Rights of the Palestinian People <sup>a</sup> Chairman/Acting Chairman	The situation in the Middle East, including the Palestinian question	4204th	4 October 2000
		4295th	15 March 2001
		4295th	19 March 2001
		4357th	20 August 2001
		4438th	14 December 2001
		4478th	26 February 2002
		4506th	3 April 2002
		4525th	3 May 2002
		4552nd	13 June 2002
		4588th	24 July 2002
		4614th	23 September 2002

<sup>a</sup> The Committee on the Exercise of the Inalienable Rights of the Palestinian People is a subsidiary organ of the General Assembly.

### Case 3

In a letter dated 14 February 2000 from the President of the Security Council addressed to the President of the General Assembly,<sup>36</sup> the Council informed the General Assembly that the informal working group, established by the Council to consider the report of the Secretary-General<sup>37</sup> on the protection of civilians in armed conflict, had suggested that four recommendations contained in the above-mentioned report be referred to the Special Committee on Peacekeeping Operations of the General Assembly for consideration. Therein, the Council requested the appropriate consideration by the General Assembly, and guidance on how those recommendations might be acted upon, including any views of the Special Committee with regard to other recommendations relating to peacekeeping.

At its 4130th meeting, held on 19 April 2000 in connection with the protection of civilians in armed conflict, the Council unanimously adopted resolution 1296 (2000), in which it recalled the letter from its President to the President of the General Assembly dated 14 February 2000; took note of the letter to its President from the President of the General Assembly dated 7 April 2000 transmitting a letter dated 1 April 2000 from the Chairman of the Special Committee on

Peacekeeping Operations; welcomed in that regard the work by the Committee with reference to the recommendations in the report of the Secretary-General of 8 September 1999 which related to its mandate; and encouraged the General Assembly to continue consideration of those aspects of the protection of civilians in armed conflict.<sup>38</sup>

At its 4172nd meeting, held on 17 July 2000 in connection with the responsibility of the Security Council in the maintenance of international peace and security: HIV/AIDS and international peacekeeping operations, the Council unanimously adopted resolution 1308 (2000) by which it recognized the need to incorporate HIV/AIDS prevention awareness skills and advice in aspects of the training provided to peacekeeping personnel by the Department of Peacekeeping Operations, and welcomed the report of the United Nations Special Committee on Peacekeeping Operations of 20 March 2000, which affirmed that need and the efforts already made by the Secretariat in that regard.

In a statement by the president dated on 31 January 2001,<sup>39</sup> the Council decided to establish a Working Group of the Whole on United Nations Peacekeeping Operations, with a view to addressing generic peacekeeping issues relevant to the Council's

<sup>36</sup> S/2000/119.

<sup>37</sup> S/1999/957.

<sup>38</sup> Resolution 1296 (2000), para. 23.

<sup>39</sup> S/PRST/2001/3.

responsibilities “without prejudice to the competence of the [General Assembly] Special Committee on Peacekeeping Operations”.

In the first report of the Working Group,<sup>40</sup> the Chairman noted that on 10 May 2001, he had given a comprehensive briefing to the Special Committee on Peacekeeping Operations and had responded to questions raised by the members. All members of the Working Group were present at the meeting and members of the Working Group, during subsequent deliberations, considered the points made by the members of the Special Committee. In the third report of the Working Group,<sup>41</sup> it was further noted that the Working Group had requested a meeting with the Special Committee on Peacekeeping Operations on 14 December 2001 to hear the views of a wide group of troop-contributing countries.

In a letter dated 7 March 2003 from the President of the Security Council addressed to the Secretary-General,<sup>42</sup> the Council informed the Secretary-General that the Council had agreed to his proposal to consolidate the reporting on the progress of the arrangements for stand-by units in the annual report to the Special Committee on Peacekeeping Operations.

#### Case 4

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

In March 2000, the President of the Security Council and two Council members represented the Council at a meeting of the Open-Ended Working Group on the Question of Equitable Representation on and Increase in the Membership of the Security Council and Other Matters Related to the Security Council. It was the first time that Council members had represented the Council at a meeting of the Working Group.<sup>43</sup> Members of the Council subsequently participated in meetings of the Working Group in 2001, 2002 and 2003.

In November 2000, the President of the Council made a statement at a meeting of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, in observance of the International Day of Solidarity with the Palestinian People.<sup>44</sup> Conversely, the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People participated in several meetings of the Council.<sup>45</sup>

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<sup>43</sup> S/2002/603, p. 14.

<sup>44</sup> A/AC.183/PV.255. During the period under review, each year, the President of the Council participated in meetings of the Committee commemorating the International Day of Solidarity with the Palestinian People (A/AC.183/PV.261, A/AC.183/PV.268 and A/AC.183/PV.276).

<sup>45</sup> Details concerning the participation of the Chairman of the Committee on the Exercise of the Inalienable Rights of the Palestinian People are set out in chapter 3 of the present Supplement.

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<sup>40</sup> S/2001/546, p. 2.

<sup>41</sup> S/2001/1335, p. 6.

<sup>42</sup> S/2003/285.



## Communications from subsidiary organs established by the General Assembly

### Communications from the Committee on the Exercise of the Inalienable Rights of the Palestinian People

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/2000/253	24 March 2000	Letter dated 24 March 2000 from the Chairman reiterating the Committee's objection to the deletion from the list of items of which the Council is seized of matters related to the exercise of the inalienable rights of the Palestinian people, the Palestine question and the Middle East problem.
S/2000/936	2 October 2000	Letter dated 2 October 2000 from the Chairman drawing attention, to the violent confrontations between the Israel Defence Forces (IDF) and police and Palestinian worshippers at Al-Aqsa Mosque and throughout the Haram al-Sharif compound that erupted on 28 September 2000, and appealing to the Secretary-General and all the parties concerned to take the necessary steps in order to induce Israel to abide by its obligations and responsibilities under the Fourth Geneva Convention, to guarantee its respect for the Holy Places and to ensure international protection of the Palestinian people.
S/2001/207	7 March 2001	Letter dated 7 March 2001 from the Chairman drawing attention to the alarming situation in the Occupied Palestinian Territory, including Jerusalem, and raising concern over the impending fiscal crisis of the Palestinian Authority and its capacity to continue to function.
S/2001/208	7 March 2001	Letter dated 7 March 2001 from the Chairman drawing the attention of the Secretary-General to the fact that Palestinian speakers were unable to attend the United Nations Seminar on Assistance to the Palestinian People, held on 20-21 February 2001, owing to the general closure and travel restrictions imposed by Israel.
S/2001/296	24 March 2001	Letter dated 24 March 2001 from the Chairman reiterating the Committee's objection to the deletion from the list of items of which the Security Council is seized of matters relating to the exercise of the inalienable rights of the Palestinian people, the question of Palestine and the situation in the Middle East.
S/2001/335	5 April 2001	Letter dated 5 April 2001 from the Chairman drawing attention to the escalating conflict in the Occupied Palestinian Territory, including Jerusalem, and urging the Secretary-General to continue to remain actively and closely engaged with the parties, directly as well through the United Nations Special Coordinator, in an effort to end the violence and resume the dialogue between Israel and the Palestinians.
S/2001/336	5 April 2001	Letter dated 5 April 2001 from the Chairman drawing attention to the dangerously escalating conflict in the Occupied Palestinian Territory and the continuing violence on the ground and appealing to the international community to take prompt, concrete and resolute steps with a view to preventing any further exacerbation of the situation and bringing the parties back to the negotiating table.

## Repertoire of the Practice of the Security Council

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<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/2001/390	19 April 2001	Letter dated 19 April 2001 from the Chairman drawing attention to the dangerously rapid escalation of military actions by the Israel Defence Forces in the Occupied Palestinian Territory and appealing to the international community to take prompt and decisive action to stop the violence and resume peace negotiations.
S/2001/392	19 April 2001	Letter dated 19 April 2001 from the Chairman drawing attention to the dangerously rapid escalation in the past several days of military actions by the Israel Defence Forces (IDF) in the Occupied Palestinian Territory, including Jerusalem, and urging the Secretary-General to intensify contacts with all the parties concerned in order to help bring the crisis to an end and restart the Israeli-Palestinian dialogue.
S/2001/819	22 August 2001	Letter dated 22 August 2001 from the Chairman drawing attention to the dramatic escalation of tensions and violence in and around East Jerusalem and in areas under full Palestinian control and calling upon United Nations bodies, especially the Security Council and the General Assembly, to take concrete steps aimed at addressing the continuing Israeli-Palestinian crisis.
S/2001/920	28 September 2001	Letter dated 28 September 2001 from the Chairman sharing thoughts on the anniversary of the Palestinian uprising (known as the “Al-Aqsa intifada”) and appealing to the United Nations to continue to maintain its permanent responsibility with respect to all aspects of the question of Palestine.
S/2001/1000	23 October 2001	Letter dated 23 October 2001 from the Chairman drawing attention to the worsening of the security situation in the Occupied Palestinian Territory, including Jerusalem, and appealing to the Security Council to discharge its primary responsibility for the maintenance of peace and security and act decisively in order to prevent further bloodshed and destruction.
S/2001/1147	4 December 2001	Letter dated 4 December 2001 from the Chairman drawing attention to the worsening of the security situation in the Occupied Palestinian Territory, including Jerusalem, and appealing to the Security Council to discharge its primary responsibility for the maintenance of peace and security and to engage itself in the matter to prevent further escalation of the situation.
S/2002/234	5 March 2002	Letter dated 5 March 2002 from the Chairman drawing attention to the alarming situation in the Occupied Palestinian Territory, including Jerusalem, and other areas of particular concern to the Committee.
S/2002/477	23 April 2002	Letter dated 23 April 2002 from the Chairman reiterating the Committee’s continued objection to the deletion from the list of items of which the Security Council is seized of matters relating to the exercise of the inalienable rights of the Palestinian people, the question of Palestine and the situation in the Middle East.
S/2002/933	14 August 2002	Letter dated 14 August 2002 from the Chairman drawing attention to the alarming humanitarian situation in the Occupied Palestinian Territory, including Jerusalem, and urging a prompt resumption of political negotiations.

<i>Document symbol</i>	<i>Date</i>	<i>Subject</i>
S/2003/450	21 April 2003	Letter dated 21 April 2003 from the Chairman reiterating the Committee's continued objection to the deletion from the list of items of which the Security Council is seized of matters relating to the exercise of the inalienable rights of the Palestinian people, the question of Palestine and the situation in the Middle East.
S/2003/730	17 July 2003	Letter dated 17 July 2003 from the Chairman expressing concern over the closure order by the Israeli army of the Palestine Polytechnic University and urging the Secretary-General to use his good offices with the Government of Israel to redress the situation.

## Part II

### Relations with the Economic and Social Council: practice in relation to Article 65 of the Charter

#### *Article 65*

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

#### **Note**

This part concerns the relationship between the Security Council and the Economic and Social Council. Section A considers decisions of the Council which contain references to either Article 65 of the Charter or the Economic and Social Council. Section B considers deliberations (cases 5-12) of the Council during the course of which the importance of closer ties between the two organs was stressed, particularly in the context of post-conflict peacebuilding and cooperation between their working groups.

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

##### **Note**

During the period under consideration, the Security Council did not formally address a request for information or assistance to the Economic and Social Council. However, in its decisions, the Council made two explicit<sup>46</sup> references to Article 65 of the Charter. In several other decisions, in the context of different agenda items, the Council made a reference to the Economic and Social Council (see subsections 1 and 2 below).

<sup>46</sup> S/PRST/2000/25 and S/PRST/2002/2.

**1. Resolutions containing references to the Economic and Social Council**

<i>Resolution</i>	<i>Item</i>	<i>Relevant provisions</i>
1308 (2000)	The responsibility of the Security Council in the maintenance of international peace and security: HIV/AIDS and international peacekeeping operations	The Council emphasized the important roles of the General Assembly and the Economic and Social Council in addressing HIV/AIDS; ( <i>preambular para. 3</i> )  The Security Council recalled the 28 February 2000 special meeting of the Economic and Social Council, held in partnership with the President of the Security Council, on the development aspects of the HIV/AIDS pandemic ( <i>preambular para. 2</i> )
1366 (2001)	Role of the Security Council in the prevention of armed conflicts	The Security Council expressed its intention to consider cases of potential conflict brought to its attention by any Member State, or by a State not a Member of the United Nations or by the General Assembly or on the basis of information furnished by the Economic and Social Council ( <i>para. 6</i> )

**2. Presidential statements containing references to the Economic and Social Council**

<i>Statement</i>	<i>Item</i>	<i>Relevant provisions</i>
S/PRST/2000/8	The question concerning Haiti	The Security Council recognized the success of cooperative efforts in bringing about the mandate for the new mission in Haiti and noted with satisfaction the contributions made by the General Assembly and the Economic and Social Council in that regard ( <i>para. 5</i> )
S/PRST/2000/25	Role of the Security Council in the prevention of armed conflicts	The Security Council highlighted the importance of strengthening its cooperation with the Economic and Social Council, in accordance with Article 65 of the Charter of the United Nations, in the area of the prevention of armed conflicts, including in addressing the economic, social, cultural and humanitarian problems that are often the root causes of conflicts ( <i>para. 9</i> )
S/PRST/2001/5	Peacebuilding: towards a comprehensive approach	To enhance further the effectiveness of the United Nations in addressing conflicts at all stages, from prevention to settlement to post-conflict peacebuilding, the Council reiterated its willingness to consider ways to improve its cooperation with other United Nations bodies and organs directly concerned by peacebuilding, in particular the General Assembly and the Economic and Social Council, which have a primary role in that field ( <i>para. 15</i> )

<i>Statement</i>	<i>Item</i>	<i>Relevant provisions</i>
S/PRST/2001/16	The responsibility of the Security Council in the maintenance of international peace and security: HIV/AIDS and international peacekeeping operations	The Council recalled its resolution 1308 (2000) of 17 July 2000, in which the Council, bearing in mind its primary responsibility for the maintenance of international peace and security, and emphasizing the important roles of the General Assembly and the Economic and Social Council in addressing the social and economic factors that lead to the spread of HIV/AIDS, inter alia, recognized that the HIV/AIDS pandemic is also exacerbated by conditions of violence and instability, and stressed that the HIV/AIDS pandemic, if unchecked, may pose a risk to stability and security ( <i>para. 2</i> )
S/PRST/2002/2	The situation in Africa	The Council welcomed the participation of the Economic and Social Council in its public meeting on the situation in Africa, held on 29 January 2002. It reaffirmed the importance of strengthening its cooperation, through greater interaction, with the Economic and Social Council, in accordance with Article 65 of the Charter, in the area of the prevention of armed conflicts, including in addressing the economic, social, cultural and humanitarian problems ( <i>para. 13</i> )  The Council recognized the need for adequate measures to prevent and resolve conflicts in Africa, and would consider the setting up of an Ad Hoc Working Group to monitor the Council's recommendations and enhance coordination with the Economic and Social Council ( <i>para. 17</i> )
S/PRST/2003/8	The situation in Guinea-Bissau	The Council called on the Government of Guinea-Bissau to endorse fully the partnership approach defined by the Ad Hoc Advisory Group of the Economic and Social Council on Guinea-Bissau ( <i>para. 3</i> )
S/PRST/2003/30	The situation in Burundi	The Council welcomed the recent mission of the Ad Hoc Advisory Group on Burundi of the Economic and Social Council ( <i>para. 5</i> )

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

### **Note**

The issue of relations between the Security Council and the Economic and Social Council arose frequently in Security Council debates, particularly in the context of post-conflict peacebuilding in Africa.<sup>47</sup>

<sup>47</sup> Similar discussions also took place in the Economic and Social Council, including, for example, during its substantive session of 2002, a discussion of the item

During debates of the Council, emphasis was placed on the interrelation between peace and development and on the need for coordination of efforts by the Security Council, the Economic and Social Council and other

entitled "Strengthening further the Economic and Social Council, building on its recent achievements, to help it fulfil the role ascribed to it in the Charter of the United Nations as contained in the United Nations Millennium Declaration". During that discussion several speakers confirmed the need for the Economic and Social Council to deepen its cooperation and coordination with the Security Council. For details, see E/2002/SR.18, E/2002/SR.19, E/2002/SR.21, E/2002/SR.22 and E/2002/SR.23.

United Nations organs involved in conflict management. At its 4465th meeting, held on 31 January 2002 in connection with the situation in Africa, the President made a statement on behalf of the Council<sup>48</sup> which marked the beginning of a new phase in cooperation between the two bodies on issues before the Security Council pertaining to Africa. In the statement, the Security Council reaffirmed the importance of strengthening its cooperation with the Economic and Social Council in the prevention of armed conflicts on the continent, including addressing economic, social, cultural and humanitarian problems, and stated that it would consider the setting up of an ad hoc working group to, inter alia, enhance coordination with the Economic and Social Council. Several case studies are highlighted below, each addressing a different matter before the Security Council, with a view to outlining the evolving relationship between the Security Council and the Economic and Social Council. The case studies analysed are as follows: the impact of HIV/AIDS on peace and security in Africa (case 5); HIV/AIDS and international peacekeeping operations (case 6); the role of the Security Council in the prevention of armed conflicts (case 7); the situation in Africa (case 8); the situation in Guinea-Bissau (case 9); the situation in Burundi (case 10);

<sup>48</sup> S/PRST/2002/2.

Peacebuilding: towards a comprehensive approach (case 11); and food aid in the context of conflict settlement: Afghanistan and other crisis areas (case 12).

During the period under review, the interaction between the Security Council and the Economic and Social Council considerably increased in other ways. For the first time, the President of the Economic and Social Council was invited to brief the Security Council at a Council meeting.<sup>49</sup> Subsequently, the Council extended numerous invitations to the representatives of the Economic and Social Council to attend Security Council meetings (see table below).<sup>50</sup>

<sup>49</sup> S/PV.4460.

<sup>50</sup> Following the 4460th meeting of the Security Council, the President of the Economic and Social Council was also invited to participate in the meetings of the Security Council Working Group on Africa (S/PV.4673, p. 11). In addition, in April 2001, the President of the Security Council proposed a joint meeting of the Security Council and Economic and Social Council to consider coordination on conflict management. The proposed joint meeting, which was in fact never convened, was retrospectively mentioned by the representative of the United Kingdom at the 4334th meeting of the Security Council (S/PV.4334, p. 10).

<i>Person invited</i>	<i>Item</i>	<i>Meeting</i>	<i>Date</i>
Mr. Ivan Šimonovič, President of the Economic and Social Council	The situation in Africa	4460	29 January 2002
		4538	22 May 2002
		4577	18 July 2002
	Strengthening cooperation between the United Nations system and the Central African region in the maintenance of peace and security	4630	22 October 2002
		4635	28 October 2002
Mr. Gert Rosenthal, President of the Economic and Social Council	Wrap-up discussion on the work of the Security Council for the current month	4748	30 April 2003
	The situation in Guinea-Bissau	4860	18 November 2003
	The situation in Burundi	4876	4 December 2003
Mr. Dumisani Kumalo, Chairman of the Ad Hoc Advisory Group on Guinea- Bissau	The situation in Guinea-Bissau	4776	19 June 2003

In addition, there were several instances in which a member of the Security Council was invited to participate in a meeting of the Economic and Social Council or one of its subsidiary organs.<sup>51</sup>

During the period under review, there were two occasions when the Security Council and the Economic and Social Council collaborated in their missions to the field. At the invitation of the President of the Economic and Social Council, the Chairman of the Security Council Working Group on Africa joined the Ad Hoc Advisory Group on Guinea-Bissau of the Economic and Social Council during its visit to Guinea-Bissau from 9 to 16 November 2002.<sup>52</sup> On 27 and 28 June 2003, the Security Council mission to West Africa visited Guinea-Bissau jointly with a mission of the Ad Hoc Advisory Group.<sup>53</sup> The mission was mentioned in the presidential statement of 19 June 2003.<sup>54</sup>

#### Case 5

#### The impact of HIV/AIDS on peace and security in Africa

At its 4087th meeting, held on 10 January 2000, the Security Council considered the impact of HIV/AIDS on peace and security in Africa. Following that meeting, in a letter dated 31 January 2000<sup>55</sup> addressed to the President of the Economic and Social Council, the President of the Security Council informed the former of the Security Council's 10 January meeting and conveyed the "Council's desire

to explore the possibility of further cooperative action with the Economic and Social Council".

On 28 February 2000, in response to the Council's letter, the Economic and Social Council held a meeting<sup>56</sup> to discuss the main development issues and concerns considered at the Security Council meeting on the impact of HIV/AIDS on peace and security in Africa.<sup>57</sup> At that meeting, the President of the Security Council for the month of February addressed the Economic and Social Council, asserting that the "greater coordination and systematic exchanges of information between the Economic and Social Council and the Security Council, within their respective spheres of competence, would help in the development of a common agenda and policy priorities for combating HIV/AIDS in Africa".<sup>58</sup> The President of the Security Council for the month of January, who also attended the meeting, stated that the Economic and Social Council and the Security Council should both ensure that all agencies of the United Nations system reassessed their capacity to incorporate HIV/AIDS control into their mandate.<sup>59</sup>

During the meeting, speakers expressed differing views on the competence of the Security Council to address the HIV/AIDS issue. Some speakers supported a more active collaborative approach by the Security Council and the Economic and Social Council.<sup>60</sup> Others stressed that the Economic and Social Council had the mandate to be the forum for multilateral discussion and coordination on this issue,<sup>61</sup> while two Member States emphasized that the place for the discussion to continue was in the General Assembly.<sup>62</sup>

At its 4172nd meeting, held on 17 July 2000, the Security Council adopted resolution 1308 (2000). By that resolution, emphasizing the important role of the Economic and Social Council in addressing HIV/AIDS and recalling the 28 February 2000 special meeting of

<sup>51</sup> For example, the Security Council Presidents for January and February 2000 attended a meeting of the Economic and Social Council, held to discuss the main development issues and concerns considered at the Security Council meeting on the impact of HIV/AIDS on peace and security in Africa (see E/2000/SR.4); the Security Council President addressed the substantive session of the Economic and Social Council on HIV/AIDS to represent the views of the Security Council on that issue (E/2002/SR.11); and the President of the Security Council participated in the commemoration by the Economic and Social Council of the tenth anniversary of the General Peace Agreement for Mozambique (E/2002/SR.43).

<sup>52</sup> E/2003/8.

<sup>53</sup> The composition and terms of reference of the Ad Hoc Advisory Group mission are set out in the annex to the report of the mission (S/2003/688, annex, part B).

<sup>54</sup> S/PRST/2003/8.

<sup>55</sup> S/2000/76.

<sup>56</sup> E/2000/SR.4.

<sup>57</sup> S/PV.4087 and S/PV.4087 (Resumption 1).

<sup>58</sup> E/2000/SR.4, p. 2.

<sup>59</sup> *Ibid.*, p. 3.

<sup>60</sup> *Ibid.*, p. 2 (President of the Security Council for February); p. 3 (President of the Security Council for January); p. 4 (Executive Director of Joint United Nations Programme on HIV/AIDS); and p. 5 (Italy).

<sup>61</sup> *Ibid.*, p. 2 (President of the Economic and Social Council); p. 5 (Costa Rica); p. 5 (India); and p. 8. (Brazil).

<sup>62</sup> *Ibid.*, p. 5 (Cuba); and p. 7 (Ukraine).

the Economic and Social Council, held in partnership with the President of the Security Council, on the development aspects of the HIV/AIDS pandemic, the Council expressed keen interest in additional discussion among relevant United Nations bodies in order to make progress, *inter alia*, on the question of access to treatment and care, and on prevention.

On 3 July 2002, the President of the Security Council was invited to make a statement at the high-level segment of the Economic and Social Council substantive session on HIV/AIDS.<sup>63</sup> In his remarks, the President recalled that during the Security Council's discussion on HIV/AIDS in January 2000, its members had concurred that the Security Council should regularly share information and views with the Economic and Social Council in this regard. He also noted that the Secretary-General, in his 2002 report on prevention of armed conflict, had recognized the need for the two Councils to work more closely on conflict issues and HIV/AIDS.<sup>64</sup>

**Case 6**  
**HIV/AIDS and international**  
**peacekeeping operations**

At its 4259th meeting, held on 19 January 2001, the Security Council considered the issue of HIV/AIDS in the context of international peacekeeping operations. Differences in opinion concerning the competence of the Council to address the issue of HIV/AIDS were expressed. One member of the Council emphasized that the issue of AIDS could be addressed only in an integrated framework and in a holistic and comprehensive manner, and that the efforts of the Security Council should serve as a complement to the activities of the Economic and Social Council and the General Assembly, the United Nations funds and programmes, the specialized agencies and the Bretton Woods institutions.<sup>65</sup> Another speaker stated that the competence of the Security Council in this area was severely limited and that it was for the General Assembly to study and coordinate efforts to combat the epidemic and for the Economic and Social Council to assess and deal with the social and developmental effects of the disease.<sup>66</sup>

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<sup>63</sup> E/2002/SR.11.

<sup>64</sup> E/2002/SR.11, p. 3.

<sup>65</sup> S/PV.4259, p. 21 (Jamaica).

<sup>66</sup> S/PV.4259 (Resumption 1), p. 10 (Costa Rica).

At the 4339th meeting of the Security Council, held on 28 June 2001 in connection with the same item, the President of the Security Council made a statement on behalf of the Council.<sup>67</sup> In that statement, the Council recalled its resolution 1308 (2000),<sup>68</sup> by which the Council, bearing in mind its primary responsibility for the maintenance of international peace and security, and emphasizing the important roles of the General Assembly and the Economic and Social Council in addressing the social and economic factors that lead to the spread of HIV/AIDS, *inter alia*, recognized that the HIV/AIDS pandemic was also exacerbated by conditions of violence and instability, and therefore stressed that the HIV/AIDS pandemic, if unchecked, could pose a risk to stability and security. The Security Council expressed its intention to contribute, within its competence, to the attainment of the relevant objectives in the declaration adopted at the twenty-sixth special session of the General Assembly in carrying out the Council's work, and in particular, its follow-up to resolution 1308 (2000).

**Case 7**  
**Role of the Security Council in the prevention**  
**of armed conflicts**

At its 4174th meeting, held on 20 July 2000, the Security Council debated its role in the prevention of armed conflict. In his opening statement, the Secretary-General stated that, in his opinion, the provisions in the Charter relating to conflict prevention had been underutilized and suggested that the Council could work more closely with other principal organs of the United Nations and obtain useful information and other assistance from the Economic and Social Council, as envisaged in Article 65 of the Charter.<sup>69</sup> At the close of the meeting, the President issued a statement<sup>70</sup> on behalf of the Council, which highlighted the importance of strengthening the Security Council's "cooperation with the Economic and Social Council, in accordance with Article 65 of the Charter of the United Nations, in the area of the prevention of armed conflicts, including in addressing the economic, social, cultural and humanitarian problems which are often the root causes of conflicts".

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<sup>67</sup> S/PRST/2001/16.

<sup>68</sup> See case 5 in the present chapter.

<sup>69</sup> S/PV.4174, p. 3.

<sup>70</sup> S/PRST/2000/25.



In his report on the prevention of armed conflict,<sup>71</sup> the Secretary-General noted that the Economic and Social Council had started to work more closely with the Security Council.<sup>72</sup> He stated that a new phase in the relationship between the two organs had begun in 1998, when the Security Council had invited the Economic and Social Council to contribute to designing a long-term programme of support for Haiti. He recalled that the Council had requested the involvement of the Economic and Social Council in February 2000, when the Council proposed that the Economic and Social Council convene a meeting to discuss the impact of HIV/AIDS on peace and security in Africa. The Secretary-General also proposed a more active involvement of the Economic and Social Council in the prevention of armed conflict. Its future contribution could take place either on its own initiative or as requested by other principal organs of the United Nations. In addition, he stated that the more active involvement of the Economic and Social Council could be beneficial when the Security Council sets up regional initiatives in the prevention of armed conflict.

At its 4334th meeting, held on 21 June 2001, the Council discussed the above-mentioned report of the Secretary-General on the prevention of armed conflict. In presenting the report to the Security Council, the Deputy Secretary-General stated once again that the report called on the General Assembly and the Economic and Social Council to play a more active role in conflict prevention and to enhance their interaction with the Security Council in that field.<sup>73</sup> In the ensuing debate, several speakers stressed the need for greater interaction on conflict prevention between the Security Council and the Economic and Social Council and extended their support for the measures taken by the two organs to improve coordination.<sup>74</sup>

At its 4360th meeting, held on 30 August 2001, the Council adopted resolution 1366 (2001), by which it undertook to keep situations of potential conflict under close review as part of a conflict-prevention

strategy and expressed its intention to consider cases of potential conflict brought to its attention on the basis, inter alia, of information furnished by the Economic and Social Council. It also supported the development of a system-wide coordinated and mutually supportive approach to the prevention of armed conflict and looked forward to further consideration of the report of the Secretary-General on the prevention of armed conflict by the General Assembly and the Economic and Social Council.

### **Case 8** **The situation in Africa**

At the 4460th meeting of the Security Council, held on 29 January 2002, the President of the Economic and Social Council stated that he hoped that the meeting taking place would help lay the foundation for greater cooperation between the Security Council and the Economic and Social Council as envisaged in the Charter of the United Nations. He also hoped that the Security Council and the Economic and Social Council could work together more effectively within the purview of the mandates set for each body by the Charter. Although underlining the independence of the two bodies, he called for an effective collaboration between them with a view to ensuring that all the United Nations actors in the field work in a complementary fashion. Finally, he expressed his intention to continue discussions with the members of the Economic and Social Council on ways to enhance cooperation with the Security Council.<sup>75</sup> During the ensuing debate, several speakers stressed the need for greater cooperation and dialogue between the two Councils to promote a more integrated approach to peacebuilding.<sup>76</sup>

At the 4465th meeting of the Security Council, held on 31 January 2002, the President of the Security Council made a statement on behalf of the Council,<sup>77</sup> stating that the Council welcomed the participation of the Economic and Social Council in its public meeting on the situation in Africa held on 29 January 2002. It reaffirmed the importance of strengthening its

<sup>71</sup> S/2001/574.

<sup>72</sup> See S/2001/574 and Corr.1, paras. 40-44.

<sup>73</sup> S/PV.4334, p. 3.

<sup>74</sup> *Ibid.*, pp. 4-6 (Colombia); pp. 9-11 (United Kingdom); and pp. 24-26 (Mauritius); S/PV.4334 (Resumption 1), pp. 2-4 (Sweden, on behalf of the European Union); pp. 5-7 (Argentina); pp. 7-9 (Costa Rica); pp. 15-16 (Brazil); and pp. 24-26 (Belarus).

<sup>75</sup> S/PV.4460, pp. 34-35.

<sup>76</sup> *Ibid.*, p. 12 (Ireland); p. 21 (Democratic Republic of the Congo); and p. 34 (South Africa); S/PV.4460 (Resumption 1), p. 3 (Colombia); pp. 5-6 (Russian Federation); p. 11 (Singapore); p. 18 (Mauritius); and p. 30 (Cuba); S/PV.4460 (Resumption 2), p. 5 (Jamaica).

<sup>77</sup> S/PRST/2002/2.

cooperation, through greater interaction, with the Economic and Social Council, in accordance with Article 65 of the Charter of the United Nations, in the area of the prevention of armed conflicts, including in addressing the economic, social, cultural and humanitarian problems. The President also stated that the Council would consider the setting up of an ad hoc Working Group to monitor the recommendations contained in the presidential statement and to enhance coordination with the Economic and Social Council. Pursuant to the above-mentioned presidential statement, the Security Council established the Ad hoc Working Group on Conflict Prevention and Resolution in Africa, for which the mandate included, inter alia, proposing recommendations on the enhancement of cooperation between the Security Council and the Economic and Social Council.<sup>78</sup>

At the 4538th meeting of the Security Council, held on 22 May 2002, the Chairman of the Ad hoc Working Group on Conflict Prevention and Resolution in Africa recalled that the mandate of the Working Group included enhancing cooperation between the Security Council and the Economic and Social Council.<sup>79</sup> During the debate, several speakers made general and concrete suggestions for collaboration between the two Councils and their subsidiary organs, including the possibility of holding periodic meetings between the Presidents of the two Councils, convening joint meetings between the two Councils and scheduling a series of joint seminars or retreats.<sup>80</sup> In his statement, the President of the Economic and Social Council noted that the Economic and Social Council had functions mandated by the Charter that were at the heart of peacebuilding. He argued that the Economic and Social Council's oversight role in certain matters, such as humanitarian assistance, reconstruction and development, could enable it to promote better

integration between policy and operational dimensions, thus complementing the work of the General Assembly and the Security Council.<sup>81</sup>

At the 4577th meeting of the Security Council, held on 18 July 2002, the President of the Economic and Social Council noted that that body had recently established an Ad hoc Advisory Group on African Countries Emerging from Conflict<sup>82</sup> and would be establishing additional ad hoc groups dealing with individual countries or regions. He envisaged that the ad hoc groups of both Councils would work closely together.<sup>83</sup>

During the 4673rd meeting of the Security Council, held on 18 December 2002, speaking in his capacity as Chairman of the Ad hoc Working Group on Conflict Prevention and Resolution in Africa, the representative of Mauritius briefed the Council. He stated that the Working Group's most significant achievement had been the promotion of close cooperation between the Security Council and the Economic and Social Council, which was illustrated by the joint activities of the two Councils and their subsidiary organs. He also acknowledged that there was a growing recognition that the Security Council and the Economic and Social Council should cooperate and coordinate their activities for lasting solutions to conflicts.<sup>84</sup>

At its 4748th meeting, held on 30 April 2003, the Security Council had a wrap-up discussion of its work for the month of April, focusing in particular on conflicts in Africa, including Security Council missions and United Nations mechanisms to promote peace and security. During the debate, the President of the Economic and Social Council welcomed the increased cooperation between the Security Council and Economic and Social Council in addressing post-conflict situations. He expressed the hope that such cooperation would be repeated in the future and suggested that a potential area of cooperation between the Councils would be to deepen reciprocal support between themselves and the Bretton Woods institutions.<sup>85</sup>

<sup>78</sup> The terms of reference of the Ad hoc Working Group on Conflict Prevention and Resolution in Africa are included in a note by the President (S/2002/207).

<sup>79</sup> S/PV.4538, p. 4.

<sup>80</sup> Ibid., pp. 7-8 (Permanent Observer of the Organization of African Unity); p. 12 (Benin); p. 15 (Egypt); pp. 16-17 (Algeria); p. 23 (Bangladesh); p. 27 (Australia); p. 28 (Spain); pp. 31-32 (India); and pp. 33-34 (Japan); S/PV.4538 (Resumption 1), pp. 3-5 (Gambia); p. 6 (Tunisia); pp. 8-9 (Ireland); p. 12 (Nepal); pp. 15-16 (United Kingdom); p. 20 (Morocco); p. 25 (Bahrain); p. 34 (Mali); pp. 36-37 (Mozambique); pp. 41-42 (Costa Rica); and p. 47 (Mauritius). See also the President's concluding remarks, pp. 47-49.

<sup>81</sup> S/PV.4538, p. 6.

<sup>82</sup> See *Official Records of the Economic and Social Council, Supplement No. 1 (E/2002/99)*, resolution 2002/1. See also the report of the Secretary-General on the establishment of an ad hoc advisory group on African countries emerging from conflict (E/2002/12 and Corr.1).

<sup>83</sup> S/PV.4577, p. 19.

<sup>84</sup> S/PV.4673, p. 11.

<sup>85</sup> S/PV.4748, p. 6.

**Case 9**  
**The situation in Guinea-Bissau**

By resolution 2002/304 of 25 October 2002, the Economic and Social Council established an Ad hoc Advisory Group on Guinea-Bissau. In that same resolution, the Economic and Social Council specified that the Advisory Group would invite the Chairperson of the Security Council's Ad hoc Working Group on Conflict Prevention and Resolution in Africa to participate in its work.

At the 4673rd meeting of the Security Council, held on 18 December 2002, the Chairman of the Ad hoc Working Group on Conflict Prevention and Resolution in Africa briefed the Council. Recognizing that the Security Council and the Economic and Social Council should cooperate and coordinate better, he emphasized as a noteworthy development the active participation of the President of the Economic and Social Council in the meetings of the Working Group, and the participation of the Chairman of the Security Council Working Group on Africa in the Economic and Social Council's Ad Hoc Advisory Group on Guinea-Bissau. In his view, the Working Group could provide the vital link for the continuation of such cooperation between the Councils, and he recommended that the approach taken with respect to Guinea-Bissau could be applied to many other countries emerging from conflict. He also noted that he had participated in the joint Security Council-Economic and Social Council mission to Guinea-Bissau and stated that such joint activity illustrated the close cooperation that had been established between the two Councils.<sup>86</sup>

In a letter dated 5 February 2003 addressed to the President of the Security Council,<sup>87</sup> the President of the Economic and Social Council brought to the attention of the Security Council the report of the Ad hoc Advisory Group on Guinea-Bissau and praised the Chairman of the Ad hoc Working Group on Conflict Prevention and Resolution in Africa for his active participation in the work of the Advisory Group. In addition, he invited the new Chairman to remain actively involved in the Group during 2003 and stated that he looked forward to increased interaction between the two bodies in the coming months, thereby

contributing to a comprehensive response by the United Nations to the situation in the country.<sup>88</sup>

In a statement made at the 4766th meeting of the Security Council on 30 May 2003, the Under Secretary-General and Special Advisor on Africa suggested that the Security Council and the Economic and Social Council consider holding periodically joint meetings as a way of mobilizing international support for Africa in the areas of conflict prevention and resolution, for which the Council had a mandate, and of post-conflict economic rehabilitation, reconstruction and development, for which the Economic and Social Council had a unique responsibility.<sup>89</sup> In the debate that followed, the representatives of the United Kingdom and Spain expressed support for the comments made by the Special Advisor on Africa.<sup>90</sup>

At the 4776th meeting of the Security Council, held on 19 June 2003, the Chairman of the Ad hoc Advisory Group on Guinea-Bissau of the Economic and Social Council noted that the forthcoming joint visit to Guinea-Bissau by the Security Council mission to West Africa and the Ad Hoc Advisory Group on Guinea-Bissau would provide an opportunity to convey a collective message of the need to strengthen the confidence between that country and its international partners.<sup>91</sup>

At the 4785th meeting of the Security Council, held on 9 July 2003 in connection with the Security Council mission to West Africa (26 June -5 July 2003), the heads of the Security Council mission to West Africa and Guinea-Bissau, respectively, recalled that the mission had visited Guinea-Bissau jointly with a mission of the Economic and Social Council Ad Hoc Advisory Group on Guinea-Bissau and welcomed such cooperation between the Security Council and the Economic and Social Council. They reaffirmed the observation contained in the mission's report that "the existing cooperation between the Security Council and

<sup>86</sup> S/PV.4673, pp. 10-12.

<sup>87</sup> S/2003/176.

<sup>88</sup> In a press statement (SC/7677) made by the President of the Security Council on 5 March 2003 in relation to the situation in Guinea-Bissau, the members of the Council fully endorsed the approach taken by the Ad hoc Advisory Group on Guinea-Bissau of the Economic and Social Council.

<sup>89</sup> S/PV.4766, p. 4.

<sup>90</sup> *Ibid.*, p. 7 (United Kingdom); S/PV.4766 (Resumption 1), p. 9 (Spain).

<sup>91</sup> S/PV.4776, p. 4. The joint mission visited West Africa from 25 June to 5 July 2003.

the Economic and Social Council should be further strengthened to produce a coordinated and effective United Nations response at the intergovernmental level to the need for effective action on issues of peace and security and of sustainable development in Africa".<sup>92</sup> The head of the mission to West Africa noted that it was "right and good" to have "angles" of the Economic and Social Council integrated with the mission's message, highlighting the link between economic and social issues and peace and security.<sup>93</sup> The head of the mission to Guinea-Bissau noted that cooperation gave delegates of both bodies an opportunity to observe jointly the problems of Guinea-Bissau, exchange points of view and enhance coordination, which in this case had led to a true "strategic partnership" between the Security Council and the Economic and Social Council. He further added that the two bodies, while remaining within their respective mandates, were complementary in their vision and provided a broad horizon for cooperation, especially in Africa.<sup>94</sup>

In a statement made by the President on behalf of the Council on 25 July 2003,<sup>95</sup> the Council endorsed the recommendations made in the report of the Security Council mission to West Africa in connection with Guinea-Bissau,<sup>96</sup> including the one recommending that the Council continue collaborative initiatives with the Economic and Social Council in the area of peacebuilding in post-conflict countries.<sup>97</sup>

#### **Case 10** **The situation in Burundi**

On 17 July 2003, the Economic and Social Council established an Ad hoc Advisory Group on Burundi.<sup>98</sup> In a letter dated 25 August 2003, from the President of the Economic and Social Council addressed to the President of the Security Council,<sup>99</sup> the President noted that the newly established body would start its work shortly and would invite the Chairman of the Security Council Ad hoc Working Group on Conflict Resolution and Prevention in Africa

to participate in its work. In that context, the President praised the cooperation between the two Councils, particularly the collaboration between the Working Group and the Advisory Group on Guinea-Bissau.

At its 4876th meeting, held on 4 December 2003, in connection with the situation in Burundi, the Security Council heard a briefing by the President of the Economic and Social Council. He noted that, in providing assistance to Burundi, both the Security Council and the Economic and Social Council needed to coordinate those areas which fell within their respective competencies. In that connection, he stated that the Council could help to ensure that the African Union peacekeeping mission remained in Burundi and/or was replaced by United Nations peacekeepers, while the Economic and Social Council could provide support for the transition between rehabilitation and reconstruction as well as for long-term development. He added that support for Burundi with regard to disarmament, demobilization and reintegration of ex-combatants, as well as humanitarian assistance to help in the resettlement of refugees and internally displaced persons, was an area of responsibility which fell "somewhere in between".<sup>100</sup>

#### **Case 11** **Peacebuilding: towards a comprehensive approach**

At its 4272nd meeting, held on 5 February 2001, the Security Council considered the item "Peacebuilding: towards a comprehensive approach". During the debate, several speakers emphasized the need for consultations and coordination between the Security Council, the General Assembly and the Economic and Social Council, with two Member States urging joint Security Council and Economic and Social Council meetings and greater recourse to Article 65 of the Charter.<sup>101</sup>

At its 4278th meeting, held on 20 February 2001, in a statement made by the President on behalf of the Council,<sup>102</sup> the Council underlined the fact that successful peacebuilding was predicated on an effective and unambiguous division of labour among all the international partners, including the United

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<sup>92</sup> S/2003/688, para. 77.

<sup>93</sup> S/PV.4785, p. 4.

<sup>94</sup> *Ibid.*, p. 5.

<sup>95</sup> S/PRST/2003/12.

<sup>96</sup> S/2003/688.

<sup>97</sup> *Ibid.*, para. 24.

<sup>98</sup> See resolution 2003/16. In a statement to the press issued on 14 August 2003, the members of the Security Council welcomed the resolution.

<sup>99</sup> S/2003/836.

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<sup>100</sup> S/PV.4876, p. 5.

<sup>101</sup> S/PV.4272, p. 29 (Mauritius); S/PV.4272 (Resumption 1), p. 26 (Malaysia).

<sup>102</sup> S/PRST/2001/5.

Nations system, and reiterated its willingness to consider ways to improve its cooperation with other United Nations bodies and organs directly concerned by peacebuilding, particularly the General Assembly and the Economic and Social Council, which had a primary role in that field. With a view to avoiding any gap between peacekeeping and peacebuilding, the Security Council expressed its determination, where appropriate, to consult at various stages of any peacekeeping operation that includes peacebuilding elements and in particular when the operation was being established, with the State concerned and with relevant actors who were primarily responsible for coordinating and implementing aspects of peacebuilding activities, including the General Assembly and the Economic and Social Council. Although the statement made no explicit reference to Article 65 of the Charter, the Council stressed the importance of its being kept regularly informed of the progress achieved, as well as of difficulties encountered, in peacebuilding in countries where a peacekeeping operation had been mandated by the Security Council.

#### Case 12

#### **Food aid in the context of conflict settlement: Afghanistan and other crisis areas**

At the 4507th meeting of the Security Council, held on 4 April 2002 in connection with the item entitled “Food aid in the context of conflicts: Afghanistan and other crisis areas”, the Executive Director of the World Food Programme was invited to brief the Council. Following his statement, the representatives of the United Kingdom and the Russian Federation stressed the need for enhanced cooperation between the Security Council and the Economic and Social Council on humanitarian issues such as food aid in the context of conflict settlement.<sup>103</sup> According to the representative of the United Kingdom, both organs should work towards a closer and more comprehensive understanding of conflict issues in order to deal with them more effectively.<sup>104</sup> The representative of the Russian Federation, similarly, stated that the need to improve cooperation between the two organs on those issues was becoming increasingly obvious, taking into account their prerogatives and the principles of interaction enshrined in the Charter.<sup>105</sup>

<sup>103</sup> S/PV.4507, pp. 10-11 (United Kingdom); S/PV.4507 (Resumption 1), p. 8 (Russian Federation).

<sup>104</sup> S/PV.4507, pp. 10-11.

<sup>105</sup> S/PV.4507 (Resumption 1), p. 8.

### **Part III**

## **Relations with the Trusteeship Council**

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

The Trusteeship Council completed its mandate under the Charter by way of resolution 956 (1994) of 10 November 1994. During the period under review, although remaining in force, the Trusteeship Council was inactive and did not carry on any activity.

## Part IV Relations with the International Court of Justice

### Note

Part IV concerns the relationship between the Security Council and the International Court of Justice. Section A deals with the election of the members of the Court, which requires that action be taken by the Security Council in conjunction with the General Assembly, but with both organs proceeding independently. During the period under review, three rounds of elections took place (cases 13, 14 and 15). Section B covers the discussion which took place in the Security Council regarding the respective roles of the Council and the Court.

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

#### Note

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

In two of the three instances (cases 13 and 14), the Security Council began the procedure to fill a vacancy by fixing the date of the election, in accordance with Article 14 of the Court's Statute and the Council's practice, through the adoption of a resolution.<sup>106</sup> In the remaining case (case 15), relating to the election to fill regular vacancies, the Council informally set the date of the election. The Security Council and the General Assembly then proceeded independently with the elections.<sup>107</sup> At the relevant Security Council meetings, the President of the Council drew attention to a memorandum by the Secretary-General<sup>108</sup> describing the composition of the Court and setting out the procedure to be followed in the conduct of the election. He reminded the Council

that Article 10, paragraph 1 of the Court's Statute provides that, "Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected", adding that the required majority in the Security Council was, therefore, eight votes. He explained further that the voting would proceed by secret ballot.

#### Case 13

At its 4107th meeting, on 2 March 2000, the Council met to elect a member of the International Court of Justice, in accordance with the decision contained in resolution 1278 (1999), to fill a vacancy in the Court caused by the resignation of one of its members. On the first ballot, one candidate obtained the required majority of votes in the Council. The President stated that he would communicate the result of the vote to the President of the General Assembly, and requested the Council to remain in session until the results of the voting in the Assembly had been received. Subsequently, he announced to the members of the Council that he had received a letter from the President of the Assembly informing the Council that the same candidate had received the required majority in the Assembly at its 90th plenary meeting. The candidate in question was therefore elected a member of the Court. As the new member was elected to replace a member whose term of office had not expired, he was elected to the remainder of his predecessor's term of office, expiring on 5 February 2006.

#### Case 14

At its 4345th meeting, on 5 July 2001, the Council, in accordance with Article 14 of the Statute of the Court, considered a draft resolution<sup>109</sup> establishing a date for the election to fill a vacancy that had occurred in the International Court of Justice as the result of the resignation of one of the members of the Court. By resolution 1361 (2001), the Council decided that the election would take place on 12 October 2001.

At its 4389th meeting, on 12 October 2001, in accordance with the decision contained in resolution 1361 (2001), the Council proceeded to the election of

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<sup>106</sup> See resolutions 1278 (1999) and 1361 (2001).

<sup>107</sup> For the verbatim records of the relevant Security Council meetings, see S/PV.4107, S/PV.4389 and S/PV.4629.

<sup>108</sup> See S/2000/105, S/2001/881 and S/2002/925.

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<sup>109</sup> S/2001/663.

one member of the International Court of Justice to fill the seat that had become vacant as a result of the resignation of one of the members of the Court. On the first ballot, one candidate obtained the required majority. The President stated that he would communicate the result of the vote to the President of the General Assembly and requested the Council to remain in session until the results of the voting in the Assembly had been obtained. Subsequently, he announced that he had received a letter from the President of the Assembly informing the Council that the same candidate had received the required majority in the Assembly at its 24th plenary meeting. The candidate in question was therefore elected a member of the Court. As the new member was elected to replace a member whose term of office had not expired, he was elected to the remainder of his predecessor's term of office, expiring on 5 February 2006.

#### Case 15

At its 4629th meeting, on 21 October 2002, the Council proceeded with the election of five members of the International Court of Justice, to fill the seats which would become vacant on 6 February 2003. At the outset, the President of the Council presented the list of candidates<sup>110</sup> nominated by regional groups. He drew the attention of the Council to the fact that two candidates had decided to withdraw their candidatures and, therefore, their names did not appear on the ballot papers. On the first ballot, five candidates obtained the required majority of votes in the Council. The President stated that he would communicate the result of the vote to the President of the General Assembly and requested the Council to remain in session until the results of the voting in the Assembly had been obtained. Subsequently, he announced that he had received a letter from the President of the Assembly informing the Council that the same five candidates had received the required majority in the Assembly at its 35th plenary meeting. The candidates in question were therefore elected members of the Court for a term of office of nine years, beginning on 6 February 2006.

<sup>110</sup> S/2002/926.

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

### *Article 94 of the Charter of the United Nations*

1. *Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.*

2. *If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.*

### *Article 96*

1. *The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.*

2. *Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.*

### *Article 41 of the Statute of the International Court of Justice*

1. *The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.*

2. *Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.*

#### Note

At the 4212th meeting of the Security Council, held on 31 October 2000, the President of the International Court of Justice briefed the Security Council for the first time in the Council's history.<sup>111</sup> Subsequently, the President of the Court briefed the Council in October 2001<sup>112</sup> and October 2002.<sup>113</sup> All three briefings took

<sup>111</sup> S/PV.4212.

<sup>112</sup> S/PV.4398.

place in private under the item entitled “Briefing by Judge Gilbert Guillaume, President of the International Court of Justice”. No such briefing took place in 2003.<sup>114</sup>

During the period under review, there was one case concerning the application of Article 94 of the Charter (case 16) and another case concerning the application of Article 41 of the Statute of the Court (case 17).

#### Case 16

In a letter dated 22 January 2002 addressed to the President of the Security Council,<sup>115</sup> the representative of Honduras informed the Council that El Salvador had failed to execute the International Court of Justice’s judgment of 11 September 1992, whereby it settled the land, island and maritime frontier dispute between Honduras and El Salvador. Honduras asserted that the failure of El Salvador to execute the judgment posed a challenge to the authority, validity and binding nature of the decisions of the Court. As a consequence, Honduras asked the Security Council, pursuant to Article 94 (2) of the Charter, to intervene and assist in securing the execution of and faithful compliance with the Court’s judgment.<sup>116</sup>

Subsequently, in a letter dated 17 September 2002, addressed to the President of the Security Council,<sup>117</sup> Honduras informed the Council that Honduras and El Salvador had agreed, on 16 September 2002, to start the process of demarcation of the common boundary as defined in the decision of the Court of September 1992.<sup>118</sup>

#### Case 17

On 19 June 2000, the Democratic Republic of the Congo instituted proceedings against Uganda before the International Court of Justice in respect of a dispute concerning “acts of armed aggression perpetrated by

Uganda on the territory of the Democratic Republic of the Congo, in flagrant violation of the United Nations Charter and of the Charter of the Organization of African Unity” (*Armed activities on the territory of the Congo: Democratic Republic of the Congo v. Uganda*).<sup>119</sup> By its application, the Democratic Republic of the Congo sought “to secure the cessation of the acts of aggression directed against it”, which constituted “a serious threat to peace and security in central Africa in general and in the Great Lakes region in particular”. On the same day, as a matter of urgency, it also filed a request for provisional measures on the grounds that despite “promises and declarations of principle”, Uganda had “pursued its policy of aggression, brutal armed attacks and acts of oppression and looting”.<sup>120</sup>

At the public hearings held at the Court on 26 and 28 June 2000, Uganda asked the Court to reject the application since the subject matter of the request for interim measures was essentially the same as the matters addressed by Security Council resolution 1304 of 16 June 2000, which was adopted in accordance with Chapter VII of the Charter and was therefore binding.<sup>121</sup> Disputing Uganda’s argument, the Democratic Republic of the Congo pointed out that in line with the Security Council resolution, in which the Council demanded that Uganda withdraw all its forces from the territory of the Democratic Republic of the Congo without delay, it was requesting the Court to indicate the withdrawal of Ugandan forces, not as a political measure with a view to the maintenance of international peace and security, but as a judicial measure. Referring to the Court’s jurisprudence, it argued that the parallel powers of the Security Council and of the Court were not “any bar to the exercise by the latter of its jurisdiction”.<sup>122</sup>

On 7 July 2000, the Court determined that the circumstances required it to indicate provisional measures, as provided in Article 41 of the Statute of the Court. In view of the Council’s determination in resolution 1304 (2000) that the situation in the Democratic Republic of the Congo continued to constitute a threat to international peace and security in

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<sup>113</sup> S/PV.4636.

<sup>114</sup> At the Council’s 4753rd meeting, on 13 May 2003, in connection with the item entitled “The role of the Security Council in the pacific settlement of disputes”, Mr. Nabil Elaraby, Judge, International Court of Justice, spoke before the Council but only in his personal capacity (S/PV.4753, pp. 7-9).

<sup>115</sup> S/2002/108.

<sup>116</sup> See also S/2002/251, S/2002/1102, S/2002/1194, S/2003/306, S/2003/430 and S/2003/561.

<sup>117</sup> S/2002/1088.

<sup>118</sup> See also S/2003/430.

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<sup>119</sup> S/2000/654, annex, para. 1.

<sup>120</sup> *Ibid.*, paras. 6 and 11.

<sup>121</sup> *Ibid.*, para. 27.

<sup>122</sup> *Ibid.*, para. 23.



the region and the information at its own disposal, the Court was of the opinion that indication of provisional measures was required to prevent aggravation or extension of the dispute. By provision (2) of the order rendered by the Court on the request for the indication of provisional measures, the Court held that both parties must take all measures necessary to comply with all their obligations under international law, and with Security Council resolution 1304 (2000).<sup>123</sup>

By a letter dated 1 July 2000 addressed to the Secretary-General,<sup>124</sup> the Registrar of the Court requested that the text of the order of the Court be transmitted to the Council, in accordance with Article 41, paragraph 2, of the Statute.

<sup>123</sup> Ibid., para 47.

<sup>124</sup> Ibid., pp. 1-2.

In declarations appended to the order, two judges commented on the granting of the provisional measures.<sup>125</sup> One of the judges held that the Court was not in a position to grant provisional measures since the Charter provided for the settlement, through the Council, of disputes raising issues from armed aggression and threats to international peace, as had already been the case. Another judge, however, held that while recognizing Security Council resolution 1304 (2000), the Court, as the principal judicial organ of the United Nations, juridically assessed the issues and cast its order in accordance with Article 94 of the Charter. The order, indicating provisional measures, enjoined both parties to take all measures necessary to preserve the peace as well as preserve the rights of the parties.

<sup>125</sup> Ibid., pp. 16-18.

## Part V Relations with the Secretariat

### Article 98

*The Secretary-General shall act in that capacity<sup>126</sup> in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs ....*

### Article 99

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

### Note

This part is concerned with the functions other than those of an administrative nature entrusted to the Secretary-General by the Security Council under Article 98 of the Charter<sup>127</sup> (section A) and with the

<sup>126</sup> Article 97 of the Charter stipulates that the Secretary-General shall be the chief administrative officer of the Organization.

<sup>127</sup> The functions and powers of the Secretary-General in regard to the meetings of the Security Council, conferred

Secretary-General's power of initiative under Article 99 (section B).

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

#### Note

Section A deals with the functions entrusted to the Secretary-General by the Security Council with respect to international peace and security. His functions in that regard continued to expand during the period under review, as the activities of the Security Council continued to expand and diversify. In addition to carrying on his responsibilities in the area of peaceful settlement of disputes (political/diplomatic functions) and peacekeeping (security functions), the Secretary-General was entrusted with the implementation of sanctions regimes (legal functions).

under Article 98, are delineated in rules 21 to 26 of the Council's provisional rules of procedure (see also chap. I, part IV, of the present Supplement).

The practice described below is illustrative and does not purport to be comprehensive.<sup>128</sup>

### Measures to ascertain the facts

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

(a) *In relation to the situation concerning the Democratic Republic of the Congo*, the Council requested the Secretary-General to increase the number of personnel in the human rights component of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to assist and enhance, in accordance with its current mandate, the capacity of the Congolese parties to investigate all the serious violations of international humanitarian law and human rights perpetrated on the territory of the Democratic Republic of the Congo since the beginning of the conflict in August 1998. It also requested the Secretary-General, in consultation with the United Nations High Commissioner for Human Rights, to make recommendations to the Council on other ways to help the transitional government in the Democratic Republic of the Congo address the issue of impunity;<sup>129</sup>

(b) *In relation to the item entitled “Ensuring an effective role of the Security Council in the maintenance of international peace and security”*, the Council, recalling the statements by its President of 30 November 1999<sup>130</sup> and 20 July 2000<sup>131</sup> on the prevention of armed conflicts, welcomed in that context the intention of the Secretary-General to send fact-finding missions to areas of tension more frequently;<sup>132</sup>

(c) *In relation to the item entitled “Role of the Security Council in the prevention of armed conflicts”*, the Council supported the enhancement of the role of the Secretary-General in conflict prevention, including by increased use of United Nations interdisciplinary fact-finding and confidence-building missions to regions of tension, by developing regional prevention

strategies with regional partners and appropriate United Nations organs and agencies, and by improving the capacity and the resource base for preventive action in the Secretariat;<sup>133</sup>

(d) *With regard to the situation concerning the Democratic Republic of the Congo*, the Council invited the Secretary-General to report further on the events in the region of Uvira;<sup>134</sup>

(e) *In connection with the situation in Côte d’Ivoire*, after expressing its deepest concern at reports of mass killings and grave violations of human rights in that country, the Council welcomed the decision by the Secretary-General to request that the United Nations High Commissioner for Human Rights gather precise information about violations of human rights and international humanitarian law in Côte d’Ivoire, including through the dispatch of a fact-finding mission to that country.<sup>135</sup>

### Good offices

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

(a) *In relation to the item entitled “Women and peace and security”*, at the 4402nd meeting, the President made a statement on behalf of the Council<sup>136</sup> on the anniversary of the adoption of resolution 1325 (2000) on women and peace and security, by which it urged the Secretary-General to appoint women as Special Representatives and Special Envoys to pursue good offices on his behalf in accordance with his strategic plan of action;<sup>137</sup>

(b) *In relation to the situation in Cyprus*, the Council commended the “extraordinary” effort made by the Secretary-General and his Special Adviser to address the situation in Cyprus, in pursuance of his good offices mission and within the framework of resolution 1250 (1999).<sup>138</sup> The Council also commended the Secretary-General’s initiative of

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<sup>128</sup> For details of these and other instances in which the Security Council entrusted functions to the Secretary-General, see the case studies in chapter VIII and chapter X of the present Supplement.

<sup>129</sup> Resolution 1468 (2003).

<sup>130</sup> S/PRST/1999/34.

<sup>131</sup> S/PRST/2000/25.

<sup>132</sup> Resolution 1327 (2000).

<sup>133</sup> Resolution 1366 (2001).

<sup>134</sup> S/PRST/2002/27.

<sup>135</sup> S/PRST/2002/42.

<sup>136</sup> S/PRST/2001/31.

<sup>137</sup> A/49/587.

<sup>138</sup> Resolution 1475 (2003).

presenting the parties with a comprehensive settlement plan, stressed its full support for the Secretary-General's mission of good offices as entrusted to him in resolution 1250 (1999), and asked him to continue to make available his good offices for Cyprus, as he had suggested in his report of 1 April 2003;<sup>139</sup>

(c) *With regard to the situation concerning the Democratic Republic of the Congo*, the Council welcomed the efforts and good offices of the Republic of South Africa, in its capacity as chair of the African Union, and of the Secretary-General, to help the Democratic Republic of the Congo and Rwanda to reach an agreement to tackle the problem of the armed groups and to take forward the withdrawal of Rwandan troops, in the context of the full withdrawal of all foreign troops from the territory of the Democratic Republic of the Congo, in accordance with the Lusaka Ceasefire Agreement signed on 10 July 1999 and relevant Council resolutions.<sup>140</sup> In a subsequent statement<sup>141</sup> issued by the President on behalf of the Council, the Council encouraged all local actors, including the parties to the conflict as well as civil society and the religious organizations, to engage in talks in order to end the hostilities and agree on a basis for peaceful coexistence in the region during the transitional period in the Democratic Republic of the Congo. In that regard, the Council encouraged the Secretary-General to consider using his good offices to promote and facilitate such talks, with MONUC providing support where applicable;

(d) *In connection with the situation between Eritrea and Ethiopia*, the Council repeatedly reiterated its strong support for the role of the Secretary-General in helping to implement the Algiers Agreements, including through his own good offices, and for the efforts of his Special Representative;<sup>142</sup>

(e) *In connection with the situation in Afghanistan*, the Council endorsed the establishment of the United Nations Assistance Mission in Afghanistan (UNAMA), in accordance with the mandate and structure contained in the report of the Secretary-General.<sup>143</sup> The core mandate of the mission included,

inter alia, the promotion of national reconciliation through the good offices of the Secretary-General's Special Representative;<sup>144</sup>

#### **Joint efforts to promote a political settlement**

In several instances during the period under review, the Secretary-General was asked to undertake diplomatic efforts in conjunction with regional arrangements or other actors in order to achieve a political settlement.<sup>145</sup>

(a) *In relation with the situation in Angola*, the Council requested the Secretary-General to provide appropriate support, in coordination with the Government of Angola, in the preparation of elections, including through the work of the United Nations technical assistance mission;<sup>146</sup>

(b) *With regard to the Inter-Agency Mission to West Africa*, the Council welcomed the establishment of the Office of the Special Representative of the Secretary-General for West Africa to ensure, inter alia, the strengthening of harmonization and coordination of the activities of the United Nations system in an integrated regional perspective and to the development of a fruitful partnership with the Economic Community of West African States (ECOWAS), other subregional organizations and international and national actors, including civil society;<sup>147</sup>

(c) *In connection with the situation in Georgia*, the Council welcomed the efforts by the Special Representative of the Secretary-General to enhance contacts at all levels between the Georgian and Abkhaz sides, and supported the appeal by the Secretary-General to both sides to make more active use of the Coordinating Council machinery, and actively to consider the paper prepared by the Special Representative concerning the implementation of the agreed confidence-building measures;<sup>148</sup>

(d) *In relation with the situation in Afghanistan*, the Council supported the efforts of the Personal

<sup>139</sup> S/2003/398.

<sup>140</sup> S/PRST/2002/22.

<sup>141</sup> S/PRST/2002/27.

<sup>142</sup> S/PRST/2001/4; and S/PRST/2001/14; and resolution 1344 (2001), 1369 (2001), 1398 (2002), and 1430 (2002).

<sup>143</sup> S/2002/278.

<sup>144</sup> Resolution 1401 (2002).

<sup>145</sup> See chapter XII of the Supplement for a more comprehensive list of instances of cooperation between the United Nations and regional arrangements in order to achieve a pacific settlement of a dispute and the role of the Secretary-General in those instances.

<sup>146</sup> S/PRST/2001/24.

<sup>147</sup> S/PRST/2001/38.

<sup>148</sup> S/PRST/2000/16.

Representative of the Secretary-General for Afghanistan to advance a peace process through political negotiations between the Afghan parties aimed at the establishment of a broad-based, multi-ethnic, and fully representative government, and called for the warring factions to cooperate fully with those efforts to conclude a ceasefire and begin discussions leading to a political settlement, by moving forward promptly in the process of dialogue;<sup>149</sup>

### **Peacekeeping and implementation of peace agreements**

In addition to carrying out responsibilities with regard to ongoing missions,<sup>150</sup> the Secretary-General took on additional functions in relation to four new peacekeeping operations<sup>151</sup> established during the period from 2000 to 2003. Most of the new missions were multifunctional, with political, humanitarian, social and economic components. They were given the task of helping to regroup and demobilize combatants, destroy weapons, coordinate humanitarian assistance, monitor human rights and organize elections. The Secretary-General had the responsibility for executive direction and command of those peacekeeping operations, including their establishment, deployment and withdrawal, and the implementation of their mandates.

### **Support to international tribunals**

During the period under review, the Secretary-General was mainly requested to make practical arrangements for the election of ad litem judges for the International Tribunal for the Former Yugoslavia and the International Tribunal for Rwanda, respectively.<sup>152</sup>

On 30 November 2000, pursuant to the letter from the Secretary-General to the Council and the annexed letters from the Presidents of the Tribunals, the Council adopted resolution 1329 (2000) to enable the Tribunals to expedite the conclusion of their work. By that resolution, the Council decided to amend the

Statute and to enlarge the membership of the Appeals Chambers of the Tribunals. In that connection, the Council requested the Secretary-General to make practical arrangements for the election of 27 ad litem judges in accordance with Article 13 ter of the Statute of the International Tribunal for the Former Yugoslavia, and for the timely provision to the Tribunals of personnel and facilities, in particular, for the ad litem judges and the Appeals Chambers and related offices of the Prosecutor. The Council further requested the Secretary-General to keep the Security Council closely informed of progress in that regard and to submit, as soon as possible, a report containing an assessment and proposals regarding the date ending the temporal jurisdiction of the International Tribunal for the Former Yugoslavia.

By resolution 1431 (2002), the Council decided to amend the Statute of the International Tribunal for Rwanda and to establish a pool of 18 ad litem judges. It therefore requested the Secretary-General to make practical arrangements for the election of 18 ad litem judges in accordance with Article 12 ter of the Statute of the International Tribunal for Rwanda and for the timely provision to the International Tribunal for Rwanda of personnel and facilities, in particular, for the ad litem judges and related offices of the Prosecutor. The Secretary-General was further requested to keep the Security Council closely informed of progress in that regard.

### **Implementation of sanctions regimes**

During the period under review, the Security Council established four sanctions regimes.<sup>153</sup> In addition to providing all necessary assistance to the sanctions committees established to monitor implementation of the sanctions, the Secretary-General was also requested to strengthen collaboration between the United Nations and regional and international organizations, including Interpol, in monitoring or

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<sup>149</sup> Resolution 1333 (2000).

<sup>150</sup> For additional details see chapter V of the present *Supplement*.

<sup>151</sup> United Nations Mission in Ethiopia and Eritrea (UNMEE); United Nations Mission in Liberia (UNMIL); UNAMA; United Nations Mission of Support in East Timor (UNMISSET). For an overview of newly established peacekeeping missions, see chapter V.

<sup>152</sup> For additional details, see chapter V.

<sup>153</sup> The new sanctions committees established by the Security Council during the period under consideration were the following: Committee established pursuant to resolution 1343 (2003) concerning Liberia; Committee established pursuant to resolution 1521 (2003) concerning Liberia; Committee established pursuant to resolution 1298 (2000) concerning the situation between Eritrea and Ethiopia; and Committee established pursuant to resolution 1518 (2003). For further details, see chapter V of the present *Supplement*.

enforcing the implementation of the measures in relation to Angola;<sup>154</sup> to develop an information package and media campaign designed to educate the public at large on the measures contained in the relevant Security Council resolutions concerning Angola;<sup>155</sup> to work actively through technical assistance and cooperation with the Transitional National Government, local authorities and traditional civil and religious leaders to enhance the administrative and judicial capacities throughout Somalia to contribute to the monitoring and enforcement of the arms embargo;<sup>156</sup> and to submit a report to the Council on the possible humanitarian or socio-economic impact of the measures imposed against Liberia.<sup>157</sup> In a number of instances, the Secretary-General was also requested to establish monitoring mechanisms and panels of experts to assist in the implementation of the sanctions regimes.<sup>158</sup>

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

### *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.*

At its 4360th meeting, held on 30 August 2001, the Security Council adopted resolution 1366 (2001) on the role of the Security Council in the prevention of armed conflict, in which it twice invoked Article 99. In the preamble, the Council recognized the importance of enhancing the role of the Secretary-General in the prevention of armed conflict in accordance with

Article 99. Furthermore, expressing its willingness to consider promptly early warning and prevention cases brought to it by the Secretary-General, the Council encouraged him to convey to it his assessment of potential threats to international peace and security, in accordance with Article 99.<sup>159</sup>

During the period under review, the Secretary-General did not expressly invoke Article 99. However, he drew the attention of the Security Council to situations, already on the Council's agenda, that were deteriorating, and requested the Council to consider taking appropriate action.<sup>160</sup> In addition, the Secretary-General exercised the implicit rights conferred upon him under Article 99<sup>161</sup> by initiating, for example, a good offices mission in respect of the situation in the

<sup>159</sup> Resolution 1366 (2001), para. 5.

<sup>160</sup> Thus, for example, in his letter dated 28 June 2003 addressed to the President of the Security Council (S/2003/678), the Secretary-General brought to the attention of members of the Security Council the ceasefire agreement signed by the Liberian parties in Accra on 17 June 2003 under the stewardship of ECOWAS and sought a "prompt endorsement of a United Nations role in support of the implementation of that agreement as reflecting the Council's commitment to promote the peaceful resolution of the Liberian conflict". He further encouraged the Council to "take action to give practical effect to that commitment, in the light of the most recent grave deterioration in the situation", by authorizing the deployment to Liberia, under Chapter VII of the Charter of the United Nations, of a highly trained and well-equipped multinational force, under the lead of a Member State, to prevent a major humanitarian tragedy and to stabilize the situation in that country.

<sup>161</sup> With respect to Article 99, the *Repertory of Practice of United Nations Organs* states in Supplement No. 8 (1989-1994), volume VI, that "the implicit powers of the Secretary-General in the spirit of Article 99 have been more liberally construed to include the right to initiate fact-finding missions, investigative commissions and the offer of good offices or mediation". See also the report of the Secretary-General dated 17 June 1992 entitled "An Agenda for peace: preventive diplomacy, peacemaking, and peacekeeping" (S/24111, paras. 23-27) and the statement by the President of the Security Council of 30 November 1992 (S/24872). For information concerning the implementation of Article 99 of the Charter, see chapter X of this Supplement.

<sup>154</sup> Resolution 1295 (2000), para. 29.

<sup>155</sup> *Ibid.*, para. 30.

<sup>156</sup> Resolution 1407 (2002), para. 7.

<sup>157</sup> Resolution 1478 (2003), para. 19.

<sup>158</sup> See, for example, the Panel of Experts established by resolution 1521 (2003) to monitor the sanctions regime against Liberia. By that resolution, the Council requested the Secretary-General to establish, within one month from the date of its adoption, in consultation with the Committee, for a period of five months, a Panel of Experts consisting of up to five members, with the range of expertise necessary to fulfil the Panel's mandate described in paragraph 22 of the resolution. For further details, see chapter V of the Supplement.

Middle East (Israel and Lebanon),<sup>162</sup> by sending a fact-finding mission to investigate events concerning the situation in the Middle East, including the Palestinian question,<sup>163</sup> and by sending reconnaissance and liaison teams in respect of the conflict between Ethiopia and Eritrea.<sup>164</sup>

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<sup>162</sup> S/2000/294, S/2000/322 and S/PRST/2000/13.

<sup>163</sup> By resolution 1405 (2002), the Security Council welcomed the initiative of the Secretary-General to develop accurate information regarding recent events in the Jenin refugee camp through a fact-finding team and requested him to keep the Council informed.

<sup>164</sup> In a presidential statement of 7 July 2000 (S/PRST/2000/676), the Council endorsed the Secretary-General's decision to dispatch reconnaissance and liaison teams in the region.

In 2001, by resolution 1379 (2001), the Security Council requested the Secretary-General to attach to his report on children and armed conflict a list of parties to armed conflict that recruited or used children in situations that were on the Council's agenda or that might be brought to the attention of the Council in accordance with Article 99. Accordingly, in his report of 10 November 2003, the Secretary-General included in the list other parties to armed conflict that recruited or used children in armed conflicts.<sup>165</sup>

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<sup>165</sup> See S/2003/1053 and Corr.1 and Corr.2, annexes.

## Part VI

### Relations with the Military Staff Committee

#### Article 47

1. *There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.*

2. *The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.*

3. *The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.*

4. *The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.*

#### Note

The Military Staff Committee, established pursuant to Article 47 of the Charter, is composed of the Chiefs of Staff of the permanent members or their representatives. During the period under review, the Military Staff Committee continued to meet regularly under its draft rules of procedure and remained prepared to carry out the functions assigned to it under Article 47. The need to revitalize and make full use of the capacity of the Military Staff Committee was discussed by Council's members during the discussions on the following items (cases 18 to 21): (a) Ensuring an effective role of the Security Council in the maintenance of international peace and security; (b) No exit without strategy; (c) Strengthening cooperation with troop-contributing countries; and (d) Wrap-up discussion on the work of the Security Council.

#### Case 18

##### Ensuring an effective role of the Security Council in the maintenance of international peace and security

At the Council's 4220th meeting, held on 13 November 2000 in connection with the item entitled "Ensuring an effective role of the Council in the maintenance of international peace and security", the Council adopted resolution 1327 (2000). In annex IV of the resolution, the Council undertook "to consider

the possibility of using the Military Staff Committee as one of the means of enhancing the United Nations peacekeeping capacity". In the ensuing discussion, the Russian Federation commented that, following the resolution on the Brahimi report,<sup>166</sup> the Council had entered the equally important stage of implementing agreed decisions. He believed that the approach of using the Military Staff Committee as one of the means of enhancing United Nations peacekeeping capacity would maintain balance in the distribution of responsibilities between Member States and the United Nations Secretariat.<sup>167</sup>

At the 4288th meeting, the Council continued its consideration of the item. During the debate, the representative of the Russian Federation recalled that in resolution 1327 (2000), a decision was made to consider the question of how best to utilize the Military Staff Committee. He commented that there was a need "not to leave all of this on paper or simply within the sphere of conversation", but to see what in fact could really be done.<sup>168</sup>

#### **Case 19** **No exit without strategy**

At the Security Council's 4223rd meeting, held on 15 November 2000 in connection with the agenda item "No exit without strategy", the representative of China noted that, in order for peacekeeping operations to conclude successfully, the United Nations rapid deployment capacity should be developed, the effectiveness of the planning enhanced and the technical and financial resources of operations ensured. In that connection, he highlighted the importance of strengthening relevant Secretariat units, including the possibility of making full use of the capacity of the Military Staff Committee as "an important source for military expertise both for preparing for the possible deployment of an operation and for wrapping one up".<sup>169</sup>

<sup>166</sup> A/55/305-S/2000/809.

<sup>167</sup> S/PV.4220, p. 9.

<sup>168</sup> S/PV.4288 (Resumption 1), p. 13.

<sup>169</sup> S/PV.4223, p. 15.

#### **Case 20** **Strengthening cooperation with troop-contributing countries**

At its 4326th meeting, held on 13 June 2001 in connection with the item entitled "Strengthening cooperation with troop-contributing countries", the Security Council adopted resolution 1353 (2001), by which it undertook to consider the possibility of using the Military Staff Committee as one of the means of enhancing United Nations peacekeeping operations.<sup>170</sup> At its 4257th meeting, held on 16 January 2001 on the same item, the representative of India, in advancing his views on the relationship between the Security Council and the troop-contributing countries, reminded the Council that Article 47 (2) of the Charter stipulated that the Military Staff Committee could include officers from any Member State, when the efficient discharge of the Committee's responsibilities required the participation of that Member in its work. He also invited the Council to revive the Military Staff Committee and use it as a forum for consultations with troop-contributing countries on purely military aspects.<sup>171</sup>

In his statement, the representative of the Russian Federation stated that his delegation would regard India's proposal on making more use of the Military Staff Committee, in line with resolution 1327 (2000), as an obligation to study ways of exploiting the potential of the Committee in the interest of strengthening the peacekeeping activities of the United Nations.<sup>172</sup> The representative of Colombia also voiced his support for reviving the Military Staff Committee, with a broadened mandate that would reflect the concerns voiced by other delegations.<sup>173</sup> Mauritius also concurred with India's statement.<sup>174</sup>

#### **Case 21** **Wrap-up discussion on the work of the Security Council**

At its 4343rd meeting, on 29 June 2001, the Council held a wrap-up discussion on the work of the Security Council during the month of June 2001. During the debate, the representative of the Russian

<sup>170</sup> Resolution 1353 (2001), annex I.C, para. 1.

<sup>171</sup> S/PV.4257, pp. 8-13.

<sup>172</sup> S/PV.4257 (Resumption 1), p. 13.

<sup>173</sup> *Ibid.*, p. 19.

<sup>174</sup> *Ibid.*, p. 21.

Federation, recalling the need to follow up implementation of the Council's decisions, stated that the Military Staff Committee, as a mechanism which should be useful for the Council's work on peacekeeping, had been underutilized. He further recalled that the Council, in resolutions 1327 (2000) and 1353 (2001), had already emphasized the need for

the study of the means to make more active use of the Military Staff Committee in order to strengthen United Nations peacekeeping operations. He concluded by stating that his delegation expected the Military Staff Committee "to respond to the Council's resolutions".<sup>175</sup>

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<sup>175</sup> S/PV.4343 and Corr.1, p. 6.