

## **Chapter X**

### **Consideration of the provisions of Chapter VI of the Charter**

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## Introductory note

This chapter deals with the practice of the Security Council aimed at promoting and implementing recommendations and methods or procedures for the peaceful settlement of disputes within the framework of Articles 33-38 of Chapter VI and Articles 11 and 99 of the Charter.

The period under review was marked by a considerable expansion of the scope of Council action within the framework of Chapter VI of the Charter. Furthermore, following the issuance of the first report of the Secretary-General on the prevention of armed conflict,<sup>1</sup> the Council, by a number of decisions, recalling its key role in the peaceful settlement of disputes under Chapter VI of the Charter, emphasized the importance of finding better ways to prevent the outbreak as well as the recurrence of conflicts. Highlighting its continuing commitment to addressing the prevention of armed conflict in all regions of the world, the Council endorsed the need to create a culture of prevention and reaffirmed that early warning, preventive diplomacy, preventive deployment, preventive disarmament, and post-conflict peace-building were interdependent and complementary components of a comprehensive conflict prevention strategy. Against this background, mindful of the need to respect the principle of sovereignty and non-interference in matters of domestic jurisdiction of States, the Council increasingly expanded the use of a number of instruments aimed at preventing the outbreak and/or the recurrence of conflicts including, inter alia: Security Council missions and fact-finding missions, in order to determine whether any dispute or any situation might lead to international friction or give rise to a dispute; support for the good offices of the Special Representatives and Envoys of the Secretary-General; establishment of special political missions in post-conflict situations which included in their mandates elements relating to the implementation of peace agreements and/or ceasefire agreements as well as to political dialogue, national reconciliation and capacity-building; and inclusion of elements of conflict prevention and peace-building in integrated peacekeeping operations.

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<sup>1</sup> S/2001/574.

As chapter VIII of this Supplement sets out a full account of Council proceedings with regard to the pacific settlement of disputes, this chapter will not discuss the practice of the Security Council aimed at the peaceful settlement of disputes in a comprehensive manner. Instead, this chapter will focus on selected material which may best serve to highlight how the provisions of Chapter VI of the Charter were applied and interpreted in the relevant decisions and deliberations of the Council.

The manner of presenting and classifying the relevant material has been devised to set forth the practices and procedures to which the Council has had recourse in a readily accessible form. In line with the previous Supplement of the *Repertoire* covering the period 1996-1999, the material has been categorized under thematic headings rather than individual Articles of the Charter, so as to avoid ascribing Council proceedings or decisions to specific Articles of the Charter, which do not themselves refer to any such Article.

Part I illustrates how, under Article 35, Member States and States which are not members of the United Nations have brought new disputes and situations to the attention of the Security Council. This part also touches upon the functions and practice of the General Assembly and the Secretary-General, under Articles 11 (3) and 99 of the Charter respectively, in calling the attention of the Security Council on matters which are likely to threaten the maintenance of international peace and security. Part II sets out investigative and fact-finding activities initiated and performed by the Council that may be deemed to fall under the scope of Article 34. Part III provides an overview of the recommendations and decisions of the Council with regard to the pacific settlement of disputes. Specifically, it illustrates the recommendations of the Council to the parties to a conflict, and its support for the endeavours of the Secretary-General in the peaceful settlement of disputes. Finally, part IV reflects constitutional discussions within the Security Council on the interpretation or application of the provisions of Chapter VI of the Charter.

Relevant Articles of the Charter cited in this chapter:

*Article 11*

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

*Article 33*

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

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

*Article 34*

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

*Article 35*

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

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

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

*Article 36*

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

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

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

*Article 37*

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

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

*Article 38*

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

*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.*

## **Part I**

### **Referral of disputes and situations to the Security Council**

#### **Note**

Within the framework of the Charter, Articles 35 (1) and (2) and 37 (1) are generally regarded as the provisions on the basis of which States may or, in the case of Article 37 (1), shall, refer disputes to the Security Council. The practice of the Council in this regard is described below in five sections.

The first section, entitled “Referrals by States”, provides an overview of the referrals of disputes and situations to the Security Council under Article 35 (1) and (2). During the period under review, disputes and situations were mainly referred to the Security Council, generally by means of a communication, by members of the United Nations, either by those directly affected and/or through third States and regional groups. The section also outlines, in the form of a table, new disputes or situations referred to the Council and based on which the Council convened meetings under new agenda items during the period under consideration. Following the trend of previous periods, the number of new referrals to the Council further decreased during the period 2000-2003.

The second section, entitled “Nature of matters referred to the Security Council”, outlines the subject matter of the relevant communications referred by Member States to the Council. This is followed by another section entitled “Action requested of the Security Council” which analyzes the type of action requested of the Security Council by Member States submitting a dispute or a situation to the Council.

The last two sections, entitled respectively “Referrals by the Secretary-General” and “Referrals by the General Assembly”, refer to Articles 11 (3) and 99 of the Charter, according to which the General Assembly and the Secretary-General, respectively, may refer matters which are likely to endanger international peace and security to the Security

Council. During the period under review, neither the General Assembly nor the Secretary-General explicitly referred any matters to the Security Council.

### **Referrals by States**

According to Article 35, which, in the absence of evidence pointing to other Charter provisions, is commonly regarded as the basis on which matters are referred to the Security Council by States, any Member State may bring to the Council's attention any "dispute" or "situation which might lead to international friction or give rise to a dispute". While Article 35 was expressly referred to in a small number of communications, most communications did not cite any specific Article as the basis on which they were submitted.<sup>2</sup>

According to Article 35 (2) of the Charter, a State which is not a member of the United Nations may bring to the attention of the Security Council any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the Charter. During the period under consideration, States which were not members of the United Nations did not submit any dispute or situation to the attention of the Council. Situations were referred to the Security Council exclusively under the provisions of Article 35 (1), directly by the affected Member States, either on their own<sup>3</sup> or through communications from third States and/or regional groups.<sup>4</sup>

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<sup>2</sup> For explicit references to Article 35, see the following communications: Identical letters dated 14 September 2001 from the Representative of Afghanistan to the Secretary-General and the President of the Security Council in connection with the situation in Afghanistan (S/2001/870); letter dated 13 April 2000 from the Representative of Germany addressed to the President of the Security Council in connection with the situation between Eritrea and Ethiopia (S/2000/312).

<sup>3</sup> See, for example the following letters addressed to the President of the Security Council: letter dated 13 February 2000 from the representative of the Federal Republic of Yugoslavia requesting an urgent meeting of the Council to discuss the deterioration of the situation of the Serbs and other non-Albanians in Kosovo and Metohija (S/2000/111); letter dated 20 May 2000 from the representative of the Federal Republic of Yugoslavia requesting an urgent meeting of the Council following the failure of the Presidency of the European Union to extend an invitation to the Federal Republic of Yugoslavia to participate in the Ministerial Meeting of the Peace Implementation Council in Brussels on 23 and 24 May 2000 (S/2000/458); letter dated 6 June 2000 from the representative of the Federal Republic of Yugoslavia requesting an urgent meeting of the Council to discuss the "crime of ethnic Albanian terrorists and the failure of the international presences to prevent the crime, as well as the abuse of power by the British members of KFOR (Kosovo Force) who shot at unarmed Serbian civilians" (S/2000/543); letter dated 29 June 2000 from the representative of the Federal Republic of Yugoslavia requesting a meeting of the Council to consider the situation in Kosovo and Metohija (S/2000/636); letter dated 19 July 2000 from the

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representative of the Federal Republic of Yugoslavia requesting an urgent meeting of the Council to consider the intention of the United Nations Interim Administration in Kosovo (UNMIK) to “take over the Metallurgical Section of the RMHK “Trepca” Shareholding Corporation in Kosovska Mitrovica, Kosovo and Metohija” (S/2000/716); letter dated 14 August 2000 from the representative of the Federal Republic of Yugoslavia requesting an urgent meeting of the Council to consider “the armed attack on and the usurpation of the RMHK Trepča Shareholding Corporation by the Kosovo Force (KFOR)” (S/2000/801); Identical letters dated 6 February 2001 from the representative of Bosnia Herzegovina requesting a meeting of the Council to debate the opportunity to mandate a conference to review the implementation of the Dayton Peace Accords (S/2001/114); letter dated 4 March 2001 from the representative of the former Yugoslav Republic of Macedonia requesting the convening of an emergency session of the Council to present an action plan of his Government containing measures for the cessation of violence and for lasting stabilization on the border with the Federal Republic of Yugoslavia (S/2001/191); letter dated 14 March 2001 from the representative of Burundi requesting an urgent meeting of the Council to discuss the “intensification of the war” and the “serious setback for the [...] peace process” in the country (S/2001/221); letter dated 1 August 2001 from the representative of the Democratic Republic of the Congo requesting an urgent meeting of the Council to discuss the “violations of the integrity of the Congolese territory by Rwanda and Uganda” (S/2001/759); letter dated 18 March 2002 from the representative of the Democratic Republic of the Congo requesting a meeting to discuss the alleged violations by Rwanda of the Lusaka ceasefire agreement (S/2002/286); letter dated 23 May 2002 from the representative of the Federal Republic of Yugoslavia requesting an urgent meeting of the Council regarding the implementation of Security Council resolution 1244 (1999) (S/2002/574); letter dated 14 August 2003 from the representative of Serbia and Montenegro requesting an urgent meeting of the Council to consider the latest developments in Kosovo and Metohija, especially the terrorist attack that took place in the village of Goradevac in the Peć region on 13 August 2003 (S/2003/815); letter dated 5 October 2003 from the representative of the Syrian Arab Republic requesting an emergency meeting of the Council to consider the “violations of Syrian and Lebanese airspace committed on 5 October 2003 by the Israeli airforce and the missile attack carried out by the latter on the same day against a civilian site situated inside Syrian territory” (S/2003/939). The same situation was brought to the attention of the Security Council by a letter dated 5 October 2003 from the representative of Lebanon (S/2003/943).

<sup>4</sup> See, for example the following letters addressed to the President of the Security Council: letter dated 10 May 2000 from the representative of Eritrea, in his capacity as Chairman of the Group of African States, requesting an open emergency meeting of the Council to address the situation in Sierra Leone (S/2000/408). The same situation was brought to the attention of the Council by a letter dated 11 May 2000 from the representative of Namibia (S/2000/410); letter dated 2 October 2000 from the representative of South Africa, in his capacity as Chair of the Coordinating Bureau of the Non-Aligned Movement, requesting an urgent meeting of the Council to respond to “the critical situation in Occupied East Jerusalem, other parts of the occupied Palestinian territory and parts of Israel” (S/2000/934). The same situation was brought to the attention of the Council by letters dated 2 October 2000, respectively, from the representative of Iraq, in his capacity as Chairman of the Arab Group and on behalf of the States members of the League of Arab States, the representative of Malaysia, on behalf of the Non-Aligned Movement, the Permanent Observer of Palestine, and the representative of Malaysia in his capacity as Chairman of the Islamic Group (S/2000/928, S/2000/929, S/2000/930, and S/2000/935); letter dated 21 November 2000 from the representative of the Libyan Arab Jamahiriya, in his capacity as Chairman of the Arab Group, requesting an urgent meeting of the Council to discuss the deteriorating situation in the occupied Palestinian territory (S/2000/1109); letter dated 15 June 2001 from the representative of the Russian Federation requesting an open meeting of the Council to consider ways of improving the humanitarian situation in Iraq (S/2001/597); letter dated 15 August 2001 from the representatives of Qatar and Mali, on behalf of the Islamic Group, requesting a meeting to discuss the deteriorating situation in the occupied Palestinian territory (S/2001/797); Identical letters dated 20 February 2002 from the Permanent Observer of Palestine requesting an urgent meeting of the Council to discuss the deteriorating situation in the occupied Palestinian territories, including Jerusalem (S/2002/182). The same situation was brought to the attention of the Council by a letter dated 20 February 2002 from the representative of Yemen, on behalf of the League of Arab States (S/2002/184); letter dated 29 March 2002 from the representative of Qatar, in his capacity as Chairman of the Islamic Summit Conference, requesting an urgent meeting of the Council to discuss the developments in the occupied Palestinian territory (S/2002/331); letter dated 1 April 2002 from the

Disputes and situations were generally submitted to the Security Council by means of a communication addressed to the President of the Council. In several instances, however, matters were brought to the Council's attention through communications addressed to both the President of the Council and the Secretary-General.<sup>5</sup>

Communications by which new disputes or situations were referred to the Council and based on which the Council convened meetings under new agenda items during the period under review are listed in the table below, entitled "Communications bringing disputes or situations to the attention of the Security Council during the period 2000-2003". It should be borne in mind that the designation of a new agenda item does not necessarily imply the existence of a new dispute or situation, as it can simply be a change in the formulation of the item on the agenda which has been before the Council.

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representative of Tunisia, in his capacity as Chairman of the Arab Group, requesting a meeting to discuss the "dangerous" situation in the occupied Palestinian territory (S/2002/336); letter dated 2 May 2002 from the representative of the Sudan in his capacity as Chairman of the Arab Group and on behalf of the States Members of the League of Arab States, requesting a meeting of the Council to discuss the deteriorating situation in the occupied Palestinian territory, including Jerusalem (S/2002/510). The same situation was brought to the attention of the Council by a letter dated 11 June 2002 from the representative of Bahrain in his capacity as Chairman of the Arab Group and on behalf of the States Members of the League of Arab States (S/2002/655); letter dated 10 October 2002 from the representative of South Africa, on behalf of the Non-Aligned Movement, requesting an emergency meeting of the Council on the situation in Iraq (S/2002/1132); letter dated 23 July 2002 from the representative of Saudi Arabia, in his capacity as Chairman of the Arab Group and on behalf of the States Members of the League of Arab States, requesting the convening of an immediate meeting of the Council to discuss the deteriorating situation in the occupied Palestinian territory, including Jerusalem (S/2002/828); letter dated 7 March 2003 from the representative of Malaysia, in his capacity as Chairman of the Coordinating Bureau of the Non-Aligned Movement, requesting an open debate of the Council on the new developments pertaining to Iraq (S/2003/283); letter dated 12 September 2003 from the representative of the Sudan, in his capacity as Chairman of the Arab Group and on behalf of the States members of the League of Arab States, requesting the convening of an immediate meeting of the Council to consider the "continued Israeli escalation against the Palestinian people and their leadership" (S/2003/880); letter dated 9 October 2003 from the representative of the Syrian Arab Republic, in his capacity as Chairman of the Arab Group, requesting an urgent meeting of the Council to discuss the Israeli decision to construct a wall in the occupied Palestinian territory (S/2003/973). The same situation was brought to the attention of the Council by letters dated 9 October 2003, respectively, from the representatives of Malaysia, on behalf of the Non-Aligned Group, and the Islamic Republic of Iran, on behalf of the Organization of the Islamic Conference (S/2003/974 and S/2003/977).

<sup>5</sup> For example, in connection with the situation in the Middle East, including the Palestinian Question, identical letters were submitted on two occasions to the Secretary-General as well as to the President of the Security Council. See identical letters dated 2 October 2000 and 20 February 2002 from the Permanent Observer of Palestine addressed to the Secretary-General and the President of the Security Council (S/2000/930 and S/2002/182). In connection with the situation in Afghanistan, identical letters were also submitted to both the Secretary-General and the President of the Security Council. See identical letters dated 14 September 2001 from the Permanent Representative of Afghanistan to the Secretary-General and the President of the Security Council (S/2001/870).

Communications by which Member States merely conveyed information, but did not request a Council meeting or other specific Council action, have not been included in the table, as such communications cannot be considered as referrals under Article 35.

Furthermore, as was the case in the previous Supplement, the table does not include communications referring to disputes or situations considered under the then existing agenda items by the Council, so as not to codify or classify new developments and deterioration of situations in the on-going conflicts. It should be noted that the delimitation criteria mentioned above are only being used for the purpose of the following table.

**Communications bringing disputes or situations to the attention of the Security Council during the period 2000-2003**

Communication	Action requested of the Security Council	Meeting and Date
<b>Situation in the Middle East, including the Palestinian Question</b>		
Letter dated 2 October 2000 from the Permanent Representative of Iraq <sup>6</sup> to the United Nations addressed to the President of the Security Council (S/2000/928)	The convening of the Security Council to discuss the Israeli aggression on the Haram Al-Sharif in the occupied Holy Jerusalem and against Palestinian civilians in the occupied Palestinian territories, including Jerusalem.	4204 <sup>th</sup> meeting, 3-5 October 2000
Letter dated 2 October 2000 from the Permanent Representative of Malaysia <sup>7</sup> to the United Nations addressed to the President of the Security Council (S/2000/929)	The convening of an urgent meeting of the Security Council to discuss the latest incidents in Occupied East Jerusalem following a visit of the leader of the Likud Party Ariel Sharon to Al-Haram Al-Sharif.	

<sup>6</sup> In his capacity as Chairman of the Arab Group and on behalf of the States members of the League of Arab States.

<sup>7</sup> On behalf of the Non-Aligned Movement.

Identical letters dated 2 October 2000 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and to the President of the Security Council (S/2000/930)	The convening of an immediate meeting of the Security Council to consider the situation in the occupied East Jerusalem as well as the rest of the occupied Palestinian territory.	
Letter dated 2 October 2000 from the Permanent Representative of South Africa <sup>8</sup> to the United Nations addressed to the President of the Security Council (S/2000/934)	The convening of an urgent meeting of the Security Council to respond to the critical situation in the occupied East Jerusalem, other parts of the occupied Palestinian territory and parts of Israel.	
Letter dated 2 October 2000 from the Permanent Representative of Malaysia <sup>9</sup> to the United Nations addressed to the President of the Security Council (S/2000/935)	The convening of an emergency meeting of the Security Council to consider the recent Israeli aggression against Al-Haram Al-Sharif and the attacks by Israeli security forces against Palestinian civilians.	
<b>Letter dated 4 March 2001 from the Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations addressed to the President of the Security Council (S/2001/191)</b>		
Letter dated 4 March 2001 from the Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations addressed to the President of the Security Council (S/2001/191)	The convening of an emergency session of the Security Council, in which the Minister of Foreign Affairs of the former Yugoslav Republic of Macedonia would present an action plan of his Government to bring about a cessation of violence and lasting stabilization on the border of Kosovo to prevent spillover of violence into Macedonia.	4289 <sup>th</sup> meeting, 7 March 2001
<b>Letter dated 29 November 2002 from the Permanent Representative of Chad to the United Nations addressed to the President of the Security Council (S/2002/1317)</b>		

<sup>8</sup> In his capacity as Chair of the Coordinating Bureau of the Non-Aligned Movement.

<sup>9</sup> In his capacity as Chairman of the Islamic Group.

Letter dated 29 November 2002 from the Permanent Representative of Chad to the United Nations addressed to the President of the Security Council (S/2002/1317)	Request by the Government of Chad to address the Security Council through a representative of the Government concerning the position of Chad on the issue of the Central African crisis.	4659 <sup>th</sup> closed meeting, 9 December 2002
<b>Letter dated 5 October 2003 from the Permanent Representative of the Syrian Arab Republic and to the United Nations addressed to the President of the Security Council (S/2003/939) and letter dated 5 October 2003 from the Permanent Representative of Lebanon to the United Nations addressed to the President of the Security Council (S/2003/943)</b>		
Letter dated 5 October 2003 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council (S/2003/939)	The convening of an emergency meeting of the Security Council to consider the violation of Syrian and Lebanese airspace on 5 October by Israeli military aircraft and the missile attack carried out by the latter on the same day against a target inside the territory of the Syrian Arab Republic.	4836 <sup>th</sup> meeting, 5 October 2003
Letter dated 5 October 2003 from the Permanent Representative of Lebanon to the United Nations addressed to the President of the Security Council (S/2003/943)	The convening of an emergency meeting to consider the violation of Lebanese airspace by Israeli military aircraft targeting a site situated inside the territory of the Syrian Arab Republic.	

### Nature of matters referred to the Security Council

During the period under review, matters that were brought to the Council's attention were usually referred to as "situations".<sup>10</sup> In some instances, the subject matter

<sup>10</sup> See, for example, the following letters addressed to the President of the Security Council: in connection with the situation in Sierra Leone, letter dated 10 May 2000 from the representative of Eritrea, in his capacity as Chairman of the Group of African States (S/2000/408) and letter dated 11 May 2000 from the representative of Namibia (S/2000/410); in connection with the situation in the former Yugoslavia, letter dated 29 June 2000 from the representative of the Federal Republic of Yugoslavia (S/2000/636); in connection with the situation in the Middle East, including the Palestinian question, letter dated 2 May 2002 from the representative of the Sudan in his capacity as Chairman of the Arab Group and on behalf of the States Members of the League of Arab States (S/2002/510) and letter dated 11 June 2002 from the representative of Bahrain in his capacity as Chairman of the Arab Group and on behalf of the States

of the relevant communications was referred to as “developments”,<sup>11</sup> “violations of international law”,<sup>12</sup> or described in narrative form.<sup>13</sup>

It should also be noted that, while the Charter provisions setting out the basis on which States may bring matters likely to endanger international peace and security to the attention of the Council form part of Chapter VI of the Charter, the subject matter of communications submitted to the Council and the type of action requested in relation thereto are not limited by the scope of that Chapter. For instance, during the period under review, several communications submitted to the Council described situations as threatening or endangering regional peace and security,<sup>14</sup> and/or as acts of aggression.<sup>15</sup>

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Members of the League of Arab States (S/2002/655); in connection with the alleged violations of the territory and airspace of Lebanon and the Syrian Arab Republic by Israeli forces, letter dated 5 October 2003 from the representative of Lebanon (S/2003/943).

<sup>11</sup> See, for example, the following letters addressed to the President of the Security Council: in connection with the situation in the Middle East, including the Palestinian Question, letter dated 21 November 2000 from the representative of the Libyan Arab Jamahiriya, in his capacity as Chairman of the Arab Group (S/2000/1109), and letter dated 29 March 2002 from the representative of Qatar, in his capacity as Chairman of the Islamic Summit Conference (S/2002/331); in connection with the situation between Iraq and Kuwait, letter dated 7 March 2003 from the representative of Malaysia, in his capacity as Chairman of the Coordinating Bureau of the Non-Aligned Movement (S/2003/283); in connection with the situation in the former Yugoslavia, letter dated 14 August 2003 from the representative of Serbia and Montenegro (S/2003/815).

<sup>12</sup> See, for example, the following letters addressed to the President of the Security Council: in connection with the situation in the Middle East, including the Palestinian question, three letters dated 9 October 2003, respectively, from the representatives of the Syrian Arab Republic, in his capacity as Chairman of the Arab Group (S/2003/973), Malaysia, on behalf of the Non-Aligned Group (S/2003/974), and the Islamic Republic of Iran, on behalf of the Organization of the Islamic Conference (S/2003/977).

<sup>13</sup> See, for example, the following letters addressed to the President of the Security Council: in connection with the situation in the Democratic Republic of the Congo, letter dated 18 March 2002 from the representative of the Democratic Republic of the Congo (S/2002/286); in connection with the situation in the former Yugoslavia, letter dated 19 July 2000 from the representative of the Federal Republic of Yugoslavia (S/2000/716) and letter dated 14 August 2003 from the representative of Serbia and Montenegro (S/2003/815); in connection with the alleged violations of the territory and airspace of Lebanon and the Syrian Arab Republic by Israeli forces, letter dated 5 October 2003 from the representative of the Syrian Arab Republic (S/2003/939).

<sup>14</sup> In a letter dated 21 November 2000 addressed to the President of the Council, the representative of the Libyan Arab Jamahiriya, in his capacity as Chairman of the Arab Group, stated that the “new acts of aggression” reflected the continued determination of the occupation forces to use military force in an unacceptable manner and that the deteriorating situation in the occupied Palestinian territories was a “threat to the stability of the whole region” (S/2000/1109). In a letter dated 5 October 2003 addressed to the President of the Council, the representative of Lebanon stated that the violations of the Lebanese airspace by Israeli military aircraft targeting a site situated inside the territory of the Syrian Arab Republic posed “serious threats to the security and stability of the region” (S/2003/943 and Annex). By a letter dated 14 August 2000 addressed to the President of the Security Council, the representative of the Federal Republic of Yugoslavia referred to the activities of KFOR and UNMIK and their “policy of *fait accompli*” as threatening “peace and security in the region” (S/2000/801).

<sup>15</sup> By a letter dated 5 October 2003 addressed to the President of the Council, the representative of Lebanon denounced the violation of the Lebanese airspace by Israeli military aircraft targeting a site situated inside

However, in connection with these communications, the Council did not always determine the existence of a threat to the peace, a breach of the peace or an aggression.

### **Action requested of the Security Council**

In their communications to the Security Council, States mostly requested the Council to convene an urgent meeting to consider the matters.<sup>16</sup> In a number of cases, the submitting States also called upon the Council, in general terms, to take “action” or “concrete measures” on the specific issue brought to its attention.<sup>17</sup>

For example, in a letter dated 14 August 2003 addressed to the President of the Council, the representative of Serbia and Montenegro requested an urgent meeting of the

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the territory of the Syrian Arab Republic as “acts of aggression” and requested the Security Council to “convene an emergency meeting to consider these acts of aggression” (S/2003/943 and Annex). By a letter dated 1 August 2001 addressed to the President of the Council, the representative of the Democratic Republic of the Congo referred to the “Rwandan aggressors and their RCD allies” (S/2001/759 and Annex). By a letter dated 14 August 2000 addressed to the President of the Security Council, the representative of the Federal Republic of Yugoslavia requested an urgent meeting of the Council to consider “the armed attack on and the usurpation of the RMHK Trepča Shareholding Corporation by the Kosovo Force (KFOR)” (S/2000/801). By a letter dated 2 October 2000 addressed to the President of the Security Council, the representative of Malaysia, in his capacity as Chairman of the Islamic Group, requested an emergency meeting of the Security Council to discuss the deteriorating situation following the “Israeli aggression against Al-Haram Al-Sharif and the attacks by Israeli security forces against Palestinian civilians” (S/2000/935). Similar letters, with reference to “acts of aggression”, were addressed to the President of the Security Council, on 2 October 2000, by the representatives of Iraq, in his capacity as Chairman of the Arab Group and on behalf of the States members of the League of Arab States, and the Permanent Observer of Palestine, respectively (S/2000/928 and S/2000/930). By a letter dated 21 November 2000 addressed to the President of the Council, the representative of the Libyan Arab Jamahiriya, in his capacity as Chairman of the Arab Group, while requesting an urgent meeting of the Council, referred to the air attacks by the Israeli forces against the Gaza Strip as “acts of aggression” (S/2000/1109). By a letter dated 23 July 2002 addressed to the President of the Security Council, the representative of Saudi Arabia, on behalf of the League of Arab States, requested the convening of an immediate meeting of the Security Council to consider the “continued Israeli military aggression against the Palestinian People and the Palestinian Authority” (S/2002/828).

<sup>16</sup> See below table entitled “Communications bringing disputes or situations to the attention of the Security Council by Member States or States not members of the United Nations during the period 2000-2003”.

<sup>17</sup> See, for example, the following letters addressed to the President of the Security Council: in connection with the situation in the former Yugoslavia, letters dated 13 February 2000 and 14 August 2000 from the representative of the Federal Republic of Yugoslavia (S/2000/111 and S/2000/801); in connection with the situation in the Middle East, including the Palestinian question, letter dated 20 February 2002 from the Permanent Observer of Palestine (S/2002/182), letter dated 20 February 2002 from the representative of Yemen, on behalf of the League of Arab States (S/2002/184), letter dated 23 July 2002 from the representative of Saudi Arabia, in his capacity as Chairman of the Arab Group and on behalf of the States Members of the League of Arab States (S/2002/828), and letter dated 12 September 2003 from the representative of the Sudan, in his capacity as Chairman of the Arab Group and on behalf of the States members of the League of Arab States (S/2003/880).

Council to consider “developments in Kosovo and Metohija, especially the terrorist attack that took place in the village of Gorazdevac on 13 August 2003”. In his communication, the representative stated that the “terrorist attacks” were aimed at further destabilizing the situation in the Province and represented a serious challenge to the authority of the United Nations Interim Administration Mission in Kosovo (UNMIK) and the Kosovo Force (KFOR) and therefore required, in the view of his Government, an “appropriate action” by the Security Council.<sup>18</sup>

In other instances, which are presented below as examples, more concrete actions requested of the Council were specified by submitting States. In connection with the situation in the Middle East, including the Palestinian Question, the representative of the United Arab Emirates, in his capacity as Chairman of the Arab Group and on behalf of the members of the League of Arab States (LAS), by a letter dated 13 March 2001 addressed to the President of the Council, appealed to the Council to take the necessary steps to safeguard peace and security in the region and to protect the Palestinian people by deploying a United Nations protection force in the Occupied Palestinian Territory, including Jerusalem.<sup>19</sup>

In connection with the situation in Bosnia and Herzegovina, by identical letters dated 6 February 2001 addressed to the Secretary-General and to the President of the Security Council, the representative of Bosnia and Herzegovina requested a meeting of

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<sup>18</sup> S/2003/815.

<sup>19</sup> S/2001/216. In connection with the same agenda item, throughout the period under review, a number of Member States requested the Council to take unspecified “actions” or “measures”. See, for instance, the following letters addressed to the President of the Council requesting the Council to convene a meeting and to take “measures” or “actions”: identical letters dated 2 October 2000 from the Permanent Observer of Palestine (S/2000/930); letter dated 21 November 2000 from the representatives of the Libyan Arab Jamahiriya (S/2000/1109); letter dated 13 December 2001 from the representative of Egypt, in his capacity as Chairman of the Arab Group (S/2001/1191); letter dated 20 February 2002 from the representative of Yemen, in his capacity as Chairman of the Arab Group (S/2002/184); letter dated 29 March 2002 from the representative of Jordan, in his capacity as Chairman of the Arab Group (S/2002/329); letters dated, respectively, 1 April 2002, 6 April 2002 and 17 April 2002 from the representative of Tunisia, on behalf of the League of Arab States (S/2002/336, S/2002/359, S/2002/431); letter dated 23 July 2002 from the representative of Saudi Arabia, on behalf of the League of Arab States (S/2002/828); letter dated 20 September 2002 from the Permanent Observer of Palestine, on behalf of the States members of the League of Arab States (S/2002/1055); letter dated 12 September 2003 from the representatives of the Sudan, as Chairman of the Arab Group and on behalf of the States member of the League of Arab States (S/2003/880); and letter dated 9 October 2003 from the Syrian Arabic Republic, as Chairman of the Arab Group (S/2003/973).

the Council to debate “the opportunity to mandate a conference to review the implementation of the Dayton Peace Accords and necessary revision thereto”.<sup>20</sup>

In connection with the situation in the former Yugoslav Republic of Macedonia, by a letter dated 4 March 2001, addressed to the President of the Security Council, the representative of the former Yugoslav Republic of Macedonia requested an emergency session of the Council for his country’s Minister for Foreign Affairs to present an action plan for the cessation of violence and to secure lasting stabilization on the border with the Federal Republic of Yugoslavia.<sup>21</sup>

In another instance, in connection with the situation in Burundi, by a letter dated 14 March 2001 addressed to the President of the Security Council, the representative of Burundi, after requesting a meeting of the Council to discuss the escalation of war and the peace process in Burundi and outlining his expectations for the meeting, called on the Council to adopt a resolution or a statement by the President before the holding in Arusha, from 19 to 24 March 2001, of the meeting of the parties and that of the Implementation Monitoring for the Agreement.<sup>22</sup>

In connection with the situation in the Democratic Republic of the Congo, by a letter dated 1 August 2001 addressed to the President of the Security Council, the representative of the Democratic Republic of the Congo, while drawing the attention of the Council to violations of its territorial integrity and requesting an urgent meeting of the Council, called upon the Council, *inter alia*, to demand, under Chapter VII of the Charter, the immediate and unconditional withdrawal of Ugandan and Rwandan forces from the territory of the Democratic Republic of the Congo and to take enforcement action against Rwanda and RCD-Goma (Rassemblement Congolais pour la Démocratie-Goma).<sup>23</sup> By a subsequent letter dated 18 March 2002 addressed to the President of the Security Council, the representative of the Democratic Republic of the Congo, bringing to the attention of the Council a number of violations of the Lusaka ceasefire agreement, called on the Council to urgently meet to denounce Rwanda and RCD-Goma for the resumption of

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<sup>20</sup> S/2001/114.

<sup>21</sup> S/2001/191.

<sup>22</sup> S/2001/221.

<sup>23</sup> S/2001/759 and Annex.

hostilities and demand a halt of the hostilities immediately and unconditionally and withdraw their troops to their initial positions.<sup>24</sup>

With regard to the situation in Côte d'Ivoire, the representative of Senegal, in his capacity as representative of the Chairman of the Economic Community of West African States (ECOWAS), by a letter dated 19 December 2002 addressed to the President of the Security Council, appealed to the Council to provide assistance to ECOWAS in its efforts to find a solution to the Ivorian crisis.<sup>25</sup> At its 4680<sup>th</sup> meeting held on 20 December 2002, the Council considered for the first time the agenda item "the situation in Côte d'Ivoire" and, in this connection, the President of the Council, in his introductory remarks, drew the attention of members of the Council to the letter from the representative of Senegal.<sup>26</sup>

Finally, in another instance, in the context of the Jammu and Kashmir dispute, the representative of Pakistan, by identical letters dated 19 August 2003 addressed respectively to the Secretary-General and the President of the Security Council, brought to the attention of the Council matters relating to "peace and security in Asia". By the same letter, he called upon the Council to facilitate the resumption of a serious, substantive and sustained dialogue between India and Pakistan for the peaceful resolution of the dispute.<sup>27</sup>

### **Referrals by the Secretary-General**

While Article 99 stipulates that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security, he did not invoke Article 99, either expressly or by implication, during the period under review. However, he drew the attention of the Security Council to a number of deteriorating situations which were already on the Council's agenda, and requested the Council to consider taking appropriate action. For example, in connection with the situation in the Democratic Republic of the Congo, by a letter dated 15 May 2003 addressed to the President of the Security Council, the

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<sup>24</sup> S/2002/286.

<sup>25</sup> S/2002/1386.

<sup>26</sup> S/PV.4680.

<sup>27</sup> S/2003/823.

Secretary-General expressed his concern at the rapidly deteriorating situation in and around Bunia, which had become the stage of major violent clashes between Hema- and Lendu-based militia groups, exacerbated also by outside interference. Referring to the likely further worsening of the situation and its serious humanitarian consequences, the Secretary-General requested the Security Council to urgently consider his proposal for the rapid deployment to Bunia of a multinational force, acting under Chapter VII of the Charter, aimed at stabilizing the situation in Bunia and protecting the civilian population.<sup>28</sup> In response, the Council convened a meeting and adopted resolution 1484 (2003), authorizing the deployment of such a multinational force in Bunia.<sup>29</sup>

In connection with the situation in Liberia, by a letter dated 28 June 2003 addressed to the President of the Security Council, the Secretary-General expressed his concern regarding the flagrant violations of the ceasefire which shook the foundations of the Accra peace talks. He therefore demanded an “urgent and decisive action from the Security Council”, by requesting it to authorize the deployment to Liberia of a multinational force, under Chapter VII of the Charter, to prevent a major humanitarian tragedy and to stabilize the situation in that country.<sup>30</sup> By a subsequent letter dated 8 July 2003 addressed to the President of the Security Council, the Secretary-General recalled his letter of 28 June 2003 and, in light of the rapidly unfolding political situation, appealed again to the Council to take urgent action to authorize the deployment to Liberia of a multinational force with the primary objective of preventing a major humanitarian tragedy in the country. He also brought to the attention of the Council a number of urgent initiatives he had taken, such as appointing a new Special Representative for Liberia to lead and coordinate the activities of the United Nations in the country and dispatching his Special Representative for West Africa to Accra.<sup>31</sup> In response, the Council convened a meeting and adopted resolution 1497 (2003), authorizing the deployment of such a multinational force in Liberia.<sup>32</sup>

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<sup>28</sup> S/2003/574.

<sup>29</sup> S/PV.4764.

<sup>30</sup> S/2003/678.

<sup>31</sup> S/2003/695.

<sup>32</sup> S/PV.4803.

In addition to the above-mentioned communications, the Secretary-General, as part of his general reporting obligations, regularly informed the Security Council of relevant developments on matters of which the Council was seized.

### **Referrals by the General Assembly**

Under Article 11 (3) of the Charter, the General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security. During the period under review, the General Assembly did not refer any matters to the Security Council under this Article.<sup>33</sup>

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<sup>33</sup> See, chapter VI, part I, section B for more details.

## Part II

### Investigation of disputes and fact-finding

#### Note

Article 34 of the Charter provides that “the Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuation of the dispute or situation is likely to endanger the maintenance of international peace and security”. However, Article 34 does not exclude other organs from performing investigative functions nor does it limit the Council’s general competence to obtain knowledge of the relevant facts of any dispute or situation by dispatching a fact-finding mission.

During the period under consideration, the Council performed and initiated, or requested the Secretary-General to undertake, a number of investigative and fact-finding activities that may be deemed to fall within the scope of Article 34 or be related to its provisions. The following part will provide an overview of the practice of the Security Council in connection with Article 34 of the Charter, including the presentation of two case studies in which the Security Council endorsed the Secretary-General’s initiative to establish bodies entrusted with fact-finding and investigative functions.<sup>34</sup> The two case studies set out (i) in connection with the situation in the Middle East, including the Palestinian Question, the details of the decision-making process leading to the approval by the Council of the decision of the Secretary-General to deploy a fact-finding team to develop accurate information regarding events in the Jenin refugee camp in April 2002, as well as the subsequent developments owing to which the fact-finding team was disbanded; and (ii) in connection with the situation in Côte d’Ivoire, the dispatch, upon

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<sup>34</sup> In one instance during the period under consideration, the Council requested the Secretary-General to initiate or perform fact-finding or investigative functions. In connection with the situation in the Democratic Republic of the Congo, by a statement of the President dated 18 October 2002, the Council, condemning the continuing violence in the east of the Democratic Republic of the Congo, in particular the attack on Uvira by Mai Mai and other forces, invited the Secretary-General to report further on the events in the region of Uvira (S/PRST/2002/27).

reports of mass killings and grave violations of human rights, of a fact-finding mission to the country.

In addition to the above-mentioned fact-finding and investigative missions, the Council continued to request the Secretary-General to report on relevant developments in connection to matters of which the Council was seized. Furthermore, in a number of instances, the Council dispatched missions consisting of Council members to conflict areas, including Kosovo,<sup>35</sup> the Democratic Republic of the Congo and Burundi,<sup>36</sup> Sierra Leone,<sup>37</sup> East Timor and Indonesia,<sup>38</sup> the Great Lakes Region,<sup>39</sup> Eritrea and Ethiopia,<sup>40</sup> Kosovo and Belgrade, Federal Republic of Yugoslavia,<sup>41</sup> Central Africa,<sup>42</sup> West Africa,<sup>43</sup> and Afghanistan.<sup>44</sup> In general terms, during the period under consideration, the Council noted with satisfaction, in connection with the prevention of armed conflicts, the increased recourse, with the consent of receiving Member States, to Security Council missions to areas of conflict or potential conflict.<sup>45</sup> The Council missions were not expressly charged with investigative tasks, but did serve, inter alia, to form an impression of the respective situations on the ground.

Finally, during the period under consideration, the Security Council adopted two decisions by which it underlined the importance that it attached to fact-finding missions

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<sup>35</sup> Missions of the Council visited Kosovo from 27 to 29 April 2000 and from 16 to 18 June 2001, respectively. For details, see the terms of reference (S/2000/320 and S/2001/482\*) and the final reports (S/2000/363 and S/2001/600).

<sup>36</sup> The mission of the Council visited the Democratic Republic of the Congo from 4 to 8 May 2000. For details, see the terms of reference (S/2000/344) and the final report (S/2000/416).

<sup>37</sup> The mission of the Council visited Sierra Leone from 7 to 14 October 2000. For details, see the terms of reference (S/2000/886) and the final report (S/2000/992).

<sup>38</sup> The mission of the Council visited East Timor and Indonesia from 9 to 17 November 2000. For details, see the terms of reference (S/2000/103\*\*) and the final report (S/2000/1105).

<sup>39</sup> Missions of the Council visited the Great Lakes Region from 15 to 26 May 2001 and from 27 April to 7 May 2002. For details, see the terms of reference (S/2001/408 and S/2002/430) and the final reports (S/2001/521 and Add. 1; and S/2002/537 and Add. 1).

<sup>40</sup> Missions of the Council visited Eritrea and Ethiopia from 9 to 10 May 2000 and from 21 to 25 February 2002, respectively. For details, see the terms of reference (S/2000/392 and S/2002/129\*) and the final reports (S/2000/413 and S/2002/205).

<sup>41</sup> The mission of the Council visited Kosovo and Belgrade, Federal Republic of Yugoslavia, from 13 to 17 December 2002. For details, see the terms of reference (S/2002/1271) and the final report (S/2002/1376).

<sup>42</sup> The mission visited Central Africa from 7 to 16 June 2003. For details, see the terms of reference (S/2003/558) and the final report (S/2003/653).

<sup>43</sup> The mission of the Council visited West Africa from 26 June to 5 July 2003. For details, see the terms of reference (S/2003/525) and the final report (S/2003/688).

<sup>44</sup> The mission of the Council visited Afghanistan from 31 October to 7 November 2003. For details, see the terms of reference (S/2003/930\*) and the final report (S/2003/1074).

<sup>45</sup> Resolution 1366 (2001), ninth preambular para.

of the Secretary-General in the context of the prevention of armed conflict. 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 the President of 30 November 1999 and 20 July 2000 on the prevention of armed conflicts,<sup>46</sup> by resolution 1327 (2000) of 30 November 2000, welcomed the intention of the Secretary-General to send fact-finding missions to areas of tension more frequently.<sup>47</sup> Similarly, by resolution 1336 (2001) of 30 August 2001, in connection with the role of the Security Council in the prevention of armed conflicts, the Council supported the enhancement of the role of the Secretary-General in the field of conflict prevention including by increasing the 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 resource base for preventive action in the Secretariat.<sup>48</sup>

## Case 1

### *The situation in the Middle East, including the Palestinian Question*

By identical letters dated 10 April 2002 addressed, respectively, to the Secretary-General and the President of the Security Council, the Permanent Observer of Palestine stated that the critical situation in the occupied cities of Jenin and Nablus and the adjacent refugee camps that had come under attack by Israeli occupying forces was of profound concern. He therefore called upon the international community to take action to ensure the implementation of resolutions 1402 (2002) and, most recently, resolution 1403 (2002), and to “bring an immediate halt to the Israeli onslaught against the Palestinian people in the occupied Palestinian territory”.<sup>49</sup>

In response to the request contained in a letter from the representative of Tunisia dated 17 April 2002 addressed to the President of the Council, the Council met on 18 and

<sup>46</sup> S/PRST/1999/34 and S/PRST/2000/25.

<sup>47</sup> S/RES/1327(2000), Annex V.

<sup>48</sup> Resolution 1366 (2001), para. 18.

<sup>49</sup> S/2002/370.

19 April 2002 to consider the situation in the Middle East, including the Palestinian Question.<sup>50</sup> During the meeting, several speakers expressed their support for an investigation into the events in the Jenin refugee camps, and some explicitly requested it.<sup>51</sup> The representative of Egypt stated that the Council had to act decisively and immediately dispatch a mission of its members to investigate the facts and held that such a mission should be accompanied by representatives of all the bodies and organs of the United Nations system, the Secretary-General and humanitarian and human rights agencies due to submit a report to the Council within two weeks. He further argued that on the basis of that report, the Council could consider the international community's options with respect to legal measures to address recent and ongoing events.<sup>52</sup> The representative of France maintained that the extreme seriousness of the eyewitness reports made it absolutely necessary to find out the truth, in an objective manner and that an international fact-finding committee had to be sent to Jenin.<sup>53</sup>

On the same day, at the 4516<sup>th</sup> meeting, the Council unanimously adopted resolution 1405 (2002) welcoming the initiative of the Secretary-General to develop accurate information regarding recent events in the Jenin refugee camp through a fact-finding team and requesting him to keep the Council informed.<sup>54</sup>

By a letter dated 22 April 2002, addressed to the President of the Security Council, the Secretary-General informed the Council that, pursuant to resolution 1405 (2002), he had established a fact-finding team, which would begin its work without delay by traveling to the region to initiate its mission on the ground. He stated that he had called on the team to expeditiously report to him its findings and conclusions. He further informed the Council that he expected that the Government of Israel and the Palestinian Authority would fully cooperate with the team and provide free and complete access to

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<sup>50</sup> See S/PV.4515 and S/PV.4515 (Resumption 1).

<sup>51</sup> S/PV.4515, p. 12 (Pakistan); pp. 12-13 (South Africa); pp. 16-17 (Morocco); p. 18 (Algeria); p. 29 (the Sudan); p. 37 (Islamic Republic of Iran); and p. 38 (Mauritania); S/PV.4515 (Resumption 1), p. 2 (China); p. 6 (France); p. 7 (Mauritius); p. 9 (Colombia); p. 10 (Ireland); p. 11 (United Kingdom); p. 12 (Mexico); and p. 14 (Singapore).

<sup>52</sup> S/PV.4515, p. 10.

<sup>53</sup> S/PV.4515 (Resumption 1), p. 6.

<sup>54</sup> Resolution 1405 (2002), para. 2.

all sites, sources of information and individuals that the team considered necessary for the exercise of the functions of the mission.<sup>55</sup>

On 1 May 2002, by a letter addressed to the President of the Council, the Secretary-General informed the Council that, soon after he had announced his plan to deploy the fact-finding team, the Government of Israel began to express concerns related to the composition of the team, the scope of its mandate, how the mandate would be carried out and various procedural matters. He further informed the Council of an announcement made by the Government of Israel, that, as long as essential issues raised by the delegation of Israel and terms of a fair examination had not been met, it would not be possible for the clarification process to begin. In his letter, the Secretary-General stated that, throughout the process, the United Nations had made every effort to accommodate the concerns of the Government of Israel within the mandate given to him by the Security Council. However, in light of the announcement by the Government of Israel and of additional issues raised by high-level Israeli officials, it seemed evident that the team would not be able to proceed to the area to begin its mission in the near future. For those reasons, the Secretary-General informed the Council of his intention to disband the fact-finding team the following day. He stated that he regretted being unable to provide the information requested by the Council in resolution 1405 (2002), and especially that the long shadow cast by recent events in the Jenin refugee camp would remain in the absence of such a fact-finding exercise.<sup>56</sup>

At the 4525<sup>th</sup> meeting of the Council, held on 3 May 2002, the Permanent Observer of Palestine stated that the Council should “order” Israel not to impede the fact-finding team, request the Secretary-General to dispatch the team immediately, in pursuance of resolution 1405 (2002), and require the two sides to cooperate with the team without conditions. He noted that a resolution by the Arab Group drafted along those lines had not gained enough support in the face of opposition by one permanent member, and he expressed the view that backtracking by the Council would constitute a “genuine scandal”, a breach of the Charter and the abdication by the Council of its responsibility. He hoped that the Council would be able to adopt an appropriate resolution and, if it

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<sup>55</sup> S/2002/475.

<sup>56</sup> S/2002/504.

failed to do so, his delegation would seek a resumption of the Tenth Emergency session of the General Assembly.<sup>57</sup> In response, the representative of Israel expressed his country's reservations about the fact-finding mission which should have been aimed at developing, in his view, "accurate information" and not reaching any conclusion nor making recommendations, in line with the fact-finding principles set out in General Assembly resolution 46/59 of 1991. He added that his country would have expected the fact-finding team to address the activities of "both sides", including the use of a United Nations-administered camp as a centre for terrorist activity.<sup>58</sup>

During the subsequent debate, the representative of the Sudan, speaking on behalf of the Group of Arab States, called on the Council to bring about respect for its authority by condemning the rejection of the Secretary-General's initiative to dispatch a fact-finding mission and insisting on obtaining the details of the "heinous crimes" committed in Jenin, and of "all the massacres committed against the Palestinian people". Failure by the Council to fulfill its duty, he added, would prompt the Arab Group to resort to the General Assembly.<sup>59</sup> Similarly, a number of other speakers condemned Israel's "disdain" for the Council and its decisions.<sup>60</sup> The representative of the United Kingdom "deplored" Israel's failure to cooperate with the United Nations in allowing the deployment of the fact-finding team, while the representative of France stated that the Council and the Secretary-General must be respected and deplored Israel's "serious error" in failing to do so.<sup>61</sup> The representative of the United States, while regretting Israel's decision to deny access to the Secretary-General's fact-finding team, supported the Secretary-General in his decision to disband the team.<sup>62</sup>

## Case 2

### *The situation in Côte d'Ivoire*

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<sup>57</sup> S/PV.4525, p. 3.

<sup>58</sup> Ibid., p. 5.

<sup>59</sup> Ibid., p. 7.

<sup>60</sup> S/PV.4525, pp. 8-10 (Tunisia); pp. 12-13 (Egypt); S/PV.4525 (Resumption 1), pp. 10-11 (the United Arab Emirates); p. 12 (Indonesia); pp. 15-16 (Islamic Republic of Iran); and pp. 28-30 (Mauritius).

<sup>61</sup> Ibid., p. 33 (United Kingdom); and p. 34 (France).

<sup>62</sup> S/PV.4525 (Resumption 1), p. 25.

By a letter dated 19 December 2002 addressed to the President of the Security Council, the representative of Senegal, in his capacity as representative of the Chairman of Economic Community of West African States (ECOWAS), appealed to the Security Council to provide assistance to ECOWAS in its efforts to find a solution to the Ivorian crisis. In view of the extreme urgency, he requested the Council to consider without delay the specific forms and modalities of United Nations support for the efforts actively undertaken by ECOWAS.<sup>63</sup>

In response to the request, the Council met on 20 December 2002 to consider the situation in Côte d'Ivoire.<sup>64</sup> By a statement of the President, adopted at that meeting, the Council, expressing its grave concern at the situation in Côte d'Ivoire and at reports of mass killings and grave violations of human rights, commended the Secretary-General for his efforts to promote a negotiated settlement, in coordination with ECOWAS, and requested the Secretary-General to keep it regularly informed about the situation. By the same statement, the Council further called on all parties to ensure full respect for human rights and international humanitarian law and welcomed the decision by the Secretary-General to request the High Commissioner for Human Rights to 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 the country.<sup>65</sup>

A multi-disciplinary technical assessment mission visited Côte d'Ivoire from 24 February to 7 March 2003 seeking an assessment of the role the United Nations could play in the implementation of the Linas-Marcoussis Agreement of 23 January 2003.<sup>66</sup>

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<sup>63</sup> S/2002/1386.

<sup>64</sup> S/PV.4680.

<sup>65</sup> S/PRST/2002/42.

<sup>66</sup> For details of its findings see S/2003/374, paras. 31-67.

## Part III

### Decisions of the Security Council concerning the pacific settlement of disputes

#### Note

Chapter VI of the Charter contains various provisions according to which the Security Council may make recommendations to the parties to a dispute or situation. According to Article 33 (2) of the Charter, the Council may call on the parties to settle their disputes by such peaceful means as provided for in Article 33 (1). According to Article 36 (1) the Council may “recommend appropriate methods or procedures of adjustment”. Article 37 (2) envisages that the Council may “recommend such terms of settlement as it may consider appropriate”, and Article 38 provides that it may “make recommendations to the parties with a view to a pacific settlement of the dispute”.

As part of its efforts aimed at the peaceful settlement of conflicts within the framework of Chapter VI of the Charter, the Council frequently endorsed or supported peace agreements concluded by the parties to a conflict, or recommended various methods or procedures of settlement, such as bilateral or multilateral negotiations,<sup>67</sup> political settlement or dialogue aimed at achieving national reconciliation,<sup>68</sup> democratic means such as elections<sup>69</sup> or the establishment of a representative government, as well as peace consolidating activities such as disarmament, demobilization and reintegration programmes for former combatants.<sup>70</sup> In several instances, the Council made recommendations with regard to good offices, mediation or conciliation efforts to be

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<sup>67</sup> See, for instance, the following decisions of the Council: in connection with the situation in Somalia, S/PRST/2003/19; in connection with the situation in Afghanistan, S/PRST/2000/12; in connection with the situation in Georgia, resolutions 1287 (2000) and 1393 (2002); in connection with the situation between Eritrea and Ethiopia, resolution 1297 (2000); and in connection with the situation in Croatia, resolution 1285 (2000).

<sup>68</sup> See, for example, in connection with the situation in Somalia, S/PRST/2001/1 and S/PRST/2001/30; and in connection with the situation in Angola, S/PRST/2002/7.

<sup>69</sup> See, for example, in connection with the situation in Tajikistan, along the Tajik-Afghan border, S/PRST/2000/9 and S/PRST/2000/17; and in connection with the situation in East Timor, S/PRST/2001/32.

<sup>70</sup> See, for example, in connection with the situation in Sierra Leone, S/PRST/2001/38.

undertaken by the Secretary-General,<sup>71</sup> or with regard to such efforts undertaken by Governments of neighboring countries,<sup>72</sup> regional leaders,<sup>73</sup> or undertaken by regional arrangements,<sup>74</sup> by expressing its support and calling upon the parties to a conflict to cooperate with such efforts. In one instance, in connection with its consideration of the agenda item “Strengthening cooperation between the United Nations system and the Central African Region in the maintenance of peace and security”, the Council welcomed the sub-regional efforts to promote conflict prevention, management and resolution in Central Africa. In that context, the Council recognized the steps taken by Central African countries to settle conflicts by peaceful means including through the conclusion, with the strong support of the United Nations Standing Advisory Committee on Security Questions in Central Africa, of a Protocol<sup>75</sup> establishing, on 24 June 2000, the Council for Peace and Security in Central Africa (COPAX), comprising a Mutual Assistance Pact and a Non-Aggression Pact.<sup>76</sup>

During the period under review, the Council dealt with a growing number of intra-state conflicts characterized by inter-ethnic and inter-religious violence, collapse of central state authority, humanitarian crises and implications threatening the stability of neighbouring countries. For example, in connection with the situation in Angola, the

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<sup>71</sup> See, for example, in connection with the situation in Western Sahara, resolutions 1301 (2000) and 1309 (2000). See also, in connection with the situation in Cyprus, resolution 1475 (2003).

<sup>72</sup> See, for example, in connection with the situation in Somalia, S/PRST/2002/8.

<sup>73</sup> See, for instance, in connection with the situation in Burundi, resolution 1286 (2000).

<sup>74</sup> See Chapter XII, Part III of this volume, for further details on the manner in which the Security Council has encouraged efforts undertaken by regional arrangements in the pacific settlement of disputes. By way of example, in connection with the situation in Côte d’Ivoire, the Security Council supported the efforts by ECOWAS to achieve a pacific settlement of the conflict, which included support for the deployment of a subregional peacekeeping force. By a statement of the President dated 20 December 2002, the Council strongly supported the efforts of ECOWAS to promote a peaceful resolution of the conflict and urged the leaders of ECOWAS to continue their efforts in a coordinated manner (S/PRST/2002/42). In the Democratic Republic of the Congo, the Security Council supported the efforts by the Southern African Development Community (SADC) and the Organization of African Unity/African Union to advance the peace process. By a statement of the President dated 26 January 2000, the Council valued the vital contribution of SADC and expressed its appreciation for the role of OAU in the Lusaka process (S/PRST/2000/2). During the period under review, by a series of decisions, the Security Council continued to support and encourage the efforts made by the Intergovernmental Authority on Development (IGAD), the Organization of African Unity/African Union and the League of Arab States (LAS) to find a political solution to the crisis in Somalia and called for closer interaction between those organizations and the Council to achieve national reconciliation (S/PRST/2000/22, S/PRST/2001/1, S/PRST/2001/30, S/PRST/2002/8, S/PRST/2002/35 and resolution 1425 (2002)).

<sup>75</sup> A/RES/55/34 B.

<sup>76</sup> S/PRST/2002/31.

Council reiterated UNITA's (União Nacional para a Independência Total de Angola) primary responsibility for the continuing conflict in Angola and recognized that the fulfillment by the latter of the 'Accordos de Paz', the Lusaka Protocol and the relevant resolutions of the Security Council was the only viable basis for a political settlement of the conflict in Angola.<sup>77</sup> In connection with the situation in the Democratic Republic of the Congo, by resolution 1468 (2003), the Council welcomed the agreement reached by the Congolese parties in Pretoria, on 6 March 2003, on the transitional arrangements and called upon them to establish as soon as possible a Transitional Government.<sup>78</sup>

In setting out the parameters for a peace process or settlement to achieve its objective and to prevent a relapse into conflict, the Council often made precise recommendations. For instance, in connection with the situation in Western Sahara, explicitly acting under Chapter VI of the Charter, the Council supported the peace plan for self-determination of the people of Western Sahara put forward by the Secretary-General and his Personal Envoy as an "optimum political solution" on the basis of agreement between the two parties.<sup>79</sup> Similarly, in connection with the situation in Cyprus, the Council expressed its support for the "carefully balanced" settlement plan proposed by the Secretary-General on 26 February 2003.<sup>80</sup> In connection with the situation in Somalia, the Council stated that the Arta peace process continued to be the most viable basis for peace and national reconciliation in the country.<sup>81</sup>

In a number of instances, the Council, acting on the basis of relevant Security Council decisions, dispatched Security Council missions to conflict areas to, inter alia, express its support for efforts towards peaceful settlement of disputes undertaken either by the local actors or regional organizations and to examine how those efforts could be best supported. Thus, for instance, in the terms of reference for its mission to Sierra Leone from 7 to 14 October 2000, the Council stated as its objective to "support the efforts of the Government of Sierra Leone and review with it the progress made with regard to certain aspects of the implementation of the Peace Agreement signed in Lomé

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<sup>77</sup> S/PRST/2001/24.

<sup>78</sup> Resolution 1468 (2003), para. 1.

<sup>79</sup> Resolution 1495 (2003), para. 1.

<sup>80</sup> Resolution 1475 (2003), para. 4.

<sup>81</sup> S/PRST/2001/30.

on 7 July 1999, and to explore the possibilities for support on the part of the Council”.<sup>82</sup> In the terms of reference for its mission to Eritrea and Ethiopia in 2000, the Council stated that the mission would strongly urge both parties to refrain from resorting to force and further hostilities, and to commit “immediately, seriously and without precondition” to negotiations to achieve final consolidated technical arrangements for implementation of the OAU (Organization of African Unity) Framework Agreement and its Modalities for Implementation.<sup>83</sup> In the terms of reference of its subsequent mission to Eritrea and Ethiopia, the Council noted that the objective of the mission was to support the peace process between the two neighbouring countries and the efforts to implement the Algiers Agreements and the relevant Council resolutions.<sup>84</sup>

This part of the chapter will provide an overview of the Council’s practice in relation to the peaceful settlement of disputes by highlighting relevant decisions adopted by the Council during the period under review. As it is not always possible to ascertain the specific provisions of the Charter on which individual Council decisions have been based, the following overview will aim to set out relevant decisions in a systematic order, without ascribing them to specific Articles of the Charter. Since Council decisions related to investigation and fact- finding missions have been already covered in part II of this chapter, they will not be reflected here.

The practice of the Council under Chapter VI of the Charter is described below in four sections. Section A captures the relevant decisions of the Council on general and thematic issues touching upon the provisions of Chapter VI of the Charter. In particular, it outlines the decisions of the Council relating to the prevention of armed conflicts as well as their recurrence. Section B illustrates various ways in which the Council, in dealing with specific situations under its consideration, encouraged and supported efforts in the peaceful settlement of disputes. Section C provides an overview of the decisions of the Security Council, within the framework of the Council’s efforts towards the pacific settlement of disputes, involving the Secretary-General. Finally, Section D briefly illustrates various ways in which the Council, in dealing with specific situations under its

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<sup>82</sup> S/2000/886.

<sup>83</sup> S/2000/392.

<sup>84</sup> S/2002/129\*.

consideration, encouraged and supported efforts by regional organizations in the peaceful settlement of disputes.

### **A. Decisions of the Security Council on general and thematic issues relating to the pacific settlement of disputes**

The following section provides an overview of the decisions of the Council on general and thematic issues relating to the pacific settlement of disputes. By such decisions, the Council underscored the centrality of Chapter VI of the Charter in the United Nation's system of collective security and emphasized its commitment to address the prevention and recurrence of armed conflicts in all regions of the world. Furthermore, during the period under review, the Council established the ad hoc Working Group on Conflict Prevention and Resolution in Africa with the mandate to, inter alia, monitoring the implementation of previous statements by the President and resolutions regarding conflict prevention and resolution in Africa.<sup>85</sup>

#### *The role of the Security Council in the pacific settlement of disputes*

At the end of its first thematic debate on the item entitled "The role of the Security Council in the pacific settlement of disputes", by a statement of the President dated 13 May 2003, the Council reaffirmed its commitment to maintain international peace and security through effective collective measures for the prevention and removal of threats to the peace or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, the adjustment or settlement of international disputes or situations which might lead to a breach of the peace. It further recognized that the United Nations and its organs could play an important role in preventing disputes from arising between parties, in preventing existing disputes from escalating into conflicts, and in containing and resolving the conflicts when they occurred. The Council also recalled that the Charter of the United Nations, particularly Chapter VI, set forth the means and a framework for the pacific

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<sup>85</sup> S/2002/207\*.

settlement of disputes and underscored that the efforts to strengthen the process of the peaceful settlement of disputes should be continued and made more effective. Finally, the Council reiterated its commitment to make wider and more effective use of the procedures and means enshrined in the provisions of the Charter on the pacific settlement of disputes, particularly Articles 33-38, as one of the essential components of its work to promote and maintain international peace and security.<sup>86</sup>

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

By a statement of the President dated 20 July 2000, the Council recalled its key role in the peaceful settlement of disputes under Chapter VI of the Charter and reaffirmed the importance of its consideration of all situations that might deteriorate into armed conflict, and of considering follow-up action, as appropriate. In this regard, it expressed continued willingness to consider the use of Council missions, with the consent of host countries, in order to determine whether any dispute, or any situation that might lead to international friction or give rise to a dispute, was likely to endanger the maintenance of international peace and security, and to make recommendations for action by the Council, as appropriate. By the same statement, the Council underlined the importance of the peaceful settlement of disputes and recalled the obligation of parties to disputes to seek actively a peaceful solution in accordance with the provisions of Chapter VI of the Charter. It also recalled the obligation of all Member States to accept and carry out its decisions, including those for the prevention of armed conflict. The Council stressed the need for the maintenance of regional and international peace and stability and friendly relations among all States, and underlined the overriding humanitarian and moral imperative as well as the economic advantages of preventing the outbreak and escalation of conflicts. It highlighted, in this regard, the need to create a culture of prevention and reaffirmed that early warning, preventive diplomacy, preventive deployment, preventive disarmament, and post-conflict peace-building were interdependent and complementary components of a comprehensive conflict prevention strategy. The Council therefore

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<sup>86</sup> S/PRST/2003/5.

emphasized its continuing commitment to addressing the prevention of armed conflicts in all regions of the world.

Recognizing the importance of effective post-conflict peace-building strategies in preventing the re-emergence of conflicts, the Council also recognized the need for close cooperation among bodies of the United Nations system and with other organizations and arrangements in the area of post-conflict peace-building, and expressed its willingness to consider ways to improve such cooperation. It also stressed that the design of peacekeeping mandates could help prevent the re-emergence of conflicts. Finally, underlining the importance of long-term development of post-conflict societies and the maintenance of lasting peace, the Council highlighted the importance of strengthening its cooperation with the Economic and Social Council in the area of the prevention of armed conflicts. The Council also emphasized the importance of preventive deployment in armed conflicts and reiterated its willingness to consider the deployment, with the consent of the host country, of preventive missions in appropriate circumstances.<sup>87</sup>

By resolution 1366 (2001) of 30 August 2001, having considered the report of the Secretary-General on the prevention of armed conflict and the recommendations contained therein,<sup>88</sup> the Council, while reiterating that conflict prevention was one of the primary responsibilities of Member States and emphasizing the importance of a comprehensive strategy for the prevention of armed conflicts, which included elements of early warning, preventive diplomacy, preventive deployment, practical disarmament measures and post-conflict peace-building, expressed its determination to pursue the objectives of prevention of armed conflict as an integral part of its responsibility for the maintenance of international peace and security. It also reaffirmed its role in the peaceful settlement of disputes, and reiterated its call upon Member States to settle their disputes by peaceful means as set forth in Chapter VI of the Charter, including by use of regional preventive mechanisms and more frequent resort to the International Court of Justice.<sup>89</sup>

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<sup>87</sup> S/PRST/2000/25.

<sup>88</sup> S/2001/574 and Corr. 1.

<sup>89</sup> Resolution 1366 (2001), paras. 1 and 9.

*Peace-building: towards a comprehensive approach*

By a statement of the President dated 20 February 2001, the Council reaffirmed that the quest for peace required a comprehensive, concerted and determined approach addressing the root causes of conflicts, including their economic and social dimensions. Recognizing that peacemaking, peacekeeping and peace-building were often closely interrelated, the Council stressed that this interrelationship required a comprehensive approach in order to preserve the results achieved and prevent the recurrence of conflicts. To this effect, the Council reiterated the value of including, as appropriate, peace-building elements in the mandates of peacekeeping operations. Further recognizing that peace-building aimed at preventing the outbreak, the recurrence or continuation of armed conflict and therefore encompassed a wide range of political, developmental, humanitarian and human rights programmes and mechanisms, the Council underlined that short and long-term actions, tailored to address the particular needs of societies sliding into conflict or emerging from it, were required. The Council specified that such actions should focus on fostering sustainable institutions and processes in areas such as sustainable development, the eradication of poverty and inequalities, transparent and accountable governance, the promotion of democracy, respect for human rights and the rule of law and the promotion of a culture of peace and non-violence. To this end, the Council recognized the need for the early involvement on the ground of peace-building actors and an orderly assumption of their responsibilities. In order to avoid any gap between peacekeeping and peace-building, the Council expressed its determination, where appropriate, to consult at various stages of any peacekeeping operation, peace-building elements within the State concerned and with relevant actors primarily responsible for coordinating and implementing aspects of peace-building activities.<sup>90</sup>

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<sup>90</sup> S/PRST/2001/5.

## **B. Recommendations relating to methods, procedures or terms of the pacific settlement of disputes**

This section provides an overview of the Council's practices aimed at the pacific settlement of disputes in application of Chapter VI of the Charter. It lists decisions, within the regional context, by agenda item and in a chronological order in which the Council requested or called upon parties to settle their disputes by peaceful means; or recommended procedures or methods of settlement; or proposed or endorsed, welcomed or supported terms of settlement. Although the relevant decisions are presented by agenda item, it should be noted that, during the period under review, the Council increasingly demonstrated in its decisions a regional approach to the prevention and resolution of conflicts.<sup>91</sup>

### **1. Africa**

#### *The situation in Angola*

By a statement of the President dated 20 September 2001, while expressing its concern at the continuing conflict in Angola, the Council reiterated its position that the primary responsibility for the continued fighting rested with the leadership of the armed faction of UNITA which was refusing to fulfill its obligations under the 'Accordos de Paz', the Lusaka Protocol and the relevant resolutions of the Security Council, the only viable basis for political settlement of the conflict in Angola. The Council considered the agenda for peace proposed by the Government of Angola as a useful indication of areas where an agreement or progress should be reached. It therefore called on UNITA to cease all military action and to enter into a dialogue with the Government of Angola on how to conclude the implementation of the Lusaka Protocol.<sup>92</sup>

By a statement of the President dated 28 March 2002, the Council welcomed the communiqué issued by the Government of Angola on 13 March 2002 as a positive,

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<sup>91</sup> See, for instance S/PRST/2002/36 and S/PRST/2001/38.

<sup>92</sup> S/PRST/2001/24.

constructive and forward-looking approach to ending the conflict and resuming the process of national reconciliation. It called upon UNITA to show a similar position, with the aim of achieving national reconciliation including through a general ceasefire in Angola. The Security Council urged UNITA to give a clear and positive response to the Government's offer of peace to implement fully the Lusaka Protocol.<sup>93</sup>

By resolution 1412 (2002) of 17 May 2002, the Council welcomed the historic step taken by the Government of Angola and UNITA, on 4 April 2002, in signing the Memorandum of Understanding Addendum to the Lusaka Protocol for the Cessation of Hostilities and the Resolution of the Outstanding Military Issues under the Lusaka Protocol.<sup>94</sup> In view of the developments, by resolution 1433 (2002) of 15 August 2002, the Council terminated the mandate of the United Nations Office in Angola (UNOA), established pursuant to resolution 1268 (1999), and established the United Nations Mission in Angola (UNMA), whose mandate included, inter alia, assisting the parties in concluding and implementing the Lusaka Protocol.

Subsequently, the Council welcomed the steps taken by the Government of Angola and UNITA towards the full implementation of the 'Acordos de Paz', the Lusaka Protocol, the Complementary Memorandum of Understanding to the Lusaka Protocol for the Cessation of Hostilities and the Resolution of the Remaining Military Issues Pending by its resolution 1439 (2002) of 18 October 2002.<sup>95</sup>

### *The situation in Burundi*

By resolution 1286 (2000) of 19 January 2000, the Council warmly endorsed and strongly supported the designation by the Eighth Arusha Regional Summit on 1 December 1999 of Nelson Mandela, former President of the Republic of South Africa, as the new Facilitator of the Arusha peace process. The Council expressed its strongest support for his efforts to achieve a peaceful solution to the conflict in Burundi, and

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<sup>93</sup> S/PRST/2002/7.

<sup>94</sup> Resolution 1412 (2002), third preambular para. The Council reiterated its support for the Lusaka Protocol by resolution 1432 (2002) of 15 August 2002. By resolution 1404 (2002) of 18 April 2002, the Council had already welcomed, in the preambular paragraphs of the resolution, the ceasefire agreement signed in Luanda on 4 April 2002.

<sup>95</sup> Resolution 1439 (2002), third preambular para.

welcomed the successful meeting in Arusha on 16 January 2000 launching his initiative. While reiterating its strong support for the renewed Arusha peace process, the Council endorsed the call at the Eighth Arusha Regional Summit for all parties to the conflict in Burundi to extend maximum cooperation to the new peace process Facilitator, and called for increased efforts to build an internal political partnership in Burundi. It further commended those Burundian parties, including the Government, which had demonstrated their commitment to continue negotiations, and called on all parties remaining outside the Arusha peace process to cease hostilities and to participate fully in the process.<sup>96</sup>

By a statement of the President dated 29 September 2000, the Council welcomed the signature, on 28 August 2000, of the Arusha Peace Accord, as well as the signatures added to that Accord at a regional summit, held on 20 September 2000, in Nairobi. The Council stressed that the key to achieving a lasting peace agreement rested with the Burundian parties and urged all parties to work towards resolving any remaining differences over the Peace Accord, and to proceed to its implementation. It also renewed its call to all parties that remained outside the peace process to cease hostilities and join the process. In this regard, the Council supported the call of the Facilitator to the rebel groups to clarify their positions by 20 October 2000. By the same statement, the Council also requested the Secretary-General to urgently report to it on specific actions the United Nations could undertake in the consolidation of peace and economic recovery in Burundi.<sup>97</sup> To this end, on the basis of recommendations by the Secretary-General, the Council revised and expanded the mandate of the United Nations Office in Burundi (UNOB), established in November 1993, to help implement the Arusha Peace Agreement.<sup>98</sup>

By a number of subsequent resolutions and statements, the Council reiterated its support for the Arusha peace process and its call on all parties that remained outside the peace process to cease hostilities and to participate fully in the process.<sup>99</sup> For instance, by a statement of the President dated 26 September 2001, while welcoming the installation

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<sup>96</sup> Resolution 1286 (2000), paras. 1, 2, and 4.

<sup>97</sup> S/PRST/2000/29.

<sup>98</sup> S/2001/1207. For details, see Chapter V, Part E.

<sup>99</sup> S/PRST/2001/6; S/PRST/2001/17; S/PRST/2001/26; resolution 1375 (2001); S/PRST/2001/33; and S/PRST/2002/40.

of the Transitional Government, the Council expressed its concern regarding the recent increase in violence and recalled the urgent need to bring about a negotiated settlement of the conflict. It thus called upon the Facilitation, the Regional Peace Initiative on Burundi, the Government of Burundi, the signatory parties, and the armed groups to devote their full attention to the achievement of a ceasefire.<sup>100</sup>

By a statement of the President dated 7 February 2002, the Council welcomed the steps taken by the Governments of Burundi and of the Democratic Republic of the Congo to normalize their relations. In this regard, it welcomed the joint communiqué they issued on 7 January and called on them to implement as soon as possible the elements agreed upon.<sup>101</sup>

By a statement of the President dated 18 December 2002, the Council welcomed the signing of the Ceasefire Agreement between the Transitional Government of Burundi and the Conseil national pour la défense de la démocratie-Front de défense de la démocratie (CNDD), in Arusha, on 2 December 2002.<sup>102</sup> Subsequently, by another statement of the President dated 4 December 2003, the Council welcomed the progress made by the Burundian parties, in particular by the signing, in Pretoria, of the protocols of 8 October and 2 November 2003 and by the conclusion, on 16 November 2003, in Dar es Salaam of the Global Ceasefire Agreement between the Transitional Government of Burundi and the CNDD.<sup>103</sup>

#### *The situation in Côte d'Ivoire*

By resolution 1464 (2003) of 4 February 2003, the Council endorsed the agreement signed by the Ivorian political forces in Linas-Marcoussis, on 23 January

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<sup>100</sup> S/PRST/2001/26.

<sup>101</sup> S/PRST/2002/3. The Council recalled the communiqué and renewed its appeal to the parties to implement and finalize the accord by its statement of the President dated 18 December 2002 (S/PRST/2002/40).

<sup>102</sup> S/PRST/2002/40.

<sup>103</sup> S/PRST/2003/30.

2003, and called upon all Ivorian political forces to implement it fully and without delay.<sup>104</sup>

In view of the developments, by resolution 1479 (2003) of 13 May 2003, the Council established the United Nations Mission in Côte d'Ivoire (MINUCI) to facilitate the implementation by the Ivorian parties of the Linas-Marcoussis Agreement,<sup>105</sup> complementing the operations of the French and Economic Community of West African States (ECOWAS) forces.<sup>106</sup>

*The situation concerning the Democratic Republic of the Congo*

By resolutions 1291 (2000) of 24 February 2000 and 1304 (2000) of 16 June 2000, the Council reiterated its strong support for the Ceasefire Agreement signed at Lusaka on 10 July 1999 and called upon the parties to fulfill their obligations under the Agreement.<sup>107</sup> By the former resolution, the Council also expanded the mandate of the United Nations Organisation Mission in the Democratic Republic of Congo (MONUC), established pursuant to resolution 1279 (1999), to monitor the implementation of the Ceasefire Agreement and to investigate violations of the ceasefire.<sup>108</sup>

By resolution 1332 (2000) of 14 December 2000, the Council welcomed the agreements reached at Maputo, on 27 November 2000, concerning the disengagement of forces, as well as the signing, on 6 December 2000, of the Harare Agreement, pursuant to the Kampala Disengagement Plan of 8 April 2000.<sup>109</sup> It further called upon all parties to the Ceasefire Agreement signed at Lusaka to cease hostilities and to continue to intensify their dialogue to implement the Agreement, as well as the Kampala, Maputo and Harare

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<sup>104</sup> Resolution 1464 (2003), para. 1. The Council reaffirmed its endorsement of the Linas-Marcoussis Agreement by resolution 1479 (2003) of 13 May 2003.

<sup>105</sup> The Linas-Marcoussis Agreement was signed in January 2003 by all Ivorian political forces. For details, see S/2003/99 annex 1.

<sup>106</sup> Resolution 1479 (2003), para. 2.

<sup>107</sup> Following the continuation of hostilities in the Democratic Republic of the Congo, the Council reiterated such call by a statement of the President dated 7 September 2000 (S/PRST/2000/28).

<sup>108</sup> Resolution 1291 (2000), paras. 4 and 7.

<sup>109</sup> Resolution 1332 (2000), seventh preambular para. The Council reiterated its support to the Lusaka Protocol as well as the Kampala and Harare plans by resolutions 1341 (2001) of 22 February 2001 and 1355 (2001) of 15 June 2001.

agreements, and to take additional steps, within the framework of these agreements, to accelerate the peace process.<sup>110</sup>

By a statement of the President dated 3 May 2001, the Council affirmed that the only viable solution to the crisis in the Democratic Republic of the Congo remained the full implementation of the Lusaka Ceasefire Agreement and the relevant Security Council resolutions. Furthermore, it emphasized the importance of a comprehensive approach addressing all the root causes of the conflict to achieve a lasting peace settlement in the country.<sup>111</sup>

By a statement of the President dated 15 August 2002, the Council welcomed the signing of the Peace Agreement between the Democratic Republic of the Congo and Rwanda signed in Pretoria on 30 July 2002.<sup>112</sup> By resolution 1445 (2002) of 4 December 2002, the Council reiterated its support for the aforementioned Peace Agreement and also welcomed the signing by the Democratic Republic of the Congo and the Republic of Uganda of the Luanda Agreement.<sup>113</sup>

By a statement of the President dated 16 May 2003, the Council welcomed the Agreement on the Engagement to Relaunch the Ituri Pacification Process, signed in Dar es Salaam on 16 May 2003, and called upon the parties to implement it fully and without delay.<sup>114</sup>

#### *The situation between Eritrea and Ethiopia*

By resolution 1297 (2000) of 12 May 2000, while condemning the renewed fighting between Eritrea and Ethiopia, the Council demanded the earliest possible reconvening, without preconditions, of substantive peace talks, under the auspices of the Organization of African Unity, on the basis of the Framework Agreement approved on 17 December 1998 and the Modalities for Implementation.<sup>115</sup> The Council also endorsed the Communiqué issued by the Chairman of the OAU on 5 May 2000, which recorded the

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<sup>110</sup> Resolution 1332 (2000), para. 2.

<sup>111</sup> S/PRST/2001/13

<sup>112</sup> S/PRST/2002/24. The Council reiterated its support to the Peace Agreement signed at Pretoria on 30 July 2002 by resolution 1445 (2002) of 4 December 2002.

<sup>113</sup> Resolution 1445 (2002), para. 1.

<sup>114</sup> S/PRST/2003/6.

<sup>115</sup> Resolution 1297 (2000), para. 3.

achievements of the OAU-led negotiations, including the areas of convergence already established between the two parties.<sup>116</sup>

By resolution 1312 (2000) of 31 July 2000, following a ceasefire agreement between Ethiopia and Eritrea on 18 June 2000,<sup>117</sup> and on the basis of the report of the Secretary-General of 30 June 2000,<sup>118</sup> as well as communications received from both parties,<sup>119</sup> the Council established the United Nations Mission in Ethiopia and Eritrea (UNMEE) mandated to, inter alia, establish and put into operation the mechanism for verifying the cessation of hostilities.<sup>120</sup>

By resolution 1320 (2000) of 15 September 2000, the Council expressed its strong support for the Agreement on Cessation of Hostilities between Ethiopia and Eritrea, signed on 18 June 2000 in Algiers, and the official communications by each Government requesting United Nations assistance in the implementation of the Agreement.<sup>121</sup> The Council also called upon the parties to fulfill all their obligations under international law, including the Agreement of Cessation of Hostilities.<sup>122</sup> In addition, the Council called on the parties to continue negotiations and conclude without delay a comprehensive and final peace settlement.<sup>123</sup>

Following this appeal, by a statement of the President dated 21 November 2000, the Council noted with appreciation the rounds of proximity talks that had taken place and, pursuant to paragraph 14 of resolution 1320 (2000), called upon the parties to

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<sup>116</sup> Ibid., para. 7.

<sup>117</sup> On 30 May 2000, proximity talks had started between the two parties under the chairmanship of the Minister of Justice of Algeria and the Personal Envoy of the Chairman of the OAU in Algiers, which culminated in the Agreement on the Cessation of Hostilities (S/2000/601). On 12 December 2000, the governments of Ethiopia and Eritrea signed the Comprehensive Peace Agreement (S/2000/1183), by which the parties agreed to permanently terminate military hostilities and respect and fully implement the Agreement on Cessation of Hostilities. The Agreement also provided for, inter alia, the establishment of a neutral boundary commission mandated to delimit and demarcate the colonial treaty border based on pertinent colonial treaties and applicable international law.

<sup>118</sup> S/2000/643.

<sup>119</sup> S/2000/612 and S/2000/627.

<sup>120</sup> Resolution 1312 (2000), para. 1.

<sup>121</sup> Resolution 1320 (2000), fifth preambular para.

<sup>122</sup> Ibid., para. 1.

<sup>123</sup> Ibid., para. 14.

continue negotiations and to conclude without delay a final and comprehensive peace settlement.<sup>124</sup>

In a subsequent statement by the President dated 9 February 2001, reiterating its strong support for the Agreement on Cessation of Hostilities, the Council strongly welcomed and supported the subsequent Peace Agreement between the parties signed in Algiers on 12 December 2000 ('Algiers Agreement'). The Council also encouraged both parties to continue working towards the full and prompt implementation of the Algiers Agreement and, in this connection, it also welcomed the agreement reached by the parties on 6 February 2001 to move forward with the establishment of the temporary security zone (TSZ) on 12 February 2001.<sup>125</sup>

By resolution 1344 (2001) of 15 March 2001, the Council called upon the parties to continue working towards the full and prompt implementation of their agreements, including an expeditious completion of the remaining steps, in particular the rearrangement of forces necessary for the establishment of the TSZ.<sup>126</sup>

By a statement of the President dated 15 May 2001, the Council encouraged both parties to continue working towards the full and prompt implementation of the Agreements and, in this context, to take concrete confidence-building measures. While reaffirming its continued commitment to a peaceful definitive settlement of the conflict, the Council noted with satisfaction that the parties had agreed to the Secretary-General's proposal of 1 May 2001 on the composition of the Boundary and Claims Commissions, as critical components to the peaceful definitive settlement of the conflict. It therefore called on the parties to fully cooperate with the Boundary Commission and to fulfill their financial responsibilities regarding the Boundary Commission's work.<sup>127</sup>

By resolution 1369 (2001) of 14 September 2001, the Council called upon the parties to urgently resolve the outstanding issues in accordance with the Algiers

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<sup>124</sup> S/PRST/2000/34.

<sup>125</sup> S/PRST/2001/4. The Council reiterated its support for the Algiers Agreements by several subsequent decisions. See, for example, resolution 1344 (2001) of 15 March 2001; S/PRST/2001/14; resolution 1369 (2001) of 14 September 2001; S/PRST/2002/1; resolution 1398 (2002) of 15 March 2002; resolution 1430 (2002) of 14 August 2002; resolution 1434 (2002) of 6 September 2002; and resolution 1466 (2003) of 14 March 2003.

<sup>126</sup> Resolution 1344 (2001), para. 2.

<sup>127</sup> S/PRST/2001/14.

Agreements and fulfil, *inter alia*, the following obligations: (a) provide freedom of movement and access for personnel and supplies of UNMEE as required for the performance of its duties; (b) facilitate the establishment of a secure and practicable air corridor between Addis Ababa and Asmara, by accepting the proposal made in this regard by the Special Representative of the Secretary-General; (c) provide full information on the local militia and police in the TSZ as well as on the minefields; (d) conclude the status-of-forces agreement; (e) release and return the remaining prisoners of war and detainees under the auspices of the International Committee of the Red Cross.<sup>128</sup> By the same resolution the Council also encouraged all States and international organizations to support the peace process.<sup>129</sup>

By resolution 1434 (2002) of 6 September 2002, the Council decided to review frequently the progress made by the parties in the implementation of their commitments pursuant to the Algiers Agreements, including through the Boundary Commission.<sup>130</sup>

By resolution 1466 (2003) of 14 March 2003, noting that the peace process was entering its crucial phase of demarcation, and emphasizing the importance of ensuring expeditious implementation of the Boundary Decision while maintaining stability in all areas affected by the decision, the Council urged both Ethiopia and Eritrea to continue to assume their responsibilities and fulfill their commitments under the Algiers Agreements. It further called upon them to cooperate fully and promptly with the Boundary Commission to enable it to fulfill its mandate of delimiting and demarcating the boundary.<sup>131</sup>

By a statement of the President dated 17 July 2003, the Council welcomed the public commitment of both parties to a full and expeditious implementation of the Algiers Agreement of 12 December 2000, and reaffirmed its commitment to contribute to

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<sup>128</sup> Resolution 1369 (2001), para. 5.

<sup>129</sup> *Ibid.*, para. 7.

<sup>130</sup> Resolution 1434 (2002), para. 2. By resolution 1430 (2002) of 14 August 2002, the Security Council had adjusted the mandate of UNMEE in order to assist the Boundary Commission in the expeditious and orderly implementation of its Delimitation Decision.

<sup>131</sup> Resolution 1466 (2003), fifth preambular para. and para. 2.

the completion of the peace process. The Council also welcomed the parties' acceptance of the 13 April 2002 delimitation decision as final and binding.<sup>132</sup>

By resolution 1507 (2003) of 12 September 2003, the Council urged the Governments of Ethiopia and Eritrea to assume their responsibilities and to take further concrete steps to fulfill their commitments under the Algiers Agreements, and therefore renewed its call upon the parties to cooperate fully with the Boundary Commission.<sup>133</sup>

*The situation in Guinea Bissau*

By a statement of the President dated 5 May 2003, the Council welcomed the initiative of the President of Guinea Bissau to host negotiations on the issue of Casamance and appealed to him to continue to cooperate constructively with the Government of Senegal in order to contribute to a solution of the issue.<sup>134</sup>

*The situation in Guinea following recent attacks along its borders with Liberia and Sierra Leone*

By a statement of the President dated 21 December 2000, the Council, while condemning the incursions into Guinea by rebel groups coming from Liberia and Sierra Leone, noted with interest the common undertakings assumed by Guinea, Liberia and Sierra Leone at the twenty-fourth ordinary session of the Authority of Heads of State and Government of ECOWAS held in Bamako on 15 and 15 December 2000 and called upon them to implement those undertakings fully and without delay.<sup>135</sup>

*The situation in Liberia*

By a statement of the President dated 27 August 2003, the Council welcomed the Comprehensive Peace Agreement reached by the Government of Liberia, rebel groups,

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<sup>132</sup> S/PRST/2003/10.

<sup>133</sup> Resolution 1507 (2003), paras. 3 and 4.

<sup>134</sup> S/PRST/2003/8.

<sup>135</sup> S/PRST/2000/41.

political parties and civil society leaders in Accra on 18 August 2003. The Council urged all parties to respect fully the ceasefire and implement their commitments under the Comprehensive Peace Agreement.<sup>136</sup>

By resolution 1509 (2003) of 19 September 2003, the Council reaffirmed its support for the Comprehensive Peace Agreement and the Liberian ceasefire agreement signed at Accra on 17 June 2003 and urged the parties to move forward with the implementation of those agreements immediately in order to ensure the peaceful formation of a transitional government.<sup>137</sup> By the same resolution, the Council established the United Nations Mission in Liberia (UNMIL), to support, inter alia, the implementation of the ceasefire agreement and the peace process.<sup>138</sup>

#### *The situation in Sierra Leone*

By resolution 1289 (2000) of 7 February 2000, the Council reiterated its call upon the parties to fulfil all their commitments under the Peace Agreement to facilitate the restoration of peace, stability, national reconciliation and development in Sierra Leone, and stressed that the responsibility for the success of the peace process ultimately lay with the people and leaders of Sierra Leone.<sup>139</sup>

By resolution 1334 (2000) of 22 December 2000, the Council took note of the ceasefire agreement signed in Abuja, on 10 November 2000, between the Government of Sierra Leone and the Revolutionary United Front (RUF). Expressing its concern at the failure of the RUF to fully meet its obligations under the agreement, the Council called upon the latter to give a more convincing demonstration of its commitment to the ceasefire and to the peace process.<sup>140</sup>

By resolution 1346 (2001) of 30 March 2001, the Council expressed its deep concern that the ceasefire agreement of 10 November 2000 had not been fully

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<sup>136</sup> S/PRST/2003/14.

<sup>137</sup> Resolution 1509 (2003), thirteenth preambular para. The Council reiterated its support for the Comprehensive Peace Agreement by resolution 1521 (2003) of 22 December 2003.

<sup>138</sup> Resolution 1509 (2003), paras. 1 and 3.

<sup>139</sup> Resolution 1289 (2000), para. 3.

<sup>140</sup> Resolution 1334 (2000), para. 2.

implemented, and demanded that the RUF take immediate steps to fulfil its commitments under the agreement.<sup>141</sup> It called upon all the parties to the Sierra Leone conflict to intensify their efforts towards the full and peaceful implementation of the ceasefire agreement and the resumption of the peace process, taking into account the basis of the agreement and relevant Council resolutions.<sup>142</sup> By the same resolution, the Council revised the concept of operations for the United Nations Mission in Sierra Leone (UNAMSIL), including assisting the Government of Sierra Leone in the promotion of a political process which should lead to a renewed disarmament, demobilization and reintegration programme and the holding, in due course, of free and fair elections.<sup>143</sup>

By a statement of the President dated 19 December 2001, the Council welcomed the holding in New York, on 16 November 2001, of the fifth meeting of the United Nations-ECOWAS-Sierra Leone coordination mechanism and the progress made in the peace process in Sierra Leone. It appealed to the international community for substantial financial assistance for the programme for the disarmament, demobilization and reintegration of former combatants and other peace consolidating activities in Sierra Leone.<sup>144</sup>

By resolution 1400 (2002) of 28 March 2002, the Council encouraged the Government of Sierra Leone and the RUF to strengthen their efforts towards the full implementation of the ceasefire agreement.<sup>145</sup> The Council also welcomed the summit meeting of the Mano River Union Presidents and urged the Presidents to continue the dialogue and to implement their commitments to building regional peace and security, including through the efforts of ECOWAS.<sup>146</sup>

### *The situation in Somalia*

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<sup>141</sup> Resolution 1346 (2001), para. 7.

<sup>142</sup> *Ibid.*, para. 10.

<sup>143</sup> *Ibid.*, para. 3.

<sup>144</sup> S/PRST/2001/38.

<sup>145</sup> Resolution 1400 (2002), para. 4.

<sup>146</sup> *Ibid.*, para. 11. The Council renewed such appeals by subsequent resolutions (for example, resolutions 1436 (2002) and 1508 (2003)).

By a statement of the President dated 29 June 2000, the Council expressed its full support for the efforts exerted by the Intergovernmental Authority on Development (IGAD) to find a political solution to the crisis in Somalia. It also welcomed and fully supported the initiative of the President of Djibouti aimed at restoring peace and stability in the country and urged States and international organizations, in a position to do so, to give these efforts political support and to provide financial and technical assistance to the Government of Djibouti to this end. Finally, the Council strongly urged the representatives of all social and political forces of Somali society to participate actively and in a constructive spirit in the work of the Somali National Peace and Reconciliation Conference in Djibouti. In this regard, it also urged the warlords and faction leaders to desist from obstructing and undermining efforts to achieve peace.<sup>147</sup>

By a statement of the President dated 11 January 2001, the Council welcomed and supported the outcome of the Somalia National Peace and Reconciliation Conference held in Arta (Djibouti), the establishment of the Transitional National Assembly and the Transitional National Government. It also strongly urged all political groups in the country, in particular those remaining outside the Arta peace process, to engage in peaceful and constructive dialogue with the Transitional National Government in order to promote national reconciliation and facilitate the democratic elections scheduled for 2003.<sup>148</sup>

By a statement of the President dated 31 October 2001, reaffirming that the Arta peace process continued to be the most viable basis for peace and national reconciliation in Somalia, the Council urged the Transitional National Government, political and traditional leaders and factions in Somalia to make every effort to complete, without preconditions, the peace and reconciliation process through dialogue and involvement of all parties in a spirit of mutual accommodation and tolerance. It also called upon all parties to refrain from actions that would undermine the Arta peace process. The Council then called upon the concerned States in the Horn of Africa to contribute constructively

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<sup>147</sup> S/PRST/2000/22.

<sup>148</sup> S/PRST/2001/1. The Council reiterated its support for the Arta peace process by several subsequent statements by the President (for example, S/PRST/2001/30 and S/PRST/2002/8).

to the peace efforts in Somalia and acknowledged Djibouti's major contribution to the Arta peace process, while welcoming its continued role in this regard.<sup>149</sup>

By a statement of the President dated 28 March 2002, the Council strongly supported the decisions of the ninth Summit of IGAD, held in Khartoum on 10 and 11 January 2002, and by the Foreign Ministers Committee of IGAD on 14 February 2002 to convene, without conditions, a national reconciliation conference for Somalia in Nairobi in April 2002, including the Transitional National Government and all other Somali parties. The Council strongly supported the call upon Kenya, Ethiopia and Djibouti (the 'frontline States') by the ninth Summit to coordinate their efforts for national reconciliation in Somalia under the supervision of the Chairman of IGAD, to hold the reconciliation conference under the auspices of the President of Kenya, as the coordinator of the frontline States. Stating that the constructive and coordinated involvement by all frontline States was crucial for the restoration of peace and stability in Somalia, the Council called upon all States in the region, including States that were not members of IGAD, to contribute constructively to the peace efforts for Somalia, including by using their influence to bring on board Somali groups that had not joined the peace process yet. Finally, the Council endorsed the establishment of the Somalia Contact Group, responsible, *inter alia*, for promoting the completion of the Arta peace process, as well as a working mission to the region, consisting of interested members of the Council and Secretariat staff. In connection with the latter, the Council expressed its determination to address, based on the report to be submitted by the mission and the upcoming report by the Secretary-General, how it might further support in a practical and concrete manner the peace efforts in Somalia on a comprehensive basis.<sup>150</sup>

By resolution 1425 (2002) of 22 July 2002, while underlining the role played by IGAD and the frontline States, the Council expressed its support and expectation that the planned national reconciliation conference for Somalia, to be held in Nairobi, would move forward as a matter of urgency with the pragmatic and result-oriented involvement of the frontline States.<sup>151</sup>

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<sup>149</sup> S/PRST/2001/30.

<sup>150</sup> S/PRST/2002/8.

<sup>151</sup> Resolution 1425 (2002), fourth preambular para.

By a statement of the President dated 12 December 2002, the Council firmly supported the unified approach of IGAD to national reconciliation in Somalia, and reiterated its strong support for the Somalia National Reconciliation Process and the ongoing Somalia National Reconciliation Conference in Eldoret. The Council urged all parties throughout Somalia to participate in the process in accordance with the framework established by IGAD, and expected that the decisions adopted throughout the process be abided by and implemented expeditiously, including the Declaration on Cessation of Hostilities and the Structures and Principles of the Somalia National Reconciliation Process, signed by all delegates in Eldoret on 27 October 2002 (the ‘Eldoret Declaration’). Welcoming the Eldoret Declaration as an important step towards ending violence, the Council called upon all parties to cease all acts of violence and to respect the cessation of hostilities. The Council also welcomed the Joint Declaration issued by the involved parties in Mogadishu on 2 December 2002 (the ‘Mogadishu Declaration’). The Council also noted with satisfaction the commencement of the second phase of the Somalia National Reconciliation Process in Eldoret on 2 December 2002 and welcomed this as a significant step forward. It therefore strongly encouraged all parties to continue to participate constructively, in accordance with the framework established by the Technical Committee of IGAD, in a spirit of tolerance and mutual accommodation during each phase of the process. Finally, the Council renewed its commitment to assist the parties in the implementation of the steps and conclusions for peace, as adopted throughout the Somalia National Reconciliation Process.<sup>152</sup>

By a statement of the President dated 12 March 2003, while reiterating its firm support for the Somalia National Reconciliation Process and the ongoing Somalia National Reconciliation Conference in Kenya, the Council strongly encouraged all parties throughout Somalia to participate in the process, as a unique opportunity to restore peace and stability in the country. The Council demanded that the Somali parties abide by and implement expeditiously the decisions adopted throughout the process, including the

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<sup>152</sup> S/PRST/2002/35.

Declaration on Cessation of Hostilities and the Eldoret Declaration, as well as the Mogadishu Declaration.<sup>153</sup>

By a statement of the President dated 11 November 2003, while reiterating again its support for the Somali National Reconciliation Process, the Council commended the progress made and acknowledged the challenges ahead. It further welcomed the relevant decisions made by the tenth Summit of IGAD and the first Ministerial Meeting of the Intergovernmental Authority on Development Facilitation Committee on the Somali peace process in October 2003. The Council urged all Somali leaders to participate constructively in the meeting of leaders planned by the Facilitation Committee in Kenya in November 2003 to bridge their differences and to reach agreements on a viable government and a durable and inclusive solution to the conflict in Somalia.<sup>154</sup>

*Letter dated 2 October 2003 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council*

By a statement of the President dated 10 October 2003, the Council welcomed the agreement on security arrangements reached in Naivasha (Kenya) between the Government of the Sudan and the Sudan People's Liberation Movement/Army (SPLM/A). Reiterating its welcome for the signing of the Machakos Protocol as a viable basis for a resolution of the conflict in the Sudan, the Council looked forward to the successful conclusion of a comprehensive peace agreement, based on the Machakos Protocol. The Council also welcomed the continuation of the ceasefire and assured the parties of its readiness to support them in the implementation of the comprehensive peace agreement.<sup>155</sup>

*The situation in Western Sahara*

By resolution 1292 (2000) of 29 February 2000, while noting the concerns expressed in the latest report of the Secretary-General on the possibility of achieving

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<sup>153</sup> S/PRST/2003/2.

<sup>154</sup> S/PRST/2003/19.

<sup>155</sup> S/PRST/2003/16.

consensual implementation of the settlement plan and agreements adopted by the parties, the Council urged the parties to cooperate so as to achieve a lasting solution.<sup>156</sup>

By resolution 1301 (2000) of 31 May 2000, the Council decided to extend the mandate of the United Nations Mission for a Referendum in Western Sahara (MINURSO) for a further period of two months, with the expectation that the parties would offer the Personal Envoy of the Secretary-General specific and concrete proposals in order to resolve the multiple problems relating to the implementation of the settlement plan and explore all ways and means to achieve an early, durable and agreed resolution to their dispute over Western Sahara.<sup>157</sup>

By resolution 1359 (2001) of 29 June 2001, the Council took into consideration a number of documents: the official proposals submitted by the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro on the implementation of the settlement plan, the draft framework agreement on the status of Western Sahara contained in annex I to the report of the Secretary-General, and the memorandum of the Government of Algeria on the draft status for Western Sahara.<sup>158</sup> The Council therefore encouraged the parties, under the auspices of the Secretary-General's Personal Envoy, to discuss the draft framework agreement on the status of Western Sahara and to negotiate any specific changes they would like to see in this proposal, as well as to discuss any other proposal for a political solution which may be put forward by the parties, to arrive at a mutually acceptable agreement.<sup>159</sup> It also affirmed that, while the aforementioned discussion continued, the official proposals submitted by the Frente Popular para la Liberación de Saguía el-Hamra y de Río de Oro to overcome the obstacles preventing implementation of the settlement plan should be considered and recalled that, given that nothing would be

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<sup>156</sup> Resolution 1292 (2000), sixth preambular para.

<sup>157</sup> Resolution 1301 (2000), para. 1. By a series of subsequent resolutions, the Security Council continued to extend the mandate of MINURSO for additional periods of two to six months, with the expectation that the parties would meet in direct talks under the auspices of the Personal Envoy of the Secretary-General to try to resolve the multiple problems relating to the implementation of the Settlement plan, and to try to agree upon a mutually acceptable political solution to their dispute over Western Sahara. See resolutions 1309 (2000), 1324 (2000), 1342 (2001), 1349 (2001), 1359 (2001), 1380 (2001), 1394 (2002), 1406 (2002), 1429 (2002), 1463 (2003), 1469 (2003), 1485 (2003), 1495 (2003), and 1513 (2003).

<sup>158</sup> Resolution 1359 (2001), seventh, eighth and ninth preambular paras.

<sup>159</sup> *Ibid.*, para. 2.

agreed until everything had been agreed, by engaging in these negotiations the parties would not prejudice their final positions.<sup>160</sup>

By resolution 1429 (2002) of 30 July 2002, following the presentation of the report of the Secretary-General dated 19 February 2002 and the four options contained therein,<sup>161</sup> the Council called upon the parties and the States of the region to cooperate fully with the Secretary-General and his Personal Envoy.<sup>162</sup>

By resolution 1495 (2003) of 31 July 2003, acting under Chapter VI of the Charter, having considered the report of the Secretary-General of 23 May 2003<sup>163</sup> and the peace plan for self-determination of the people of Western Sahara presented by his Personal Envoy,<sup>164</sup> as well as the responses of the parties and the neighbouring States,<sup>165</sup> the Council supported the peace plan for self-determination of the people of Western Sahara put forward by the Secretary-General and his Personal Envoy as an optimum political solution on the basis of agreement between the two parties.<sup>166</sup> It further called upon the parties to work with the United Nations and with each other towards acceptance and implementation of the peace plan.<sup>167</sup>

## 2. Asia

### *The situation in Afghanistan*

By a statement of the President dated 7 April 2000, the Council reiterated that there was no military solution to the conflict in Afghanistan and that only a negotiated political settlement aimed at the establishment of a broad-based, multi-ethnic and fully representative government acceptable to all Afghans could lead to peace and national reconciliation. Noting that the United Front of Afghanistan was willing to talk with the Taliban, the Council recalled its demand that the parties, and in particular the Taliban,

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<sup>160</sup> Ibid., paras. 3 and 4.

<sup>161</sup> S/2002/178.

<sup>162</sup> Resolution 1429 (2002), para. 2.

<sup>163</sup> S/2003/565.

<sup>164</sup> Ibid., annex II.

<sup>165</sup> Ibid., annex III.

<sup>166</sup> Resolution 1495 (2003), para. 1.

<sup>167</sup> Ibid., para. 2.

resume negotiations under the auspices of the United Nations without delay or preconditions in full compliance with the relevant resolutions of the General Assembly and the Council.<sup>168</sup> Also, the Council urged the members of the ‘six plus two’ group<sup>169</sup> and the Afghan parties to implement the Tashkent Declaration on Fundamental Principles for a Peaceful Settlement of the Conflict in Afghanistan,<sup>170</sup> particularly the agreement of members of the group not to provide military support to any Afghan party and to prevent the use of their territories for such purposes.<sup>171</sup>

By resolution 1383 (2001) of 6 December 2001, the Council endorsed the Agreement on provisional arrangements in Afghanistan pending the re-establishment of permanent government institutions, as reported in the letter from the Secretary-General dated 5 December 2001,<sup>172</sup> and called upon all Afghan groups to implement the Agreement in full, in particular through full cooperation with the Interim Authority.<sup>173</sup> By several subsequent resolutions, the Council reiterated its endorsement of the aforementioned Agreement.<sup>174</sup>

By resolution 1453 (2002) of 24 December 2002, the Council welcomed and endorsed the Kabul Declaration on Good-Neighbourly Relations signed by the Transitional Administration of Afghanistan and the Governments of China, the Islamic Republic of Iran, Pakistan, Tajikistan, Turkmenistan and Uzbekistan, the States neighbouring Afghanistan, in Kabul on 22 December 2002. It also called on all States to respect the Declaration and to support the implementation of its provisions.<sup>175</sup>

### *The situation in East Timor*

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<sup>168</sup> S/PRST/2000/12.

<sup>169</sup> The ‘six plus two group’ consisted of China, Islamic Republic of Iran, Pakistan, Tajikistan, Turkmenistan, Uzbekistan, plus the Russian Federation and the United States.

<sup>170</sup> S/1999/812, annex.

<sup>171</sup> S/PRST/2000/12.

<sup>172</sup> S/2001/1154 (also known as the “Bonn Agreement”).

<sup>173</sup> Resolution 1383 (2001), paras. 1 and 2.

<sup>174</sup> Resolutions 1386 (2001), 1401 (2002) and 1419 (2002).

<sup>175</sup> Resolution 1453 (2002), paras. 1 and 2. The Council reiterated its endorsement of the Declaration on Good-Neighbourly Relations, renewed its call to the parties to respect the Declaration by resolution 1471 (2003) of 28 March 2003 and its statement by the President dated 17 June 2003 (S/PRST/2003/7).

By a statement of the President dated 3 August 2000, paying tribute to the progress made by the Transitional Administration, the Council welcomed the significant progress made in building healthy relations between East Timor and Indonesia. Furthermore, the Council strongly supported the steps taken by the Transitional Administration to strengthen the involvement and direct participation of the East Timorese people in the administration of their territory and, in particular, the establishment of the National Council and the reorganization of the Transitional Administration, with a view to building capacity in the territory in the run up to independence.<sup>176</sup>

Following the murder of three United Nations staff members in Atambua, West Timor, by armed militias on 6 September 2000, the Council responded to the deteriorating security situation by adopting resolution 1319 (2000) on 8 September 2000. By this resolution, the Council called on the Government of Indonesia to take immediate steps, in fulfillment of its responsibilities, to disarm and disband militia immediately, restore law and order in the affected areas in West Timor, ensure safety and security in the refugee camps and for humanitarian workers, and prevent cross-border incursions into East Timor.<sup>177</sup>

By resolution 1338 (2001) of 31 January 2001, the Council extended the mandate of the United Nations Transitional Administration in East Timor (UNTAET), a multidimensional peacekeeping operation fully responsible for the administration of East Timor during its transition to independence, and encouraged efforts to achieve the goal of independence by the end of 2001, acknowledging that it was the responsibility of UNTAET to ensure free and fair elections in collaboration with the people of East Timor.<sup>178</sup>

By a statement of the President dated 10 September 2001, the Council expressed its appreciation to UNTAET for facilitating a smooth and representative election process and called upon all parties to respect fully and implement the election results, which

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<sup>176</sup> S/PRST/2000/26.

<sup>177</sup> Resolution 1319 (2000), para. 1. The call upon the Government of Indonesia to disarm and disband the militia was reiterated by the Council by a statement of the President dated 6 December 2000 (S/PRST/2000/39).

<sup>178</sup> Resolution 1338 (2001), fifth preambular para. and para. 2.

provided the basis for a broad-based Constituent Assembly. The Council urged all parties to work together to draft a constitution which reflected the will of the East Timorese people and to cooperate for the successful completion of the final steps towards independence, in a complex process of stabilization in East Timor.<sup>179</sup>

By a statement of the President dated 31 October 2001, the Council welcomed the political progress achieved towards establishing an independent East Timorese State and endorsed the recommendation by the Constituent Assembly that independence be declared on 20 May 2002. The Council concurred with the assessment of the Secretary-General that premature withdrawal of the international presence could have a destabilizing effect in a number of crucial areas and that the United Nations should remain engaged in East Timor to protect the major achievements so far realized by the Transitional Administration, to build upon those achievements in cooperation with other actors and to assist the East Timorese Government in ensuring security and stability.<sup>180</sup>

By resolution 1410 (2002) of 17 May 2002, noting the existence of challenges to the short and long-term security and stability of an independent East Timor and determining that ensuring the security of the boundaries of East Timor and preserving its internal and external stability was necessary for the maintenance of peace and security in the region, the Council established the United Nations Mission of Support in East Timor (UNMISET), whose mandate included the implementation of programmes for “stability, democracy and justice”.<sup>181</sup>

Following the entry into force of East Timor’s first Constitution on 22 March and the presidential elections on 14 April, by a statement of the President dated 20 May 2002, the Council welcomed the attainment of independence by East Timor and expressed its strong support for the leadership of East Timor as it assumed authority for governing the new, sovereign State of East Timor.<sup>182</sup>

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<sup>179</sup> S/PRST/2001/23.

<sup>180</sup> S/PRST/2001/32.

<sup>181</sup> Resolution 1410 (2002), fifteenth preambular para and paras. 1 and 4. The mandate was subsequently extended by resolution 1480 (2003).

<sup>182</sup> S/PRST/2002/13.

*Letter dated 10 November 2000 from the Charge d'affaires a.i. of the Permanent Mission of the Solomon Islands to the United Nations addressed to the President of the Security Council*

By a statement of the President issued at the 4224<sup>th</sup> meeting on 16 November 2000, the Council strongly supported the Townsville Peace Agreement, concluded on 15 October 2000, for the cessation of hostilities between the Malaita Eagle Force and the Isatabu Freedom Movement and for the restoration of peace and ethnic harmony in Solomon Islands. The Council also encouraged all parties to cooperate in promoting reconciliation, so that the objectives of the Townsville Peace Agreement could be met, and urged all parties to continue to cooperate in accordance with the Peace Agreement, namely, to restore and maintain peace and ethnic harmony, to renounce the use of armed force and violence, to settle their differences through consultation and peaceful negotiation, and to confirm their respect for human rights and the rule of law.<sup>183</sup>

*The situation in Tajikistan and along the Tajik-Afghan Border*

By a statement of the President dated 21 March 2000, the Council welcomed the decisive progress in the implementation of the General Agreement on the Establishment of Peace and National Accord in Tajikistan achieved due to the efforts of the President of the Republic of Tajikistan and the leadership of the Commission on National Reconciliation. The Council welcomed, in particular, the holding on 27 February 2000 of the first multi-party and pluralistic parliamentary election in Tajikistan, in spite of serious problems and shortcomings, as noted by the Joint Electoral Observation Mission for Tajikistan. It also noted that, with the holding of the election, the transition period envisaged in the General Agreement came to a close. In this connection, the Council noted with satisfaction that the United Nations had played an important role in this success and welcomed the instrumental efforts of all the actors involved in the implementation of the General Agreement, namely: the United Nations Mission of Observers in Tajikistan (UNMOT), supported by the Contact Group of Guarantor States and International Organizations, the Mission of the Organization for Security and

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<sup>183</sup> S/PRST/2000/33.

Cooperation in Europe and the Collective Peacekeeping Forces of the Commonwealth of Independent States.<sup>184</sup>

### 3. Europe

#### *The situation in Bosnia and Herzegovina*

By resolution 1305 (2000) of 21 June 2000, underlining its commitment and support for the implementation of the Peace Agreement,<sup>185</sup> as well as for the Dayton Agreement,<sup>186</sup> the Council called upon the parties to comply strictly with their obligations under those Agreements, and reminded the parties that, in accordance with the Peace Agreement, they had committed themselves to cooperate fully with all entities involved in the implementation of the peace settlement.<sup>187</sup> By the same resolution, and by a series of subsequent resolutions,<sup>188</sup> the Council extended the mandate of the United Nations Mission in Bosnia and Herzegovina (UNMIBH) to implement the reform and restructuring of law enforcement agencies in Bosnia and Herzegovina and thus to contribute to strengthening the rule of law, as set out by the Dayton Peace Agreement.<sup>189</sup>

#### *The situation in Croatia*

By resolution 1285 (2000) of 13 January 2000, the Council reiterated its concern about the lack of substantive progress towards a settlement of the disputed issue of Prevlaka in the continuing bilateral negotiations between the parties pursuant to the Agreement on Normalization of Relations between the Republic of Croatia and the Federal Republic of Yugoslavia of 23 August 1996 and noted that the presence of the United Nations Military Observers (UNMOP) continued to be essential to maintain

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<sup>184</sup> S/PRST/2000/9. The Council welcomed once again the success achieved by the peace process in Tajikistan by a statement of the President dated 12 May 2000 (S/PRST/2000/17).

<sup>185</sup> S/1995/999, annex.

<sup>186</sup> S/1995/1021, annex.

<sup>187</sup> Resolution 1305 (2000), preambular para. 3 and paras. 1 and 3. The Council reiterated its support for the Peace Agreement and continued to call upon the parties to respect the Peace Agreement by several subsequent resolutions. See resolution 1357 (2001) and 1423 (2002).

<sup>188</sup> Resolutions 1305 (2000), 1357 (2001), 1418 (2002), 1420 (2002), 1421 (2002), and 1423 (2002).

<sup>189</sup> Resolution 1305 (2000), para. 19.

conditions conducive to a negotiated settlement of the issue of Prevlaka.<sup>190</sup> Calling for the resumption of the discussions, the Council also urged the parties to abide by their mutual commitments and implement fully such Agreement and stressed, in particular, the urgent need for the parties to fulfill rapidly and in good faith their commitment to reach a negotiated resolution of the disputed issue of Prevlaka.<sup>191</sup> By several subsequent resolutions the Council renewed its call upon the parties to reach a negotiated solution to the issue.<sup>192</sup>

By resolution 1335 (2001) of 12 January 2001, welcoming the commitment by the parties to resume as soon as possible bilateral talks on the disputed issue of Prevlaka,<sup>193</sup> the Council called on the parties to resume talks and encouraged them to make use of the recommendations and options to develop confidence-building measures with which they were provided in resolution 1252 (1999).<sup>194</sup>

By resolution 1387 (2002) of 15 January 2002, the Council welcomed the continuing progress in the normalization of relations between the Governments of the Republic of Croatia and the Federal Republic of Yugoslavia and the establishment of an interstate Border Commission, and urged the parties to accelerate efforts towards a negotiated settlement on the disputed issue of Prevlaka.<sup>195</sup>

By resolution 1437 (2002) of 11 October 2002, noting with satisfaction that the overall situation in the UNMOP area of responsibility had remained stable and calm, and encouraged by the progress made by the parties in normalizing their bilateral relationship, in particular through negotiations aimed at finding a transitional arrangement for the

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<sup>190</sup> Resolution 1285 (2000), eighth and tenth preambular paras. Established by resolution 1038 (1996), UNMOP was mandated to monitor the demilitarization of the Prevlaka peninsula and of the neighbouring areas in Croatia and the Federal Republic of Yugoslavia and to hold regular meetings with the local authorities in order to strengthen liaison, reduce tensions, improve safety and security and promote confidence between the parties.

<sup>191</sup> *Ibid.*, para. 4.

<sup>192</sup> Resolutions 1307 (2000) of 13 July 2000, 1335 (2001) of 12 January 2001, and 1362 (2001) of 11 July 2001.

<sup>193</sup> See S/2000/1265 and S/2001/13.

<sup>194</sup> Resolution 1335 (2001), ninth preambular para. and para. 3.

<sup>195</sup> Resolution 1387 (2002), para. 3. The Council renewed such call by resolutions 1424 (2002) of 12 July 2002 and 1437 (2002) of 11 October 2002.

Prevlaka peninsula, the Council commended the role played by UNMOP and decided to terminate it on 15 December 2002.<sup>196</sup>

By a statement of the President dated 12 December 2002, the Council welcomed the protocol signed by the Governments of Croatia and the Federal Republic of Yugoslavia on 10 December 2002, establishing a provisional cross-border regime on the Prevlaka peninsula.<sup>197</sup> The Council stressed that the protocol represented a further step forward in the process of strengthening of confidence and good neighbourly relations between both countries and welcomed the commitment of both Governments to continue negotiations on the Prevlaka dispute with a view to amicably resolving all outstanding issues.<sup>198</sup>

### *The situation in Cyprus*

By resolution 1475 (2003) of 14 April 2003, expressing its support for the “carefully balanced” settlement plan proposed by the Secretary-General on 26 February 2006, the Council called on all concerned to negotiate within the framework of the Secretary-General’s good offices, using the plan to reach a comprehensive settlement.<sup>199</sup>

During the period under review, the Council continued to extend the mandate of the United Nations Peacekeeping Force in Cyprus (UNFICYP), which, according to resolution 186 (1964), was to prevent a recurrence of fighting between the Greek Cypriot and Turkish Cypriot communities and to contribute to the maintenance and restoration of law and order and a return to normal conditions.<sup>200</sup>

### *The situation in Georgia*

By resolution 1287 (2000) of 31 January 2000, while welcoming the decision on further measures for the settlement of the conflict in Abkhazia adopted by the Council of

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<sup>196</sup> Resolution 1437 (2002), fifth preambular para. and para. 1.

<sup>197</sup> S/2002/1348.

<sup>198</sup> S/PRST/2002/34.

<sup>199</sup> Resolution 1475 (2003), para. 4.

<sup>200</sup> Resolution 186 (1964), para. 5.

Heads of State of the Commonwealth of Independent States (CIS) on 30 December 1999, the Council encouraged the parties to seize the opportunity of the appointment of a new Special Representative of the Secretary-General to renew their commitment to the peace process.<sup>201</sup> Also, the Council reiterated its call for the parties to the conflict to deepen their commitment to the United Nations-led peace process, to continue to expand their dialogue, and to display without delay the necessary will to achieve substantial results on the key issues of the negotiations, in particular on the distribution of constitutional competences between Tbilisi and Sukhumi as part of a comprehensive settlement, with full respect for the sovereignty and territorial integrity of Georgia within its internationally recognized borders.<sup>202</sup> Finally, the Council demanded that both sides observe strictly the Agreement on a Ceasefire and Separation of Forces.<sup>203</sup> By the same resolution, and subsequent seven other resolutions, the Council extended the mandate of the United Nations Observer Mission in Georgia (UNOMIG), established pursuant to resolution 858 (1993), to verify compliance with the ceasefire agreement between the Government of Georgia and the Abkhaz authorities in Georgia, to investigate reported or alleged violations of the Agreement and to resolve or contribute to the resolution of such incidents.<sup>204</sup>

By a statement of the President dated 11 May 2000, believing that the resolution of issues related to the improvement of the humanitarian situation, to socio-economic development and to ensuring stability in the conflict zone would facilitate the peace process, the Council called upon the parties to finalize and sign a draft agreement on peace and guarantees for the prevention of armed confrontation and a draft protocol on the return of refugees to the Gali region and measures for economic rehabilitation.<sup>205</sup>

By resolution 1311 (2000) of 28 July 2000, the Council welcomed the decision of the parties to accelerate work on the draft protocol on the return of refugees to the Gali region and on the draft agreement on peace and guarantees for the prevention and non-

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<sup>201</sup> Resolution 1287 (2000), fourth preambular para. and para. 2.

<sup>202</sup> *Ibid.*, para. 4.

<sup>203</sup> *Ibid.*, para. 9.

<sup>204</sup> Resolutions 1287 (2000), 1311 (2000), 1339 (2001), 1364 (2001), 1427 (2002), 1393 (2002), 1462 (2003), and 1494 (2003).

<sup>205</sup> S/PRST/2000/16.

resumption of hostilities.<sup>206</sup> Welcoming the commitment of the parties not to use force for the resolution of any disputed question, the Council renewed its demand to both sides to strictly observe the Agreement on Ceasefire and Separation of Forces.<sup>207</sup>

By resolution 1339 (2001) of 31 January 2001, the Council called upon the parties, in particular the Abkhaz side, to undertake immediate efforts to move beyond the impasse and to engage in negotiations on the core political questions of the conflict and all other outstanding issues in the United Nations-led peace process.<sup>208</sup>

By a statement of the President dated 21 March 2001, while encouraging the two sides to engage with renewed commitment in the peace process, the Council welcomed the successful holding of the third meeting on confidence-building measures between the Georgian and Abkhaz sides, in Yalta, on 15 and 16 March 2001, and the resumption of dialogue between them, as well as the documents signed there.<sup>209</sup> The Council expressed its hope that such developments would lead to a narrowing of the positions of the two sides and stimulate further constructive dialogue aimed at achieving a comprehensive political settlement of the conflict, including a settlement of the political status of Abkhazia within the State of Georgia and other key issues.<sup>210</sup>

By resolution 1393 (2002) of 31 January 2002, the Council welcomed and supported the finalization of the document on “Basic Principles for the Distribution of Competences between Tbilisi and Sukhumi” and its letter of transmittal as positive elements for launching the peace process and facilitating meaningful negotiations between the parties.<sup>211</sup> The Council therefore strongly urged the parties, in particular the Abkhaz side, to receive the document and its letter of transmittal in the near future, to give them full and open consideration, and to engage in constructive negotiations on their substance without delay.<sup>212</sup> Also, while condemning violations of the Agreement on a Ceasefire and Separation of Forces, the Council welcomed and strongly supported the protocol signed by the two sides, on 17 January 2002, regarding the situation in the

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<sup>206</sup> Resolution 1311 (2000), sixth preambular para.

<sup>207</sup> *Ibid.*, paras. 5 and 11.

<sup>208</sup> Resolution 1339 (2001), para. 5.

<sup>209</sup> S/2001/242, annex.

<sup>210</sup> S/PRST/2001/9.

<sup>211</sup> Resolution 1393 (2002), paras. 3 and 4.

<sup>212</sup> *Ibid.*, para. 6.

Kodori Valley and called for its full implementation.<sup>213</sup> Finally, the Council urged the parties to ensure the necessary revitalization of the peace process in all its major aspects, to resume their work in the Coordinating Council and its relevant mechanisms, to build on the results of the third meeting on confidence-building measures between the Georgian and Abkhaz sides held in Yalta, and to implement the proposals agreed to on that occasion, in a purposeful and cooperative manner.<sup>214</sup>

By resolution 1427 (2002) of 29 July 2002, recalling its support for the document on “Basic Principles for the Distribution of Competences between Tbilisi and Sukhumi”, the Council regretted the lack of progress on the initiation of political negotiations status and the refusal of the Abkhaz side to agree to a discussion on the substance of the document.<sup>215</sup>

*Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)*

By a statement of the President dated 19 December 2000, expressing its grave concern at the situation in certain municipalities in southern Serbia, Federal Republic of Yugoslavia, and particularly in the Ground Safety Zone, the Council strongly condemned the violent action by ethnic Albanian extremist groups in southern Serbia, and called for an immediate and complete cessation of violence in the area. The Council also welcomed the start of a dialogue between the Serbian and Yugoslav authorities and representatives of the affected communities which could facilitate a lasting settlement to the problem. In this regard, the Council equally welcomed the commitment of the Yugoslav authorities to work towards a peaceful settlement, based on democratic principles, and to respect the provisions of resolution 1244 (1999) and the military-technical Agreement. Finally, the Security Council welcomed specific measures taken by the international security presence (KFOR) to address the problem as well as the

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<sup>213</sup> Ibid., paras. 8 and 9.

<sup>214</sup> Ibid., para. 10.

<sup>215</sup> Resolution 1427 (2002), paras. 3, 4, and 6. The Council reiterated its regret for the lack of progress by resolution 1462 (2003) of 30 January 2003.

constructive dialogue between Kosovo Force (KFOR) and the Yugoslav and Serbian authorities, including through the Joint Implementation Commission.<sup>216</sup>

By a statement dated 16 March 2001, the Council called for an end to all acts of violence in Kosovo, in particular those ethnically motivated, and urged all political leaders in Kosovo to condemn these acts and to increase their efforts to create inter-ethnic tolerance. It called on all parties to support the efforts of the United Nations Mission in Kosovo (UNMIK) to build a stable multi-ethnic democratic society in Kosovo and to ensure suitable conditions for Kosovo-wide elections. By the same statement, the Council expressed its concern about the security situation in certain municipalities in Southern Serbia as a result of the violent actions of ethnic Albanian armed groups. It welcomed the ceasefire agreements signed on 12 March 2001 and called for strict compliance with their provisions. It also stressed that a peaceful settlement of this crisis could only be achieved through substantial dialogue and therefore welcomed the plan of the Government of the Federal Republic of Yugoslavia for Southern Serbia and supported its initiative to find a peaceful and durable solution through a process of dialogue and confidence-building measures. Finally, the Council noted that the swift implementation of confidence-building measures would be an important element in a peaceful settlement, and underlined the importance of continued political and financial support for this process by the international community.<sup>217</sup>

By a statement dated 9 November 2001, the Security Council welcomed the signing, on 5 November 2001, of the UNMIK-Federal Republic of Yugoslavia Common Document. The Council also encouraged the further development of a constructive dialogue between UNMIK and the authorities of the Federal Republic of Yugoslavia.<sup>218</sup>

By a statement dated 13 February 2002, the Council, noting the progress made in the implementation of resolution 1244 (1999) and the Constitutional Framework for Provisional Self- Government, called on Kosovo's elected representatives to resolve the deadlock over the formation of executive structures of the provisional self-governing

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<sup>216</sup> S/PRST/2000/40.

<sup>217</sup> S/PRST/2001/8.

<sup>218</sup> S/PRST/2001/34.

institutions and to allow the functioning of those institutions, in accordance with the Constitutional Framework and the outcome of the elections.<sup>219</sup>

By a statement of the President dated 24 April 2002, welcoming the progress made in the formation of the executive bodies of the Provisional Institutions of Self-Government in Kosovo to include representatives of all communities, the Council encouraged the Provisional Institutions of Self-Government, in full cooperation with the Special Representative of the Secretary-General and in strict compliance with resolution 1244 (1999), to take on the tasks assigned to them by the constitutional framework.<sup>220</sup>

By a statement dated 6 February 2003, condemning all attempts to establish and maintain structures and institutions as well as initiatives inconsistent with resolution 1244 (1999) and the Constitutional Framework, the Council called for the authority of UNMIK to be respected throughout Kosovo, and encouraged the establishment of direct dialogue between Pristina and Belgrade on issues of practical importance to both sides. Condemning the violence within the Kosovo Albanian community, as well as the violence against the Kosovo Serb community, the Council urged local institutions and leaders to exert influence on the climate for the rule of law by condemning all violence and actively supporting the efforts of the police and the judiciary. The Council also stressed that all communities should make renewed efforts to inject momentum into improving inter-ethnic dialogue and promoting the reconciliation process, not least through full cooperation with the International Criminal Tribunal for the former Yugoslavia.<sup>221</sup>

#### **4. Middle East**

##### *The situation in the Middle East*

During the period under review, the Council continued to extend the mandate of the United Nations Disengagement Observer Force (UNDOF), established pursuant to

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<sup>219</sup> S/PRST/2002/4.

<sup>220</sup> S/PRST/2002/11.

<sup>221</sup> S/PRST/2003/1.

resolution 350 (1974), to monitor the ceasefire between Israel and Syria and supervise the disengagement of Israeli and Syrian forces.<sup>222</sup>

The Council also continued to extend the mandate of the United Nations Interim Force in Lebanon (UNIFIL), established pursuant to resolutions 425 (1978) and 426 (1978), to confirm the withdrawal of Israeli forces, restore international peace and security and assist the Government of Lebanon in restoring its effective authority in the area.<sup>223</sup>

*The situation in the Middle East, including the Palestinian question*

By resolution 1322 (2000) of 7 October 2000, the Council expressed concern for the events that had taken place at Haram Al-Sharif in Jerusalem on 28 September 2000 that lead to numerous deaths and injuries. The Council called for the immediate cessation of violence and for all necessary steps to ensure that violence ceased, that new provocative actions were avoided, and that the situation returned to normality. It further called for the immediate resumption of negotiations within the Middle East peace process on its agreed basis with the aim of achieving an early final settlement between the Israeli and Palestinian sides.<sup>224</sup>

By resolution 1397 (2002) of 12 March 2002, the Council demanded the immediate cessation of all acts of violence, including all acts of terror, provocation, incitement and destruction and called upon the Israeli and Palestinian sides to cooperate in the implementation of the Tenet work plan and the recommendations contained in the Mitchell report with the aim of resuming negotiations on a political settlement.<sup>225</sup>

By resolution 1402 (2002) of 30 March 2002, following the further deterioration of the situation, including the suicide bombings in Israel and the military attacks against the headquarters of the President of the Palestinian Authority, the Council called upon

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<sup>222</sup> Resolutions 1300 (2000), 1328 (2000), 1351 (2001), 1381(2001), 1415 (2002), 1451 (2002), 1488 (2003) and 1520 (2003).

<sup>223</sup> Resolutions 1288 (2000), 1310 (2000), 1337 (2001), 1365 (2001), 1391 (2002), 1428 (2002), 1461 (2003), and 1496 (2003).

<sup>224</sup> Resolution 1322 (2000), second preambular para., paras 4 and 6.

<sup>225</sup> Resolution 1397 (2002), paras. 1 and 2.

both parties to move immediately to a meaningful ceasefire. It further called upon the withdrawal of Israeli troops from Palestinian cities and urged the parties to cooperate fully with the Special Envoy to implement the Tenet work plan and the recommendations contained in the Mitchell report with the aim of resuming negotiations on a political settlement.<sup>226</sup>

By a statement of the President dated 10 April 2002, the Council supported the Joint Statement issued in Madrid on 10 April 2002 by the Secretary-General, the Minister of Foreign Affairs of the Russian Federation, the Secretary of State of the United States, the Minister for Foreign Affairs of Spain, and the High Representative for European Union Common Foreign and Security Policy. The Security Council called upon the Government of Israel, the Palestinian Authority and all States in the region to cooperate with the efforts to achieve the goals set out in the Joint Statement.<sup>227</sup> Similarly, by a statement of the President dated 18 July 2002, the Council supported the Joint Statement of the 'Quartet' on 16 July 2002 and called upon the parties to achieve the goals set out in the Statement.<sup>228</sup>

By resolution 1435 (2002), expressing its concern at the reoccupation of the headquarters of the President of the Palestinian Authority in the city of Ramallah on 19 September 2002, as well as of other Palestinian cities, the Council reiterated its demand for the complete cessation of all acts of violence and demanded that Israel ceased measures in and around Ramallah and withdrew its forces from the Palestinian cities towards the return to the positions held prior to September 2000. It also called upon the Palestinian Authority to meet its expressed commitment to ensure that those responsible for terrorist acts were brought to justice. Finally, the Council expressed its full support for the efforts of the 'Quartet' and called upon the Government of Israel, the Palestinian Authority and all States in the region to cooperate with those efforts, recognizing in this context the continuing importance of the initiative endorsed at the Arab League Summit, held in Beirut on 27 and 28 March 2002.<sup>229</sup>

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<sup>226</sup> Resolution 1402 (2002), para. 1.

<sup>227</sup> S/PRST/2002/9.

<sup>228</sup> S/PRST/2002/20.

<sup>229</sup> Resolution 1435 (2002), paras. 1 to 5.

By resolution 1515 (2003) of 19 November 2003, the Council endorsed the ‘Quartet’ performance-based road map to a permanent two-State solution to the Israeli-Palestinian conflict and called upon the parties to fulfil their obligations under the road map in cooperation with the ‘Quartet’.<sup>230</sup>

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

While Article 99 of the Charter provides that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security, the Charter does not otherwise describe or define the role of the Secretary-General in relation to matters of peace and security. The Council’s efforts, however, aimed at the peaceful settlement of disputes frequently require the involvement of the Secretary-General, who, in coordination with the Council or at its request, facilitates peace efforts in various ways.

During the period under review, the Council increasingly recognized, in a number of decisions, the important role that the Secretary-General was called to play in the prevention of armed conflicts and requested him to submit proposals in the field of early warning and preventive measures. By a statement of the President dated 20 July 2000, in connection with the Council’s consideration of the item entitled “Role of the Security Council in the prevention of armed conflicts”, the Council recalled the essential role of the Secretary-General in the prevention of armed conflicts, in accordance with Article 99 of the Charter, and expressed its willingness to take appropriate preventive action in response to matters brought to its attention by States or the Secretary-General and which it deemed likely to endanger the maintenance of international peace and security. The Council further encouraged the ongoing efforts within the United Nations system to enhance its early warning capacity, and noted in this regard the importance of drawing on information from a variety of sources, given the multiple factors that contribute to

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<sup>230</sup> Resolution 1515 (2003), paras. 1 and 2.

conflict. It thus invited the Secretary-General to make recommendations to the Council, taking into account the views of Member States, and in light of past experiences, on the most effective and appropriate early warning strategies, bearing in mind the need to link early warning with early response. The Council invited the Secretary-General to present to the Council reports on such disputes, including, as appropriate, early warning and proposals for preventive measures.<sup>231</sup>

The role of the Secretary-General in the prevention of armed conflict, as well as the importance of enhancing his role in accordance with Article 99 of the Charter, was further recognized by the Council, in August 2001, by resolution 1366 (2001). By that resolution, while acknowledging that the attempt to prevent armed conflict was “an integral part of its primary responsibility for the maintenance of international peace and security” and emphasizing the importance of a comprehensive strategy comprising operational and structural measures for prevention of armed conflict, the Council recognized the ten principles outlined by the Secretary-General in his report on prevention of armed conflicts<sup>232</sup> as well as his essential role in the prevention of armed conflict and the importance of efforts to enhance his role in accordance with Article 99 of the Charter.<sup>233</sup> By the same resolution, the Council called upon Member States, as well as regional and subregional organizations and arrangements to support the development of a comprehensive conflict prevention strategy as proposed by the Secretary-General and expressed its willingness to give prompt consideration to early warning or prevention cases brought to its attention by the Secretary-General.<sup>234</sup> The Council therefore encouraged the Secretary-General to convey to the Security Council his assessment of potential threats to international peace and security with due regard to relevant regional and subregional dimensions, as appropriate, in accordance with Article 99 of the Charter.<sup>235</sup> The Council also invited the Secretary-General to refer to the Council information and analyses from within the United Nations system on cases of serious violations of international law, including international humanitarian law and human

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<sup>231</sup> S/PRST/2000/25.

<sup>232</sup> S/2001/574.

<sup>233</sup> Resolution 1366 (2001), eighth and eleventh preambular paras.

<sup>234</sup> *Ibid.*, para. 3.

<sup>235</sup> *Ibid.*, para. 5.

rights law and on potential conflict situations arising, inter alia, from ethnic, religious and territorial disputes, poverty and lack of development and expressed its determination to give serious consideration to such information and analyses regarding situations which it deemed to represent a threat to international peace and security.<sup>236</sup> The Council also 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, developing regional prevention strategies with regional partners and appropriate United Nations organs and agencies, and improving the capacity and resource base for preventive action in the Secretariat.<sup>237</sup>

During the period under review, in accordance with the provisions of Article 33 of the Charter, the Council frequently called on the parties to a dispute or situation to cooperate in negotiations held under the auspices of the Secretary-General, expressed support for conciliation efforts undertaken by the Secretary-General, expressly requested the Secretary-General to assume an active role in the process of achieving a political settlement, or endorsed the initiative of the Secretary-General within the framework of his mission of good offices. In this context, the Secretary-General made an increased use of Special Envoys, Advisers and Representatives to assist him in his efforts.<sup>238</sup> For instance, through an exchange of letter, the Security Council took note of the intention of the Secretary-General to appoint a Special Representative for the Great Lakes region.<sup>239</sup> The Special Representative was tasked, inter alia, to represent the Secretary-General at the meetings and deliberations under the Arusha peace process in Burundi as well as to address the regional dimensions of the conflict in the Democratic Republic of the Congo. Furthermore, with respect to Burundi, following the signing of the Arusha peace agreement, the Special Representative had been mandated to stay engaged within the

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<sup>236</sup> Ibid., para. 10.

<sup>237</sup> Ibid., para. 18.

<sup>238</sup> For example, the Special Envoy of the Secretary-General in Africa, the Special Adviser of the Secretary-General on Cyprus, the Special Representative for the Great Lakes region, and the Adviser of the Secretary-General for Special Assignments in Africa. During the period under consideration, the Council, by a statement of the President dated 31 October 2001, urged the Secretary-General to appoint women as Special Representatives and Envoys to pursue good offices on his behalf in accordance with his strategic plan of action (S/PRST/2001/31).

<sup>239</sup> S/2000/907 and S/2000/908. The Council subsequently took note of the Secretary-General's intention to appoint another Special Representative for the Great Lakes region in 2002 (S/2002/1174 and S/2002/1175).

overall efforts of the international community to address the grave political and humanitarian situation in Burundi and its regional dimensions.<sup>240</sup>

Beyond the discharge of his good-offices, the Secretary-General increasingly proposed the establishment or continuation of special political missions, in a number of places around the world, to undertake peace-building efforts to prevent conflicts or the re-emergence of conflicts which included political, humanitarian and development assistance, as well as assistance to transitional national governments in establishing viable institutions. The Council formally endorsed the efforts of the Secretary-General in this context by a statement of the President dated 20 February 2001, issued in connection with the Council's consideration of the item entitled "Peace-building: towards a comprehensive approach". By the statement, the Council underlined the importance of the presence of special representatives of the Secretary-General or other suitable United Nations coordination arrangements, such as the resident coordinator system, in coordinating the elaboration and implementation of peace-building programmes by international organizations and donor countries in close cooperation with local authorities.<sup>241</sup>

The following overview sets out examples, by region and in chronological order, of decisions by which the Security Council specifically requested, supported, endorsed, encouraged or welcomed the Secretary-General's endeavours in the peaceful settlement of disputes and the prevention of outbreak or recurrence of conflict.

## 1. Africa

### *The situation in Angola*

By resolution 1294 (2000) of 13 April 2000, while reaffirming its view that a continued presence of the United Nations in Angola could contribute greatly to the promotion of peace, national reconciliation, human rights and regional security, the Council extended the mandate of UNOA and requested the Secretary-General to continue his efforts to implement the tasks of UNOA as outlined in resolution 1268 (1999), which

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<sup>240</sup> S/2000/907.

<sup>241</sup> S/PRST/2001/5.

included, inter alia, “exploring effective measures for restoring peace, assisting the Angolan people in the area of capacity-building, humanitarian assistance, the promotion of human rights”. The Council further requested the Secretary-General to provide every three months a report on developments in Angola, including his recommendations about additional measures the Council might consider to promote the peace process in Angola.<sup>242</sup>

By a statement of the President dated 20 September 2001, the Council noted the positive contribution that UNOA was making towards finding a solution to the Angolan conflict and reiterated its full support for the work of the Office of the Representative of the Secretary-General.<sup>243</sup>

Following the signing of the Lusaka Protocol, by resolution 1433 (2002) of 15 August 2002, the Council, while expressing its appreciation for the work of UNOA and underlining that the presence of the United Nations in Angola could contribute to the consolidation of peace through the promotion of political, military, human rights, humanitarian and economic goals, terminated the mandate of UNOA and established UNMA as a follow-on mission.<sup>244</sup> The mandate of UNMA was: i) to assist the parties in concluding the Lusaka Protocol by chairing the Joint Commission and leading the completion of the agreed list of tasks which remained pending under the Lusaka Protocol; and ii) to assist the Government of Angola in undertaking a number of tasks which included, inter alia, building of institutions to consolidate peace and enhance the rule of law.<sup>245</sup> By the same resolution, the Council welcomed the appointment of a resident Special Representative of the Secretary-General to serve as the head of UNMA, and to oversee a coordinated and integrated approach to the United Nations activities in Angola as reflected in the UNMA mandate.<sup>246</sup>

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<sup>242</sup> Resolution 1294 (2000), paras. 1, 2 and 3. Through subsequent exchange of letters between the Secretary-General and the President of the Security Council, the Council agreed to the extension of UNOA’s mandate until 15 August 2002. For details, see S/2000/977, S/2000/987, S/2001/351, S/2001/387, S/2001/956, S/2001/973, S/2002/411, S/2002/412, S/2002/768, and S/2002/769.

<sup>243</sup> S/PRST/2001/24.

<sup>244</sup> Resolution 1433 (2002), para. 1.

<sup>245</sup> *Ibid.*, para 3.

<sup>246</sup> *Ibid.*, para. 2.

*The situation in Burundi*

By a statement of the President dated 29 June 2001, the Council encouraged the Secretary-General, through his representatives, to continue to engage the armed groups which remained outside the Arusha Peace process and to contribute to coordinated efforts to bring about a political settlement to the conflict.<sup>247</sup>

By resolution 1375 (2001) of 29 October 2001, the Council supported the efforts of the Secretary-General, in particular the work of his Special Representative for the Great Lakes region in his capacity as chairman of the Arusha Agreement Implementation Monitoring Committee.<sup>248</sup>

In addition, by an exchange of letters between the Secretary-General and the President of the Security Council, the Council continuously extended the mandate of UNOB, established in November 1993, whose mandate included, inter alia, the facilitation of the restoration of constitutional rule in Burundi through the implementation of the Arusha Agreement on Peace and Reconciliation and subsequent ceasefire agreements.<sup>249</sup>

By a statement of the President dated 22 December 2003, the Council welcomed the Secretary-General's decision to examine the situation in Burundi with a view to submitting recommendations to the Council, and requested him in this regard to undertake the appropriate preparatory work and assessment on how the United Nations might provide the most efficient support for the full implementation of the Arusha peace agreement. By the same statement, the Council took note of the latest report of the Secretary-General on the situation in Burundi and welcomed the work carried out, in often difficult conditions, by the Special Representative of the Secretary-General and the staff of UNOB. The Council therefore approved the renewal of the Office's mandate.<sup>250</sup>

*The situation in the Central African Republic*


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<sup>247</sup> S/PRST/2001/17.

<sup>248</sup> Resolution 1375 (2001), sixth preambular para. The Council reiterated its support by a statement of the President dated 8 November 2001 (S/PRST/2001/33).

<sup>249</sup> See S/2000/1096, S/2000/1097, S/2001/1076, and S/2001/1027. See also S/PRST/2009/30

<sup>250</sup> S/PRST/2003/30.

By a statement of the President dated 10 February 2000, while recognizing the significant progress made by the Government of the Central African Republic in implementing the Bangui Agreements and the National Reconciliation Pact as the foundations of peace and stability in the country, the Council commended the United Nations Mission in the country and the Special Representative of the Secretary-General for the contribution they had made to the resolution of peace and security in the country.<sup>251</sup> By the same statement, the Council also welcomed the decision by the Secretary-General to establish the United Nations Peace-building Support Office in the Central African Republic (BONUCA).<sup>252</sup> The mandate of BONUCA was to support the Transitional Government's efforts to consolidate peace and national reconciliation, strengthen democratic institutions, and facilitate the mobilization at the international level of political support and resources for national reconstruction and economic recovery in the country.<sup>253</sup> By a statement of the President dated 26 September 2001, the Council approved a revision to the mandate of BONUCA to include various measures for the strengthening of the mandate of BONUCA, particularly in the areas of the judicial system, institution-building, enhancing the effectiveness of its early warning capabilities and human rights.<sup>254</sup>

### *The situation in Côte d'Ivoire*

By a statement of the President dated 20 December 2002, the Council commended the Secretary-General for his efforts to promote a negotiated settlement, in coordination with ECOWAS. The Council requested him to continue those efforts,

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<sup>251</sup> S/PRST/2000/5.

<sup>252</sup> BONUCA was established on 15 February 2000 for one year through an exchange of letters between the Secretary-General and the President of the Security Council. See S/1999/1235 and S/1999/1236. During the period under review, on the basis of the recommendations of the Secretary-General, the Council decided to extend the mandate of BONUCA for four further periods, the last of which was until 31 December 2004. See, S/2000/943, S/2000/944, S/2001/886, S/PRST/2001/25, S/2002/929, S/2002/930, S/2003/889, and S/2003/890.

<sup>253</sup> For further details, see S/1999/35.

<sup>254</sup> S/PRST/2001/25. See also S/PRST/2001/18 and S/2001/886.

particularly by providing all necessary support and assistance to the mediation efforts of ECOWAS, and to keep it regularly informed about the situation.<sup>255</sup>

By resolution 1464 (2003) of 4 February 2003, while endorsing the Linas-Marcoussis Agreement, the Council expressed its gratitude to the Secretary-General for the vital role he had played in the smooth conduct of the meetings held, and encouraged him to continue to contribute to a final settlement of the Ivorian crisis. The Council further requested the Secretary-General to submit to the Council recommendations on how the United Nations could support fully the implementation of the Linas-Marcoussis Agreement, in accordance with the request by the Round Table of Ivorian political forces and by the Conference of Heads of State on Côte d'Ivoire. Finally, the Council welcomed the intention of the Secretary-General to appoint a Special Representative for Côte d'Ivoire, based in Abidjan, and requested him to do so as soon as possible.<sup>256</sup>

By resolution 1479 (2003) of 13 May 2003, the Council reaffirmed its strong support for the Secretary-General's Special Representative and approved his full authority for the coordination and conduct of all the activities of the United Nations system in Côte d'Ivoire. By the same resolution, the Council established MINUCI with a mandate to facilitate the implementation by the Ivorian parties of the Linas-Marcoussis Agreement. It further approved the establishment of a small staff to support the Special Representative of the Secretary-General on political, legal, civil affairs, civilian police, elections, media and public relations, humanitarian and human rights issues.<sup>257</sup>

#### *The situation concerning the Democratic Republic of the Congo*

By resolution 1291 (2000) of 24 February 2000, the Council reiterated its strong support for the Special Representative of the Secretary-General in the Democratic Republic of the Congo and his overall authority over United Nations activities in the country, and called on all parties to cooperate fully with him.<sup>258</sup>

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<sup>255</sup> S/PRST/2002/42.

<sup>256</sup> Resolution 1464 (2003), paras. 4, 5, and 6.

<sup>257</sup> Resolution 1479 (2003), paras. 1, 2 and 3.

<sup>258</sup> Resolution 1291 (2000), para. 2.

By a statement of the President dated 23 July 2002, 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 in helping 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 and relevant Council resolutions.<sup>259</sup>

By a subsequent statement of the President dated 18 October 2002, 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 this 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.<sup>260</sup>

By resolution 1445 (2002) of 4 December 2002, while supporting the signature of the Pretoria Agreement between the Democratic Republic of the Congo and the Rwandese Republic on 30 July 2002, as well as the Luanda Agreement between the Democratic Republic of the Congo and Uganda, the Council welcomed, inter alia, the efforts of the Secretary-General in facilitating the adoption of those agreements.<sup>261</sup>

#### *The situation between Eritrea and Ethiopia*

By resolution 1320 (2000) of 15 September 2000, the Council welcomed the intention of the Secretary-General to appoint a special representative who would be responsible for all aspects of the United Nations work in the fulfillment of the mandate of the United Nations mission. The Council further requested the Secretary-General to

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<sup>259</sup> S/PRST/2002/22.

<sup>260</sup> S/PRST/2002/27.

<sup>261</sup> Resolution 1445 (2002), para. 1.

coordinate with the Organization of African Unity in the implementation of the Agreement on Cessation of Hostilities.<sup>262</sup>

By a statement of the President dated 21 November 2000, the Council expressed its continuing support for, among others, the efforts of the Secretary-General and his Special Envoy to find a peaceful and lasting solution to the conflict.<sup>263</sup>

By a subsequent statement of the President dated 9 February 2001, the Council expressed its strong support for the role of the Secretary-General in continuing to help in the implementation of the Algiers Agreement, including through his own good offices, for the efforts of his Special Representative and for the contributions of relevant United Nations entities.<sup>264</sup>

By resolution 1398 (2002) of 15 March 2002, expressing its resolve to support the parties in the implementation of the decision of the Boundary Commission, the Council invited the Secretary-General to submit recommendations to the Council on how UNMEE could play an appropriate role in the border demarcation process, including with regard to demining for demarcation.<sup>265</sup>

By resolution 1466 (2003) of 14 March 2003, the Council expressed its strong support for the Special Representative of the Secretary-General for his work in support of the peace process.<sup>266</sup>

#### *The situation in Guinea Bissau*

By an exchange of letters between the Secretary-General and the President of the Council during the period under review, the Security Council took note of the intention of the Secretary-General to extend the mandate of the United Nations Peace-building Support Office in Guinea-Bissau (UNOGBIS), established pursuant to resolution 1233

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<sup>262</sup> Resolution 1320 (2000), paras. 3 and 4.

<sup>263</sup> S/PRST/2000/34.

<sup>264</sup> S/PRST/2001/4. The Council reiterated its support to the Secretary-General's good office by several subsequent decisions. See, for example, resolution 1344 (2001); S/PRST/2001/14; resolution 1369 (2001); resolution 1398 (2002); and resolution 1340 (2002).

<sup>265</sup> Resolution 1398 (2002), para. 9.

<sup>266</sup> Resolution 1466 (2003), para. 17.

(1999).<sup>267</sup> The mandate of the mission included, inter alia, the facilitation of the implementation of the Abuja Agreement and dialogue among all actors, and the promotion of national reconciliation in order “to support national efforts to consolidate and maintain peace, democracy and the rule of law, including the strengthening of democratic institutions”.<sup>268</sup>

*The situation in Guinea following recent attacks along its borders with Liberia and Sierra Leone*

By a statement of the President dated 21 December 2000, while paying tribute to ECOWAS and its Chairman for the important role played towards restoring peace and security in the three countries of the Mano River Union, the Council requested the Secretary-General to consider what support the international community, and in particular the United Nations, might provide to ECOWAS in order to ensure security on the border between Guinea, Liberia and Sierra Leone.<sup>269</sup>

*The situation in Liberia*

By a statement of the President dated December 2002, with a view to achieving the objectives of ending the violence and promoting national reconciliation, the Council stated that it was committed to promote an expanded role for the United Nations Peace-building Support Office in Liberia (UNOL), along with the more active participation of the United Nations Office for West Africa (UNOWA). The tasks outlined by the Council included, inter alia, offering assistance to the Liberian authorities and to the public for strengthening democratic institutions and the rule of law; contributing to and monitoring the preparation of free and fair elections in 2003; promoting national reconciliation and resolution of the conflict, including through support for initiatives on the ground; and

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<sup>267</sup>S/2000/201 and S/2000/202; S/2000/941 and S/2000/942; S/2001/960 and S/2001/961; S/2002/916 and S/2002/917; S/2003/1096 and S/2003/1097.

<sup>268</sup>S/2000/201.

<sup>269</sup>S/PRST/2000/41.

supporting the Government of Liberia in the implementation of peace agreements to be adopted.<sup>270</sup>

By resolution 1509 (2003) of 19 September 2002, the Council, while noting the intention of the Secretary-General to terminate UNOL and transfer its major functions to the United Nations Mission in Liberia (UNMIL) relating to supporting the implementation of the peace agreement and of the peace process welcomed the appointment by the Secretary-General of his Special Representative for Liberia to direct the operations of UNMIL and coordinate all United Nations activities in Liberia.<sup>271</sup>

#### *The situation in Sierra Leone*

By resolution 1436 (2002) of 24 September 2002, the Council welcomed the commitment of the Secretary-General to find a solution to the conflict in Liberia in order to build peace in the subregion, including through the establishment of a contact group.<sup>272</sup>

#### *The situation in Somalia*

By a statement of the President dated 11 January 2001, the Council invited the Secretary-General to prepare a proposal for a peace-building mission in Somalia, outlining possible ways to advance the peace process further, with specific attention to the security situation in the country.<sup>273</sup> In his report of 11 October 2001, however, the Secretary-General indicated that the security situation did not make it possible to deploy a peace-building office in the country and recommended that, due to the valuable role played in monitoring and reporting on the situation in Somalia, the mandate of the United Nations Political Office for Somalia (UNPOS) be renewed for two years.<sup>274</sup> The mandate

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<sup>270</sup> S/PRST/2002/36. Following an agreement with the Government of Liberia, the mandate of UNOL was revised through an exchange of letters between the Secretary-General and the President of the Security Council (S/2003/468 and S/2003/469).

<sup>271</sup> Resolution 1509 (2003), nineteenth and twentieth preambular paras. and para. 2.

<sup>272</sup> Resolution 1436 (2002), para. 13.

<sup>273</sup> S/PRST/2001/1.

<sup>274</sup> S/2001/963. Through an exchange of letters between the Secretary-General and the President of the Security Council, the Council further extended the mandate of UNPOS for the biennium 2002-2003 (S/2001/1097 and S/2001/1098).

of UNPOS included, inter alia, assisting in advancing the cause of peace and reconciliation through contacts with Somali leaders, civic organizations and the States and organizations concerned; monitoring the situation in Somalia; and supporting the initiative taken by the Government of Djibouti that led to the formation of the Transitional National Government.

By a statement of the President dated 31 October 2001, the Council requested the Secretary-General to take a number of steps in support of the peace process in Somalia, including : (i) dispatching a Headquarters-led inter-agency mission to carry out a comprehensive assessment, based on existing general United Nations standards, of the security situation in Somalia, including in Mogadishu; (ii) preparing proposals for ways in which the United Nations may further assist in the demobilization of militia members and the training of police personnel from the Transitional National Government; (iii) considering the scope for adjustments, as appropriate, to the mandate for the United Nations Political Office for Somalia; and (iv) consulting all those concerned on finding practical and constructive ways to, inter alia, promote coherency of policy approaches to Somalia and consolidate support for peace and reconciliation in the country.<sup>275</sup>

By a statement of the President dated 28 March 2002, the Council encouraged the Secretary-General, through his Special Adviser and the United Nations Political Office for Somalia, to support actively the initiative of IGAD in the period ahead. The Council also requested the Secretary-General to utilize to the fullest his Representative, in close cooperation with the United Nations Resident Coordinator for Somalia, to coordinate ongoing peace-building activities and provide for their incremental expansion. The Council reiterated that a comprehensive post-conflict peace-building mission should be deployed once security conditions permitted.<sup>276</sup>

By a statement of the President dated 12 December 2002, the Council encouraged the Secretary-General to support actively the IGAD-sponsored Somalia National Reconciliation Process, as well as the Conference in Eldoret. Also, recognizing that a comprehensive post-conflict programme for disarmament, demobilization, rehabilitation

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<sup>275</sup> S/PRST/2001/30.

<sup>276</sup> S/PRST/2002/8

and reintegration would be an important contribution for peace and stability in Somalia, the Council requested the Secretary-General to continue putting in place, in a coherent manner, preparatory activities on the ground for a comprehensive post-conflict peace-building mission in Somalia once security conditions permitted<sup>277</sup>

*The situation in Western Sahara*

By resolution 1292 (2000) of 29 February 2000, the Council reiterated its full support for the continued efforts exerted by the Secretary-General, his Personal Envoy, his Special Representative and MINURSO to implement the settlement plan and agreements adopted by the parties to hold a free, fair and impartial referendum for the self-determination of the people of Western Sahara. The Council also supported the intention of the Secretary-General to ask his Personal Envoy to consult the parties and, taking into account existing and potential obstacles, to explore ways and means to achieve an early, durable and agreed resolution of the dispute.<sup>278</sup>

By resolution 1359 (2001) of 29 June 2001, following the presentation of the official proposals submitted by the Frente Popular para la Liberación de Saguía el-Hamra and Río de Oro, as well as the memorandum of the Government of Algeria, the Council fully supported the efforts of the Secretary-General to invite all the parties to meet directly or through proximity talks, under the auspices of his Personal Envoy.<sup>279</sup>

By resolution 1429 (2002) of 30 July 2002, having considered the report of the Secretary-General dated 19 February 2002 and the four options contained therein,<sup>280</sup> the Council strongly supported the efforts of the Secretary-General and his Personal Envoy to find a political solution to the long-standing dispute. It further invited the Personal Envoy to pursue these efforts taking into account the concerns expressed by the parties, and expressed its readiness to consider any approach providing for self-determination that

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<sup>277</sup> S/PRST/2002/35

<sup>278</sup> Resolution 1292 (2000), fifth preambular para. and para. 2. By several subsequent decisions, the Council renewed its full support to the Personal Envoy of the Secretary-General. See, for example, resolutions 1301 (2000), 1309 (2000), 1324 (2000), 1342 (2001), 1349 (2001), and 1359 (2001).

<sup>279</sup> Resolution 1359 (2001), para. 2.

<sup>280</sup> S/2002/178.

may be proposed by the Secretary-General and his Personal Envoy consulting, as appropriate, others with relevant experience.<sup>281</sup>

By resolution 1495 (2003) of 31 July 2003, acting under Chapter VI of the Charter, having considered the report of the Secretary-General of 23 May 2003<sup>282</sup> and the peace plan for self-determination of the people of Western Sahara presented by his Personal Envoy,<sup>283</sup> as well as the responses of the parties and the neighbouring States,<sup>284</sup> the Council continued to support strongly the efforts of the Secretary-General and his Personal Envoy and similarly supported their peace plan for self-determination of the people of Western Sahara as an optimum political solution on the basis of agreement between the two parties.<sup>285</sup>

*Letter dated 2 October 2003 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council*

By a statement of the President dated 10 October 2003, while welcoming the signing of the Machakos Protocol and looking forward to the successful conclusion of a comprehensive peace agreement on that basis, the Council requested the Secretary-General, in this connection, to initiate preparatory work, in consultation with the parties, the IGAD facilitators and the International Observers, on how the United Nations could best fully support the implementation of a comprehensive peace agreement.<sup>286</sup>

*Letter dated 30 April 2001 from the Secretary-General addressed to the President of the Security Council (S/2001/434)*

By an exchange of letters between the Secretary-General and the President of the Security Council, the Council welcomed the intention of the Secretary-General to establish the Office of the Special Representative of the Secretary-General for West

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<sup>281</sup> Resolution 1429 (2002), para. 1.

<sup>282</sup> S/2003/565.

<sup>283</sup> Ibid., annex II.

<sup>284</sup> Ibid., annex III.

<sup>285</sup> Resolution 1495 (2003), para. 1.

<sup>286</sup> S/PRST/2003/16.

Africa.<sup>287</sup> The mandate of the office included, inter alia, carrying out good offices roles and special assignments in countries of the subregion, on behalf of the Secretary-General, including in the areas of conflict prevention and peace-building efforts.<sup>288</sup>

By a statement of the President dated 19 December 2001, the Council welcomed the establishment of UNOWA 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 ECOWAS, other subregional organizations and international and national actors, including civil society. The Council also emphasized that greater subregional integration must remain a key goal for the United Nations system in the search for lasting solutions to the conflicts in West Africa.<sup>289</sup>

#### *The situation in Africa*

By a statement of the President dated 31 January 2002, the Council called on the United Nations system to intensify its cooperation, including assistance within existing resources, to the OAU and subregional organizations in Africa in the field of capacity-building, particularly in early warning conflict prevention and peacekeeping. It also stressed the importance of: (i) effective interaction between the United Nations system and the OAU and subregional organizations through the exchange of information and analysis at the conflict prevention stage; (ii) coordination and clear understanding of respective roles in forwarding peace processes; and (iii) coordinated support to national and regional peace-building efforts. In this regard, the Security Council welcomed the establishment of UNOWA and requested the Secretary-General to take all necessary measures for that Office to be fully operational. The Security Council further noted with satisfaction that good offices missions carried out by prominent political leaders of Africa facilitated significant progress in the political settlement of certain conflicts; it encouraged the OAU and subregional organizations, taking into account the specific situation of conflicts, to seek appointment of such figures as Special Envoys as well as to

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<sup>287</sup> S/2001/1128 and S/2001/1129.

<sup>288</sup> S/2001/1128.

<sup>289</sup> S/PRST/2001/38.

employ where appropriate the traditional methods of conflict resolution including the establishment of Councils of Elders. Finally, the Security Council stressed the importance of the preventive character of such efforts and emphasized the need for their proper coordination.<sup>290</sup>

## 2. Asia

### *The situation in Afghanistan*

By a statement of the President dated 7 April 2000, the Council, reiterating its position that the United Nations should continue to play its central and impartial role in international efforts towards a peaceful resolution of the Afghan conflict, welcomed the appointment of a new Personal Representative of the Secretary-General and the activities of the United Nations Special Mission to Afghanistan (UNSM) to facilitate a political process aimed at achieving a lasting political settlement to the conflict.<sup>291</sup>

By resolution 1333 (2000) of 19 December 2000, the Council supported the efforts of the Personal Representative of the Secretary-General for Afghanistan to advance the 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 upon the warring factions to cooperate fully with the efforts to conclude a ceasefire and begin discussions leading to a political settlement.<sup>292</sup>

By resolution 1378 (2001) of 14 November 2001, the Council welcomed the intention of the Special Representative of the Secretary-General to convene an urgent meeting of the various Afghan processes and called upon the United Front of Afghanistan and all Afghans represented in these processes to participate in good faith and without preconditions.<sup>293</sup> The Council also endorsed the approach outlined by the Special Representative of the Secretary-General.<sup>294</sup> Finally, affirming that the United Nations should play a central role in supporting the efforts of Afghanistan to establish a new and

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<sup>290</sup> S/PRST/2002/2.

<sup>291</sup> S/PRST/2000/12.

<sup>292</sup> Resolution 1333 (2000), fourth preambular para.

<sup>293</sup> Resolution 1378 (2001), fifth preambular para.

<sup>294</sup> *Ibid.*, eighth preambular para.

transitional administration leading to the formation of a new government, the Council expressed its full support for the Special Representative of the Secretary-General in the accomplishment of his mandate.<sup>295</sup> Similarly, by resolution 1383 (2001) of 6 December 2001, while endorsing the Bonn Agreement, the Council reaffirmed its full support for the Special Representative of the Secretary-General and endorsed his mission.<sup>296</sup>

By resolution 1401 (2002) of 28 March 2002, 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>297</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>298</sup>

#### *The situation in East Timor*

By resolution 1338 (2001) of 31 January 2001, the Council commended the work of UNTAET and the leadership of the Special Representative of the Secretary-General. It further requested the Special Representative to continue to take steps to delegate progressively further authority within the East Timor Transitional Administration (ETTA) to the East Timorese people until authority was fully transferred to the Government of an independent State of East Timor. It also encouraged UNTAET to continue to support fully the transition to independence.<sup>299</sup>

By a statement of the President dated 31 October 2001, the Council expressed its appreciation to the Special Representative of the Secretary-General for East Timor and to UNTAET for their efforts in developing detailed plans for the future United Nations presence in East Timor. It further took note of the observation of the Secretary-General that the mandate of the Transitional Administration should be extended until independence and endorsed his plans for adjusting the size and configuration of

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<sup>295</sup> Ibid., para. 3.

<sup>296</sup> Resolution 1383 (2001), para. 3.

<sup>297</sup> S/2002/278.

<sup>298</sup> Resolution 1401 (2002), para. 1.

<sup>299</sup> Resolution 1338 (2001), third preambular para. and paras. 3 and 4.

UNTAET in the months prior to independence. The Council further endorsed the recommendations of the Secretary-General for a continued and appropriately reduced United Nations integrated mission in the post-independence period, and requested the Secretary-General to continue planning and preparation for this mission, in consultation with the East Timorese people, and to submit further and more detailed recommendations to the Council.<sup>300</sup>

By resolution 1392 (2002) of 31 January 2002, the Council commended the work of UNTAET and the leadership of the Special Representative of the Secretary-General in assisting the people of East Timor in laying the foundation for the transition to independence.<sup>301</sup>

By resolution 1410 (2002) of 17 May 2002, the Council welcomed the Secretary-General's intention to appoint the Resident Coordinator of the United Nations Development Programme as his deputy Special Representative and underlined the importance of a smooth transition of the United Nations role towards traditional development assistance.<sup>302</sup>

Following the entry into force of East Timor's first Constitution on 22 March and the presidential elections on 14 April, by a statement of the President dated 20 May 2002, the Council expressed its deep appreciation for the efforts of the Secretary-General and his Special Representative, and noted with satisfaction the role played by the United Nations and UNTAET in restoring peace to East Timor, and in building a solid foundation for a democratic, viable and stable East Timor.<sup>303</sup>

#### *The situation in Tajikistan and along the Tajik-Afghan border*

By a statement of the President dated 12 May 2000, the Council expressed its appreciation to the Secretary-General for his intention to inform the Council of the modalities of the establishment and functioning of a United Nations post-conflict peace-

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<sup>300</sup> S/PRST/2001/32.

<sup>301</sup> Resolution 1392 (2002), second preambular para.

<sup>302</sup> Resolution 1410 (2002), twelfth preambular para.

<sup>303</sup> S/PRST/2002/13.

building office in Tajikistan, in order to consolidate peace and promote democracy.<sup>304</sup> Following the termination of UNMOT on 15 May 2000, the United Nations Tajikistan Office of Peace-building (UNTOP) was subsequently established through an exchange of letters between the Secretary-General and the President of the Security Council.<sup>305</sup> The mandate of UNTOP was to provide the political framework and leadership for post-conflict peace-building activities of the United Nations system in the country, and to this end, mobilize international support.<sup>306</sup>

*Letter dated 31 March 1998 from the Chargé d'affaires a.i. of the Permanent Mission of Papua New Guinea to the United Nations addressed to the President of the Security Council (S/1998/287)*

By an exchange of letters between the Secretary-General and the President of the Security Council, the Council took note of the intention of the Secretary-General to extend the mandate of the United Nations Political Office in Bougainville (UNPOB), whose mandate included, inter alia, monitoring and reporting on the implementation of the Lincoln and Arawa Agreements as well as chairing the Peace Process Consultative Committee.<sup>307</sup>

Following the expiration of the final extension of the mandate of UNPOB, by a letter dated 23 December 2003 addressed to the Secretary-General, the Council took note of the Secretary-General's intention to establish a small, follow-on United Nations Observer Mission in Bougainville (UNOMB) in order to finish the residual tasks of UNPOB and support the efforts of the parties in the transitional period leading to the elections.<sup>308</sup>

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<sup>304</sup> S/PRST/2000/17.

<sup>305</sup> S/2000/519 and S/2000/518. During the period under review, through exchanges of letters between the Secretary-General and the President of the Security Council, the mandate of UNTOP was extended three times until 1 June 2004. See, S/2001/445, S/2001/446, S/2002/501, S/2002/502, S/2003/542, and S/2003/543.

<sup>306</sup> S/2000/518.

<sup>307</sup> S/2000/1139 and S/2000/1140; S/2001/1202 and S/2001/1203; S/2002/1379 and S/2002/1380. In a letter dated 22 October 2001, the Secretary-General informed the Council that UNPOB would perform additional functions in the area of weapons collection and disposal as spelled out in part E of the Bougainville Peace Agreement (S/2001/988).

<sup>308</sup> S/2003/1199.

### 3. Americas

#### *The question concerning Haiti*

By a statement of the President dated 15 March 2000, the Council commended the Representative of the Secretary-General, the United Nations Civilian Police Mission in Haiti (MIPONUH) whose mandate was terminated, the International Civilian Mission in Haiti (MICIVIH) and all the previous missions deployed in Haiti for assisting the Haitian Government in supporting the professionalization of the Haitian National Police (HNP) force, consolidating Haiti's system of justice and other national institutions, and promoting human rights.<sup>309</sup>

### 4. Europe

#### *The situation in Bosnia and Herzegovina*

By resolution 1305 (2000) of 21 June 2000, the Council emphasized its full support for the continued role of the High Representative in monitoring the implementation of the Peace Agreement and giving guidance to and coordinating the activities of the civilian organizations and agencies involved in assisting the parties to implement the Peace Agreement.<sup>310</sup>

By a statement of the President dated 12 December 2002, the Council expressed its deep appreciation for the efforts of the Secretary-General, his Special Representative and the personnel of UNMBIH for their contributions to the implementation of the Peace Agreement.<sup>311</sup>

#### *The situation in Cyprus*

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<sup>309</sup> S/PRST/2000/8.

<sup>310</sup> Resolution 1305 (2000), para. 4. The Council subsequently reiterated such support by resolutions 1357 (2001), 1396 (2002), 1423 (2002), and 1491 (2003).

<sup>311</sup> S/PRST/2002/33.

By a series of letters by the President of the Security Council addressed to the Secretary-General, the Council took note of the missions of good offices carried out by the Secretary-General and his Special Adviser in Cyprus.<sup>312</sup>

By resolution 1475 (2003) of 14 April 2003, the Council welcomed the report of the Secretary-General of 1 April 2003 on his mission of good offices in Cyprus<sup>313</sup> and commended the extraordinary effort made by the Secretary-General, his Special Adviser and his team since 1999 in pursuance of his good offices mission and within the framework of Security Council resolution 1250 (1999). The Council further commended the Secretary-General for taking the initiative to present to the parties a comprehensive settlement plan aimed at bridging the gaps between them, drawing upon the talks that began in December 1999 under United Nations auspices and, following negotiations, to revise the plan on 10 December 2002 and 26 February 2003. Subsequently, the Council gave its full support to the Secretary-General's plan of 26 February 2003 as a unique basis for further negotiations and asked him to continue to make available his good offices for Cyprus.<sup>314</sup>

#### *The situation in Georgia*

By resolution 1287 (2000) of 31 January 2000, the Council strongly supported the sustained efforts of the Secretary-General and his Special Representative, with the assistance of the Russian Federation in its capacity as facilitator as well as of the Group of Friends of the Secretary-General and the OSCE, to promote the stabilization of the situation and the achievement of a comprehensive political settlement, including a settlement on the political status of Abkhazia within the State of Georgia. It also supported the efforts of the Secretary-General to find ways to improve the parties' observance of human rights as an integral part of the work towards a comprehensive political settlement.<sup>315</sup>

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<sup>312</sup> S/2000/1189, S/2001/557, S/2001/1183, and S/2002/1403.

<sup>313</sup> S/2003/398.

<sup>314</sup> Resolution 1475 (2003), paras. 1, 2, 4, and 5.

<sup>315</sup> Resolution 1287 (2000), paras. 3 and 7. Such support was renewed by several subsequent decisions of the Council. See, for example, resolution 1311 (2000) of 28 July 2000, statement by the President dated 14

By a statement of the President dated 11 May 2000, 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 called upon the parties to continue to expand such contacts. It further 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. The Council also joined the Secretary-General in encouraging the parties to be ready to consider proposals, based on the decisions of the Council, to be presented in due course by the Special Representative on the question of the distribution of constitutional competences between Tbilisi and Sukhumi.<sup>316</sup>

By a statement of the President dated 14 November 2000, the Council welcomed all the efforts that had been undertaken, in particular by the Special Representative, with a view to alleviating tensions and increasing confidence between the parties.<sup>317</sup>

By resolution 1339 (2001) of 31 January 2001, the Council strongly supported the intention of the Special Representative to submit, in the near future, the draft paper containing specific proposals to the parties on the question of the distribution of constitutional competences between Tbilisi and Sukhumi as a basis for meaningful negotiations.<sup>318</sup> By a statement of the President dated 24 April 2001, the Council called upon the parties to constructively accept the aforementioned proposals and, subsequently, by resolution 1364 (2001) of 31 July 2001, regretted that the Special Representative had not been in a position to submit them.<sup>319</sup>

By resolution 1393 (2002) of 31 January 2002, while welcoming and supporting the finalization of the document “Basic Principles for the Distribution of Competences

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November 2000 (S/PRST/2000/32), resolution 1339 (2001) of 31 January 2001, and resolution 1364 (2001) of 31 July 2001.

<sup>316</sup> S/PRST/2000/16. This support was renewed by the Council through resolution 1311 (2000) of 28 July 2000. See Resolution 1311 (2000), para. 3.

<sup>317</sup> S/PRST/2000/32.

<sup>318</sup> Resolution 1339 (2001), para. 3.

<sup>319</sup> S/PRST/2001/12 and Resolution 1364 (2001), para. 5.

between Tbilisi and Sukhumi”, the Council supported the efforts of the Special Representative in this regard.<sup>320</sup>

*Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)*

By a statement of the President dated 16 March 2001, the Council commended the Special Representative of the Secretary-General and the commander of the international security presence (KFOR) for their ongoing efforts, undertaken under difficult circumstances, to implement fully resolution 1244 (1999) and welcomed the priority areas of work identified by the Special Representative of the Secretary-General. The Council further welcomed the establishment of a working group under the authority of the Special Representative of the Secretary-General aimed at developing a legal framework for provisional institutions for democratic and autonomous self-government in Kosovo and stressed the need for all ethnic groups to be represented in the work of this group.<sup>321</sup>

By a statement of the President dated 9 November 2001, the Council welcomed the progress made in preparing the Kosovo-wide elections on 17 November 2001 and called on the Special Representative of the Secretary-General and all parties concerned to continue to strive for full implementation of resolution 1244 (1999).<sup>322</sup>

By a statement of the President dated 13 February 2002, the Council expressed its full support for the Special Representative of the Secretary-General upon his assumption of the position as Head of the United Nations Interim Administration Mission in Kosovo (UNMIK), as well as its appreciation to all the personnel of UNMIK for their “untiring efforts” in ensuring the full implementation of resolution 1244 (1999).<sup>323</sup>

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<sup>320</sup> Resolution 1393 (2002), para. 3.

<sup>321</sup> S/PRST/2001/8. The Council reiterated its support to the Special Representative of the Secretary-General and the commander of the international security presence (KFOR) for their ongoing efforts to implement fully resolution 1244 (1999) by several subsequent statements of the President. See, for example, S/PRST/2001/27, S/PRST/2002/11, S/PRST/2002/16, and S/PRST/2002/29.

<sup>322</sup> S/PRST/2001/34.

<sup>323</sup> S/PRST/2002/4.

By a statement of the President dated 24 April 2002, the Council commended the efforts of the Special Representative and welcomed the priorities outlined in the Secretary-General's report as well as his request to develop benchmarks to measure progress in Kosovo's institutional development, consistent with resolution 1244 (1999) and the constitutional framework.<sup>324</sup>

By a statement dated 6 February 2006, the Council, welcoming the latest report of the Special Representative of the Secretary-General on the activities of UNMIK and recent developments in Kosovo,<sup>325</sup> reiterated its full support for the "Standards before Status" policy with postulated targets in the eight key areas: functioning of the democratic institutions, the rule of law, freedom of movement, the return of refugees and IDPs, economy, property rights, dialogue with Belgrade, and the Kosovo Protection Corps. The Council welcomed the presentation of a detailed plan for its implementation that would provide the appropriate baseline against which progress could be measured, as discussed with the Special Representative of the Secretary-General during the Council's mission in December 2002. The Council further welcomed the Special Representative of the Secretary-General's intention to transfer remaining competencies to the Provisional Institutions of Self-Government (PISG) by the end of the year, except those reserved for the Special Representative of the Secretary-General under resolution 1244 (1999). The Council concluded the statement by reiterating its full support for the Special Representative of the Secretary-General and by urging Kosovo's leaders to work in close cooperation with UNMIK and KFOR for a better future for Kosovo and stability in the region.<sup>326</sup>

## 5. Middle East

*The situation in the Middle East, including the Palestinian question*

By resolution 1397 (2002) of 12 March 2002, the Council welcomed and encouraged the diplomatic efforts of, inter alia, the United Nations Special Coordinator to

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<sup>324</sup> S/PRST/2002/11.

<sup>325</sup> S/2003/113.

<sup>326</sup> S/PRST/2003/1.

bring about a comprehensive and lasting peace in the Middle East.<sup>327</sup> It also expressed its support for the efforts of the Secretary-General to assist the parties to halt the violence and resume the peace process.<sup>328</sup>

#### *The situation between Iraq and Kuwait*

By resolution 1500 (2003) of 14 August 2003, the Security Council established the United Nations Assistance Mission for Iraq (UNAMI) to support the Secretary-General in the fulfillment of his mandate under resolution 1483 (2003). The mandate included, inter alia, working intensively with the Authority, the people of Iraq, and others concerned to advance efforts to restore and establish national and local institutions for representative governance, including by working together to facilitate a process leading to an internationally recognized, representative government of Iraq.

#### **D. Decisions involving regional arrangements or agencies**

During the period under review, the Security Council not only called upon the parties to the conflict to cooperate with regional arrangements, but also, in accordance with Article 52 of the Charter, frequently expressed its support and appreciation for the peace efforts undertaken by regional arrangements or requested the Secretary-General to undertake such efforts in conjunction with regional arrangements. Decisions of the Council regarding the joint or parallel efforts undertaken by the Council and regional agencies or arrangements in the pacific settlement of disputes during the period under review are covered in detail in chapter XII of this supplement.

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<sup>327</sup> Resolution 1397 (2002), sixth preambular para. The Council renewed its encouragement to the efforts of the United Nations Special Coordinator by resolution 1403 (2002) of 4 April 2002.

<sup>328</sup> Resolution 1397 (2002), para. 3. The Council renewed its support for the efforts of the Secretary-General by resolution 1402 (2002) of 30 March 2002.

## Part IV

### Constitutional discussion bearing on the interpretation or application of the provisions of Chapter VI of the Charter

#### Note

This part of the chapter highlights the important arguments raised in the deliberations of the Council with regard to the interpretation of specific provisions of the Charter concerning the role of the Council in the peaceful settlement of disputes. It includes in particular discussions regarding the competence of the Council to consider a dispute or situation and its power to make appropriate recommendations within the framework of Chapter VI of the Charter.

During the course of thematic debates held in the Council, several speakers emphasized the potential of new approaches to the role of the Security Council as defined under Chapter VI. The idea of early warning and conflict-prevention mechanisms, likely to enable the Council to take early action with respect to emerging disputes, was the most noteworthy example of the evolving interpretation of Chapter VI. In this regard, the role that regional organizations could play was underscored by many delegations.<sup>329</sup> Furthermore, during these debates, speakers addressed the potential and usefulness of instruments provided under Chapter VI of the Charter in comparison to those provided for under Chapter VII.

The part below is divided into eight sub-headings, focusing on discussions concerning the provisions of Chapter VI and that of Article 99 dealing with the role of the Secretary-General in bringing matters to the attention of the Security Council that might threaten international peace and security: (i) Relevance of the provisions of Chapter VI in relation to prevention of conflicts; (ii) Relevance of the provisions of Chapter VI in

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<sup>329</sup> See, for example, the 4753<sup>rd</sup> and the 4174<sup>th</sup> meetings on “The role of the Security Council in the pacific settlement of disputes” and the “Role of the Security Council in the prevention of armed conflicts”, respectively.

comparison to the provisions of Chapter VII; (iii) Obligation of Member States to settle their disputes by peaceful means in light of Article 33 (1) and recommendations for the settlement of disputes by the Security Council in light of Article 33 (2); (iv) Recourse to investigation by the Security Council in light of Article 34; (v) Referral of disputes to the Security Council in light of Article 35; (vi) Referral of legal disputes in light of Article 36 (3); (vii) Referrals by the Secretary-General in light of Article 99; and (viii) Efforts of the Secretary-General for the peaceful settlement of disputes in light of Article 33. The sub-headings are organized by agenda items of the Security Council. It is important to note that, in some cases, it is difficult to establish a clear-cut distinction between the constitutional discussions relevant to Chapter VI and Chapter VII.

### **Relevance of the provisions of Chapter VI in relation to prevention of conflicts**

#### *The role of the Security Council in the pacific settlement of disputes*

At its 4753<sup>rd</sup> meeting, on 13 May 2003, underscoring that Chapter VI of the Charter stood at the heart of the Organization's system of collective security, the Secretary-General outlined what lessons could be learned from the experience in recent years and how improvements could be achieved. In particular, the Secretary-General recalled several recommendations from his June 2001 report on the prevention of armed conflict,<sup>330</sup> including: i) the use of regional prevention mechanisms; ii) more frequent resort to the International Court of Justice; and iii) increased reporting by the United Nations system to the Council about serious violations of international law, and human rights and potential conflict situations arising from ethnic, religious and territorial disputes, poverty or other factors. While recognizing that the primary responsibility for the pacific settlement of disputes rested with Governments and the parties to a dispute, the Secretary-General emphasized that the Council had many tools at its disposal and could play a key role in conflict prevention while pressing those directly involved to make peace, as the Council itself recognized in resolution 1366 (2001). He added that the

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<sup>330</sup> S/2001/574.

Council could help identify and address root causes early, when opportunities for constructive dialogue and other peaceful means were greatest, and ensure an integrated approach bringing together all factors and all actors, including civil society. Furthermore, he added, the Council could support the other United Nations organs in their efforts to resolve disputes or to address volatile situations before they erupted into full-fledged threats to international peace and security.<sup>331</sup>

In their reactions to the remarks of the Secretary-General, several speakers recognized the primary role of the Security Council in the pacific settlement of disputes and voiced the need for the Council to increasingly explore and revert to the provisions of Chapter VI. Although recognizing that other actors had a role to play in the field of conflict prevention, several speakers particularly stressed the importance of the Council's role and hoped for a more active involvement of the Council in conflict prevention and preventive diplomacy efforts.<sup>332</sup> For instance, the representative of Germany underscored the need to shift “from a culture of reaction to a culture of prevention” and that it was important for the Security Council to revisit its role in the pacific settlement of disputes, an area in which, pursuant to Chapter VI of the Charter, the Security Council was vested with a primary, though not exclusive role.<sup>333</sup> The representative of Cameroon noted that the thrust of Chapter VI of the Charter meant, *inter alia*, that the Council should in all circumstances act in a “resolute and preventive” manner in order to “forestall the guns from sounding”.<sup>334</sup> The representative of Spain stated that it was not possible to speak of the pacific settlement of disputes without attaching equal importance to measures of preventive diplomacy.<sup>335</sup>

Against this background, many delegations also underlined that the responsibility to prevent and resolve conflicts and disputes rested first and foremost with the parties.<sup>336</sup>

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<sup>331</sup> S/PV.4753, p. 3.

<sup>332</sup> *Ibid.*, pp. 10-11 (Mexico); p. 12 (Spain); pp. 12-13 (United Kingdom); pp. 14-15 (Germany); p. 18 (Chile); p. 21 (France); pp. 25-26 (Russian Federation); p. 27 (Cameroon); p. 29 (Pakistan); S/PV.4753 (Resumption 1), p. 2 (Greece, on behalf of the European Union and associated countries); and p. 10 (Colombia).

<sup>333</sup> S/PV.4753, p. 14.

<sup>334</sup> *Ibid.*, p. 27.

<sup>335</sup> *Ibid.*, p. 12.

<sup>336</sup> S/PV.4753, p. 13 (United Kingdom); p. 19 (Bulgaria); p. 26 (Russian Federation); p. 27 (Cameroon); S/PV.4753 (Resumption 1), p. 10 (Colombia).

While recognizing the necessity of focusing on conflict prevention, the representative of the United Kingdom cautioned that “prevention is difficult” as early action could be taken as interference.<sup>337</sup>

With regard to the mechanisms and instruments for conflict prevention, several delegations suggested ways for the Council to improve its action in the field of prevention of conflict, including those related to early warning.<sup>338</sup> The representative of the United States noted that over the years, mechanisms have been developed to enable the Council to prevent some disputes from reaching the stage where Chapter VII action was required. He further noted that Chapter VI had stretched to accommodate the emergence of peacekeeping, a concept not mentioned in the Charter but one which had been a valuable tool in dispute settlement.<sup>339</sup>

A number of speakers expressed support for the efforts of the Secretary-General and his envoys to conduct “good offices” and mediation<sup>340</sup> as well as underlined the importance of the Council’s coordination with regional organizations in the pacific settlement of disputes.<sup>341</sup> The role of peacekeeping operations and observer missions in preventing the outbreak of further conflict and stabilizing a military situation was also cited during the discussion.<sup>342</sup> Finally, several delegations underlined the importance of addressing the root causes of conflicts. The representative of Mexico noted that peacekeeping operations had proven to be very useful in preventing future conflicts, addressing underlying causes, creating confidence-building mechanisms and bringing parties to the negotiating table.<sup>343</sup> The representative of Germany noted that certain lessons from the experience of the United Nations in the field of post-conflict peacebuilding could well be suited to being applied also to pre-conflict situations or to

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<sup>337</sup> S/PV.4953, pp. 12-13.

<sup>338</sup> *Ibid.*, p. 11 (Mexico); p. 12 (Spain); pp. 12-13 (United Kingdom); p. 15 (Germany); p. 20 (Bulgaria); p. 24 (Syrian Arab Republic); S/PV.4753 (Resumption 1), p. 3 (Greece).

<sup>339</sup> S/PV.4753, p. 17.

<sup>340</sup> *Ibid.*, p. 13 (United Kingdom); p. 15 (Germany); p. 17 (United States); pp. 19-20 (Bulgaria); p. 21 (France); and p. 29 (Pakistan); S/PV.4753 (Resumption 1), p. 3 (Greece, on behalf of the European Union and associated countries); and p. 14 (Ethiopia).

<sup>341</sup> For more details on the role of regional organizations in the pacific settlement of disputes, see chapter XII, part III, section A.

<sup>342</sup> S/PV.4753, p. 10 (Mexico); p. 14 (China); p. 17 (United States); p. 22 (France); and p. 25 (Russian Federation).

<sup>343</sup> *Ibid.*, p. 10.

situations of emerging conflict. Explaining that the management of pre- and post-conflict situations required some identical ingredients necessary to produce sustained peace and stability, he emphasized that the interrelationship of peace and security, the rule of law, human rights and the enhancement of the material wellbeing of people must be taken into account.<sup>344</sup>

At the conclusion of the debate, the President of the Security Council, in accordance with the understanding reached among the members of the Council, issued a statement. By such a statement, the Council recognized that the United Nations and its organs could play an important role in preventing disputes from arising between parties, in preventing existing disputes from escalating into conflicts, and in containing and resolving the conflicts when they occurred.<sup>345</sup>

#### *Role of the Security Council in the prevention of armed conflict*

At the 4174<sup>th</sup> meeting of the Council, on 20 July 2000, opening the discussion, the Secretary-General noted that there was an emerging consensus that conflict prevention strategies must address the root causes of conflict, not simply their violent symptoms. He described prevention as multidimensional, stating that to be effective, it had to address the structural faults that predisposed a society to conflict and therefore underscored that the best form of long-term conflict prevention was healthy and balanced economic development. Pointing at the various initiatives that he had undertaken since taking office, the Secretary-General underlined that any type of work in post-conflict peace-building constituted prevention, since it was designed to prevent the resurgence of conflict. Noting recent indications that the Council itself was also taking prevention more seriously, he suggested that the Council: (i) hold periodic meetings at the Foreign Minister level to discuss thematic or actual prevention issues; (ii) work more closely with the other principal organs; and (iii) examine ways of interacting more closely with non-State actors with expertise and experience in prevention. Observing that prevention was costly, the Secretary-General stressed that intervention, relief and rebuilding broken

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<sup>344</sup> Ibid., p. 15.

<sup>345</sup> S/PRST/2003/5.

societies and lives far more costly. He called for prevention to be made the cornerstone of collective security in the 21<sup>st</sup> century, a direction that would be achieved not by grand gestures or short-term thinking, but by changing deeply ingrained attitudes.<sup>346</sup>

In the ensuing discussion, the majority of speakers emphasized that the prevention of armed conflict was less costly than dealing with conflicts once they had erupted, from the human, political, economic, and financial perspective. Several speakers therefore agreed with the Secretary-General on the importance of shifting from a “culture of reaction” to a “culture of prevention”.<sup>347</sup> To that end, many delegations indicated that it was important to focus on the resolution of the root causes if conflicts were to be prevented in the first place or prevented from re-emerging. The social and economic causes of conflicts that had been flagged by the Secretary-General, as well as conflict-prevention through economic development, were therefore stressed.<sup>348</sup> Other delegations remarked that the international community should address the issue of potential conflicts through a more comprehensive, global and integrated strategy.<sup>349</sup> In this connection, a number of speakers emphasized the importance of post-conflict peace-building efforts aimed at preventing the recurrence of conflicts.<sup>350</sup>

The representative of the Russian Federation, supported by the representatives of China, Tunisia, Malaysia and Pakistan, cautioned that preventive services to Member States should be granted on a voluntary basis with due regard to the principles of sovereignty, territorial integrity and non-interference in the internal affairs of States.<sup>351</sup> In that regard, the representative of the Netherlands noted that while the United Nations Charter was geared towards inter-State conflict, the overwhelming majority of conflicts were of an internal nature. He therefore opined that the Council needed a more flexible

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<sup>346</sup> S/PV.4174, pp. 2-4.

<sup>347</sup> S/PV.4174, p. 10 (Argentina); p. 11 (the Netherlands); pp. 19-21 (Canada); p. 22 (Ukraine); p. 28 (France, on behalf of the European Union and associated countries); S/PV.4174 (Resumption 1), p. 10 (Senegal).

<sup>348</sup> S/PV.4174, p. 8 (Bangladesh); p. 9 (Argentina); p. 12 (the Netherlands); p. 13 (China); p. 14 (Tunisia); p. 18 (Mali); p. 25 (France, on behalf of the European Union and associated countries); S/PV.4174 (Resumption 1), p. 4 (Pakistan); p. 6 (Norway); p. 7 (Brazil); and p. 15 (Uganda).

<sup>349</sup> S/PV.4174, p. 10 (Russian Federation); pp. 14-15 (Tunisia); p. 28 (Japan); S/PV.4174 (Resumption 1), p. 6 (Norway); pp. 7-8 (Brazil); p. 11 (Indonesia); and p. 12 (Republic of Korea).

<sup>350</sup> S/PV.4174, p. 12 (the Netherlands); p. 15 (Tunisia); p. 28 (Japan); and S/PV.4174 (Resumption 1), p. 2 (Colombia); and p. 6 (Norway).

<sup>351</sup> S/PV.4174, p. 10 (Russian Federation); p. 13 (China); pp. 14-15 (Tunisia); p. 16 (Malaysia); S/PV.4174 (Resumption 1), p. 4 (Pakistan).

interpretation of Article 2 (7) of the Charter in order to be able to take the necessary action in the face of conflicts.<sup>352</sup>

On the specific role of the Security Council in conflict prevention, many speakers highlighted that the Security Council had an important role to play in conflict prevention given its responsibility to maintain international peace and security.<sup>353</sup> According to the representative of China, the Security Council should play a “leading role” in conflict prevention.<sup>354</sup> The Russian Federation said that it was “incontestable” that the United Nations, and the Security Council in particular, had a “moral and legal obligation to prevent conflicts”.<sup>355</sup> The need to improve the tools and means to prevent conflict was also stressed by several delegations.<sup>356</sup> For instance, the representative of France, speaking on behalf of the European Union and associated countries, urged that the necessary resources be provided to strengthen the Secretariat’s early warning, reaction and analysis capabilities and urged the Council to avail itself as much as necessary of the range of resources at its disposal, including missions to conflict areas, not only once hostilities had occurred, but further upstream.<sup>357</sup> At the conclusion of the debate, the President of the Security Council, in accordance with the understanding reached among the members of the Council, issued a statement.<sup>358</sup> By such a statement, the Council underlined the need for continued in-depth consideration of the issue of conflict prevention and invited the Secretary-General to submit to the Council, by May 2001, a report containing an analysis, and recommendations on initiatives within the United Nations, taking into account previous experience and the views and considerations expressed by Member States, on the prevention of armed conflict.

Following this request, in his report dated 7 June 2001, the Secretary-General outlined that conflict prevention was one of the primary obligations of Member States set forth in the Charter of the United Nations. Adding that the United Nations efforts in

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<sup>352</sup> S/PV.4174, p. 11.

<sup>353</sup> *Ibid.*, p. 11 (the Netherlands); p. 14 (Tunisia); p. 22 (Ukraine); p. 27 (France, on behalf of the European Union and associated countries); p. 28 (Japan); S/PV.4174 (Resumption 1), p. 8 (Brazil).

<sup>354</sup> S/PV.4174, p. 13.

<sup>355</sup> *Ibid.*, p. 10.

<sup>356</sup> *Ibid.*, p. 11 (Russian Federation); p. 16 (Malaysia); pp. 27-28 (France, on behalf of the European Union and associated countries); S/PV.4174 (Resumption 1), pp. 4-5 (Pakistan); and p. 10 (Senegal).

<sup>357</sup> S/PV.4174, pp. 27-28.

<sup>358</sup> S/PRST/2000/25. See Part III, section A.

conflict prevention must be in conformity with the purposes and principles of the Charter, he emphasized that conflict prevention was an activity best undertaken under Chapter VI of the Charter. However, the Secretary-General emphasized that the primary responsibility for conflict prevention rested with national Governments, with the United Nations and the international community supporting national efforts for conflict prevention and assisting in building national capacity in this field. According to the Secretary-General, an effective preventive strategy required a comprehensive approach that encompassed both short-term and long-term political, diplomatic, humanitarian, human rights, developmental, institutional and other measures taken by the international community, in cooperation with national and regional actors. In particular, he underlined that one of the principal aims of preventive action should be to address the deep-rooted socio-economic, cultural, environmental, institutional and other structural causes that often underlie the immediate political symptoms of conflicts and that conflict prevention and sustainable and equitable development were mutually reinforcing activities.<sup>359</sup>

At the 4334<sup>th</sup> meeting of the Council, on 21 June 2001, the Security Council held another open debate on the prevention of armed conflict, following the issuance of the latest report of the Secretary-General.<sup>360</sup> In his report, the Secretary-General offered the Council recommendations on how the efforts of the United Nations system in the field could be further enhanced and, more specifically, identified four possible ways to enhance his traditional preventive role: i) increasing the use of fact-finding and confidence-building missions to volatile regions; ii) developing regional prevention strategies with regional partners and United Nations organs and agencies; iii) establishing an informal network of eminent persons for conflict prevention; and iv) improving the capacity and resource base for preventive action in the Secretariat.<sup>361</sup> Introducing the report, the Deputy Secretary-General reiterated the need to intensify efforts in order to move from a culture of “reaction” to one of “prevention”. Highlighting that the “most useful” instruments of prevention were those described in Chapter VI, she highlighted 10 principles proposed by the Secretary-General, drawing on lessons learned, that should guide future approaches to conflict prevention. She also touched on proposals contained

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<sup>359</sup> S/2001/574.

<sup>360</sup> Ibid.

<sup>361</sup> Ibid., pp. 14-16.

in the report for enhancing the role of the Security Council, the General Assembly, ECOSOC, and the Secretary-General. In particular, she drew attention to recommendations concerning regional organizations and the need for donor States to increase the flow of official development assistance and noted that effective conflict prevention required both national and international political will. Stressing the high cost of conflict and of conflict intervention, both in human and material terms, she maintained that conflict prevention was the most desirable and cost-effective approach for maintaining peace.<sup>362</sup>

In the course of the following discussion, the majority of speakers endorsed the Secretary-General's pledge to move the United Nations from a "culture of reaction" to a "culture of prevention", which should be the core of the Organization's mandate under the Charter.<sup>363</sup> A number of them also endorsed the Secretary-General's premise that the primary responsibility for conflict prevention rested with national governments.<sup>364</sup> The representative of the Russian Federation remarked the need for the consent and support of each interested government and its internal political actors with regard to efforts to prevent conflicts.<sup>365</sup> Similarly, the representative of China stated that, given the different social systems, ideologies, value systems and religious beliefs, it was necessary to abide by the basic principles of mutual respect for sovereign territorial integrity and non-interference in internal affairs of other States.<sup>366</sup> By contrast, the representative of Pakistan underlined that, while Member States and civil society alone may have some responsibility in cases of intra-State conflicts, this did not hold true for cases of inter-State conflicts where the ultimate responsibility rested with the United Nations.<sup>367</sup>

Several speakers underscored the need for a multi-dimensional approach to conflict prevention including the repatriation of refugees, restrictions on the proliferation of small arms, and both short- and long-term development assistance to affected States.<sup>368</sup>

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<sup>362</sup> S/PV.4334, pp. 2-4.

<sup>363</sup> *Ibid.*, p. 9 (United Kingdom); p. 12 (Tunisia); p. 14 (Ireland); p. 17 (France); pp. 25-26 (Mauritius); S/PV.4334 (Resumption 1), p. 4 (Republic of Korea); p. 9 (Japan); p. 17 (Malaysia); and p. 18 (Nigeria).

<sup>364</sup> S/PV.4334, p. 8 (United States); p. 13 (Russian Federation); S/PV.4334 (Resumption 1), p. 8 (Costa Rica); and p. 18 (Nigeria).

<sup>365</sup> S/PV.4334, p. 13.

<sup>366</sup> *Ibid.*, p. 11.

<sup>367</sup> S/PV.4334 (Resumption 1), p. 23.

<sup>368</sup> S/PV.4334, p. 5 (Colombia); p. 12 (Tunisia); p. 18 (Norway); and p. 22 (Mali).

The need to address the root causes of conflicts and the premise that conflict prevention and sustainable and equitable development were mutually reinforcing activities were also pointed out during the discussion.<sup>369</sup> Therefore, during the discussion it was emphasized that the United Nations was not the only actor in prevention and might often not be the actor best suited to take the lead, and that of particular importance were United Nations efforts for enhancing the capacity of Member States for conflict prevention. In this connection, many delegations stressed the need for actors – be they the Council, the General Assembly, the Secretary-General, ECOSOC, other United Nations organs or regional organizations – to take the lead in coordinating preventive responses to incipient conflicts.<sup>370</sup> The majority of speakers also underlined the importance of the role of regional organizations, non-governmental organizations, civil society and the business community in the field of conflict prevention. Also, several representatives expressed support for the role of the Secretary-General in conflict prevention, under Article 99 of the Charter, as well as his intention to enhance that role.<sup>371</sup> In this connection, some speakers welcomed the Secretary-General’s intention to initiate a practice of providing periodic regional or subregional reports to the Security Council on threats to international peace and security.

As regards the instruments for conflict prevention, it was generally acknowledged that Chapter VI of the Charter provided important instruments for conflict prevention. According to the representative of South Africa, in addition to article 1 of the Charter, Chapter VI placed a “moral and legal responsibility” on the Security Council to play a key role in the prevention of armed conflict.<sup>372</sup> While recognizing that conflict prevention was mostly viewed as “a Chapter VI issue”, the representative of Argentina stressed that conflict prevention did not preclude, in some specific cases, the application of Chapter VII of the Charter. He added that in some conflicts currently on the agenda of the Council, the application of an arms embargo in an early stage of the conflict would have

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<sup>369</sup> Ibid., p. 8 (Jamaica); p. 9 (United Kingdom); p. 11 (China); p. 14 (Ireland); p. 24 (Mauritius); p. 26 (Bangladesh); S/PV.4334 (Resumption 1), p. 5 (Republic of Korea); p. 8 (Costa Rica); p. 14 (Mexico).

<sup>370</sup> See chapter XII, part III, section A.

<sup>371</sup> S/PV.4334, p. 7 (Jamaica); p. 9 (United States); p. 17 (France); p. 20 (Ukraine); p. 22 (Singapore); S/PV.4334 (Resumption 1), p. 10 (Japan); p. 17 (Malaysia); and p. 18 (Nigeria).

<sup>372</sup> S/PV.4334 (Resumption 1), p. 20.

helped prevent its worsening.<sup>373</sup> A number of speakers supported the Secretary-General's recommendation urging the Council to support peace-building components within peacekeeping operations, as well as his recommendation that the Council include, as appropriate, a disarmament, demobilization and reintegration component in the mandates of United Nations peacekeeping and peace-building operations.<sup>374</sup> Other speakers expressed support for the Secretary-General's recommendation encouraging Member States and the Security Council to make more active use of preventive deployments before the onset of conflict, as appropriate.<sup>375</sup> More specifically, the representative of Japan, while noting that preventive deployments could make a crucial contribution to conflict prevention, held the view that it was essential for the Council to undertake a thorough appraisal and examination of its past efforts in this regard.<sup>376</sup> A number of speakers also expressed support for the undertaking of fact-finding missions as part of preventive diplomacy.<sup>377</sup>

*Peace-building: towards a comprehensive approach*

At the 4272<sup>nd</sup> meeting on 5 February 2001, the President of the Security Council, whose working paper provided the basis for the debate,<sup>378</sup> indicated in his opening remarks that the meeting was an extension of the discussions over the past ten years on the report "An Agenda for Peace" and its Supplement,<sup>379</sup> the prevention of armed conflict and the issue of "exit strategies", and was aimed at assessing the United Nations' responsibilities for arriving at concrete proposals in the maintenance of international peace and security.<sup>380</sup>

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<sup>373</sup> Ibid., p. 6.

<sup>374</sup> S/PV.4334, p. 7 (Jamaica); p. 12 (Tunisia); p. 27 (Canada); S/PV.4334 (Resumption 1), p. 3 (Sweden, on behalf of the European Union and associated countries).

<sup>375</sup> S/PV.4334, p. 7 (Jamaica); p. 15 (Ireland); pp. 17-18 (France); p. 18 (Norway); p. 20 (Ukraine); p. 24 (Mauritius); S/PV.4334 (Resumption 1), pp. 9-10 (Japan); and p. 28 (Nepal).

<sup>376</sup> S/PV.4334 (Resumption 1), p. 10.

<sup>377</sup> S/PV.4334, p. 5 (Colombia); p. 7 (Jamaica); p. 9 (United States); p. 13 (Russian Federation); p. 20 (Ukraine); p. 25 (Mauritius); S/PV.4334 (Resumption 1), p. 10 (Japan); p. 17 (Malaysia); and p. 18 (Nigeria).

<sup>378</sup> S/2001/82.

<sup>379</sup> S/24111 and S/1995/1.

<sup>380</sup> S/PV.4272, p. 2.

In his statement, the Secretary-General observed that peace-building was not only taking place in post-conflict settings but also as a preventive instrument which could address the root causes of conflict. Pointing out that a major challenge to peace-building was the mobilization of sustained political will and resources by the international community, he suggested that the Council could incorporate a number of good ideas – such as with regard to the implementation of peace agreements and the design of peacekeeping operations – into its future mandates. Adding that the Council had rightly recognized that peace-building could be a vital component of peacekeeping missions, and that it needed to include such preventive tools as early warning, diplomacy, preventive deployment and disarmament, the Secretary-General emphasized that peace-building must not be seen as an add-on or an afterthought but rather as a central tool of proven worth. He appealed to Member States to do more politically to give the concept a higher profile and to develop, improve it and use it in good time.<sup>381</sup>

In their statements, several speakers held that peace-building should be conceptualized as part of a continuum that recognized the relationship and interdependence between poverty and conflict, peacekeeping, peace-building and development.<sup>382</sup> The representative of Jamaica, noted that, although peace-building was often thought of in the context of post-conflict situations, peace-building could and must be employed in conflict prevention.<sup>383</sup> Similarly, pointing at the strong link between conflict prevention on the one hand and the maintenance of peace and peace-building on the other, the representative of Colombia advocated for those elements to be “considered together and addressed comprehensively”.<sup>384</sup> Several delegations underscored the need for an integrated strategy that addressed the underlying causes of conflict, so as to prevent its outbreak as well as recurrence.<sup>385</sup> With a view to developing a comprehensive peace-building strategy, some members therefore noted that an integrated approach

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<sup>381</sup> Ibid., pp. 2-4.

<sup>382</sup> Ibid., p. 11 (United Kingdom); p. 21 (Norway); p. 23 (Ukraine); p. 25 (Bangladesh); S/PV.4272 (Resumption 1), p. 2 (Sweden, on behalf of the European Union and associated countries); and p. 19 (Romania).

<sup>383</sup> S/PV.4272, p. 7.

<sup>384</sup> Ibid., p. 15.

<sup>385</sup> Ibid., p. 15 (Colombia); p. 21 (Norway); p. 23 (Ukraine); S/PV.4272 (Resumption 1), p. 2 (Sweden, on behalf of the European Union and associated countries); p. 9 (Republic of Korea); p. 13 (Senegal); p. 19 (Romania); p. 20 (Mongolia); p. 24 (Argentina); and p. 33 (Tunisia).

required addressing the issue of eradication of poverty and the promotion of sustainable development as an integral part of long-term peace-building and conflict prevention.<sup>386</sup>

*No exit without strategy*

At the 4223<sup>rd</sup> meeting of the Council, on 15 November 2000, the Council held an open debate on the Security Council's decision-making process with regard to the termination of peace operations. During the debate, several speakers pointed out that "exit" did not mean an end to the peace process but was rather part of a continuum from conflict prevention, peace making, and peace enforcement to peace building.<sup>387</sup> Recalling that peace missions should be seen as a multifold continuum of tasks in light of the increasingly more complex peace processes, the representative of Germany stated that it was important to address the integrated tasks that stretched "from conflict prevention all the way to peace-building", although in practice such clear distinctions did not always occur.<sup>388</sup> The representative of the United States, echoed by the representatives of Ukraine and Thailand, noted that the term "exit strategy" should never be allowed to mean a "hasty or arbitrary departure from a strategically stated goal", but the implementation of a comprehensive strategy.<sup>389</sup> Against this background, the representative of Ukraine supported the development of a comprehensive United Nations strategy for conflict prevention on the basis of large-scale use of preventive diplomacy and peace-building.<sup>390</sup> The representative of Italy advocated the need for building a functional connection between the conflict prevention phase and the possible action to be undertaken if a crisis degenerated into a threat to international peace and security. Such a strategy, he added, must also include provisions for peace-building, a stage that was essential to achieving sustainable peace once an operation had ended, since well-planned peacebuilding could also have a preventive effect by stemming any potential relapses.<sup>391</sup>

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<sup>386</sup> S/PV.4272, pp. 16-17 (China); p. 18 (Russian Federation); p. 21 (Norway); S/PV.4272 (Resumption 1), p. 21 (Mongolia); p. 34 (Tunisia).

<sup>387</sup> S/PV.4223, pp.6-7 (France); p. 9 (Bangladesh); p. 19 (Ukraine); p. 24 (United Kingdom); S/PV.4223 (Resumption 1), p. 3 (Germany); p. 9 (South Africa); pp. 13-14 (Italy); p. 20 (Finland).

<sup>388</sup> S/PV.4223 (Resumption 1), p. 3.

<sup>389</sup> S/PV.4223, pp. 3-4 (United States); p. 19 (Ukraine); S/PV.4223 (Resumption 1), p. 10 (Thailand).

<sup>390</sup> S/PV.4223, p. 19.

<sup>391</sup> S/PV.4223 (Resumption 1), pp. 13-14.

Other speakers placed more emphasis on the link between peace and development, stating that a more sustained commitment of the international community to reducing poverty and promoting sustainable development was both a step towards conflict prevention and a contribution to peace-building.<sup>392</sup>

## **Relevance of the provisions of Chapter VI in comparison to the provisions of Chapter VII**

### *The role of the Security Council in the pacific settlement of disputes*

At the 4753<sup>rd</sup> meeting of the Council on 13 May 2003, the Secretary-General, opening the debate, underscored that Chapter VI of the Charter “stood at the heart of the Organization’s system of collective security” and highlighted various ways in which the Council had used Chapter VI in recent years. Among these, he mentioned that the Council had more frequently entered into dialogue with the parties to the conflict, had worked more closely with the Economic and Social Council (ECOSOC) and with regional and subregional organizations, had sent fact-finding missions to the field, had called on the Secretary-General to use his good offices, and had encouraged the latter to appoint a growing number of special representatives and envoys. He concluded by adding that, although recourse to Chapter VII might have increased in the past decade, the importance of Chapter VI had not been lessened and remained as “relevant” as before.<sup>393</sup>

Taking the floor after the Secretary-General, Mr. Jamsheed Marker, former Personal Representative of the Secretary-General for East Timor, noted that while Chapter VII constituted the “iron fist” of the Council, its latent efficacy could be considerably enhanced through a timely and judicious application of the “velvet glove” of Chapter VI. Among several suggestions on how to promote the pacific settlement of disputes, Mr. Marker encouraged the Council to utilize its mandatory enforcement authority under Chapter VII to persuade parties to engage in the processes for pacific settlement envisaged under Chapter VI.<sup>394</sup>

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<sup>392</sup> S/PV.4223, p. 17 (Tunisia); S/PV.4223 (Resumption 1), pp. 17-18 (Denmark).

<sup>393</sup> S/PV.4753, pp. 2-3.

<sup>394</sup> Ibid., pp. 5-7.

During the ensuing debate, several speakers recognized the primary role of the Security Council in the pacific settlement of disputes and voiced the need for the Council to increasingly explore and revert to the provisions of Chapter VI.<sup>395</sup> While acknowledging the role of the Council, some speakers emphasized that the responsibility to prevent and resolve conflicts and disputes rested first and foremost with the parties to the dispute.<sup>396</sup> The representative of Germany, echoed by the representative of the United States, drew attention to the Council's ability to anticipate emerging disputes and conflicts, and commented that, in order to react to them in the most appropriate way, the Council was dependent to a significant extent on an "early and solid knowledge of the situation".<sup>397</sup> The representative of China, supported by the representatives of Germany and the United States, acknowledged that, unlike Chapter VII, Chapter VI provided more flexibility in the use of instruments to resolve disputes.<sup>398</sup> The representative of the United States added that, over the years, mechanisms had been developed to enable the Council to prevent some disputes from reaching the stage where Chapter VII action was required. Chapter VI had been stretched to accommodate the emergence of peacekeeping, a concept not mentioned in the Charter but one which had been a valuable tool in dispute settlement.<sup>399</sup> The representative of the Syrian Arab Republic, however, pointed out that there was not "a clear dividing line between the two chapters". In his opinion, the Council should take into consideration, when deciding its course of action, the "feelings and reactions of the peoples of the world", for whom the use of Chapter VII was "not in their interest". He therefore concurred with the opinion of many legal experts who favoured diplomatic instruments and solutions based on peaceful negotiations and the provisions of Article 33 and other articles of the Charter that referred to peaceful solutions.<sup>400</sup> The representative of Pakistan, echoing Mr. Marker's earlier statement, encouraged the Council to use its mandatory enforcement authority under Chapter VII to

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<sup>395</sup> See, for example: S/PV.4753, p. 10 (Mexico); p. 14 (China); p. 17 (United States); p. 18 (Chile); p. 21 (France); and p. 22 (Angola); S/PV.4753 (Resumption 1), p. 2 (Greece, on behalf of the European Union and associated countries); and p. 13 (Ethiopia).

<sup>396</sup> See, for example: S/PV.4753, p. 10 (Mexico); p. 12 (United Kingdom); p. 19 (Bulgaria); and p. 21 (France); S/PV.4753 (Resumption 1), p. 5 (India).

<sup>397</sup> S/PV.4753, p. 15 (Germany); and p. 17 (United States).

<sup>398</sup> *Ibid.*, p. 14 (China); p. 14 (Germany); and p. 17 (United States).

<sup>399</sup> *Ibid.*, p. 17.

<sup>400</sup> *Ibid.*, pp. 24-25.

persuade parties to disputes to engage in the processes for the peaceful settlement of disputes envisaged under Chapter VI.<sup>401</sup> Focusing on the various tools available to the Council under Chapter VI, the representative of Bulgaria expressed the view that although some diversification in the use of those instruments was necessary, “a spirit of pragmatism and common sense” should always prevail in the face of the very varied situations the Council dealt with.<sup>402</sup>

### **Obligation of Member States to settle their disputes by peaceful means in light of Article 33 (1) and recommendations for the settlement of disputes by the Security Council, in light of Article 33 (2)**

Article 33 stipulates the obligation of Member States to settle their disputes by peaceful means. Article 33 (1) gives primary responsibility in resolving a dispute to the parties concerned. Article 33 (2) gives the Security Council discretionary power to request the parties to settle their disputes by peaceful means, when it deems necessary. In the cases below, Article 33 was explicitly invoked by Council members mainly during debates on thematic issues related to conflict prevention and the pacific settlement of disputes. In one instance, an explicit reference to Article 33 was made by the representative of Pakistan in a letter dated 22 May 2002 addressed to the President of the Security Council in connection with the situation between India and Pakistan on the Kashmir dispute.<sup>403</sup> This section also includes two case studies relating to the Central African region and the situation in the Great Lakes region, respectively, which exemplify how the Security Council had increasingly been focusing on the regional and subregional dimension of the peaceful settlement of disputes.

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<sup>401</sup> Ibid., p. 28.

<sup>402</sup> Ibid., p. 19.

<sup>403</sup> S/2002/571. Similar letters bringing to the attention of the Security Council the situation between India and Pakistan in connection with the Jammu and Kashmir dispute were addressed to the President of the Security Council and the Secretary-General by the representatives of Mali, as Chairman of the OIC Contact Group on Jammu and Kashmir (S/2002/657), and the Libyan Arab Jamahiriya (S/2002/13).

*Role of the Security Council in the prevention of armed conflict*

At the 4174<sup>th</sup> meeting of the Council, on 20 July 2000, a few speakers explicitly highlighted the significance of the provisions enshrined in Article 33, and how they could play an important role in settling many disputes and preventing armed conflicts. The representative of Namibia called for the existing tools of Article 33 to be “further strengthened and completed”.<sup>404</sup> The representative of Pakistan noted that, according to Article 33, parties to any dispute were required to use peaceful means for settlement and that the Security Council was empowered to call upon the parties to settle their disputes by such means. He also added that responsibility in this regard should not be evaded on the pretext that bilateral disputes should be resolved by the concerned parties alone, as all bilateral disputes, particularly those with implications for global peace and security, which were by definition “international disputes”.<sup>405</sup>

*The role of the Security Council in the pacific settlement of disputes*

At the Council’s 4753<sup>rd</sup> meeting, on 13 May 2003, several speakers, in their statements, drew attention to the provisions enshrined in Article 33 and to the importance of the available tools for the settlement of disputes, including negotiation, enquiry, mediation, conciliation, arbitration, resort to regional arrangements, judicial settlement and other peaceful means.<sup>406</sup> In this regard, the representative of India commented that the means provided for in Article 33 were not intended to be “exhaustive”, and that the reference to “other peaceful means of their choice” provided the parties with greater freedom of choice. He added that the Council was not to be bound by the list included in Article 33 (1) in its choice of procedures to assist parties in the settlement of disputes.<sup>407</sup> The representative of Spain highlighted that, in both Chapter VIII and Article 33 of the Charter, it was established that Member States should utilize existing regional

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<sup>404</sup> S/PV.4174, p. 19.

<sup>405</sup> S/PV.4174 (Resumption 1), p. 4.

<sup>406</sup> S/PV.4753, p. 12 (Spain); p. 18 (Chile); and p. 25 (Syrian Arab Republic); S/PV.4753 (Resumption 1) p. 2 (Greece, on behalf of the European Union and associated countries); and pp. 5-6 (India).

<sup>407</sup> S/PV.4753 (Resumption 1), p. 6.

organizations, among other means of peaceful settlement, and therefore encouraged the Security Council to promote measures undertaken at the regional level.<sup>408</sup>

### *Central African Region*

At its 4871<sup>st</sup> meeting, on 24 November 2003, the Security Council discussed the interim report of the multidisciplinary assessment mission to the Central African subregion.<sup>409</sup> In its report, the mission pointed out a number of cross-border challenges, including ethnic tensions, refugee flows as well as cross-border movement of weapons, drugs and armed groups, which could only be solved through cooperation and an integrated, holistic subregional approach.

Introducing the report of the multidisciplinary assessment mission, the Assistant Secretary-General stressed, *inter alia*, the need for the United Nations to provide assistance to implement subregional policies to address the numerous cross-cutting challenges in the Central African region. Most speakers concurred with the report's assessment concerning the primary challenges confronting the countries in Central Africa, and about the importance of a subregional approach to address the numerous cross-cutting challenges facing those countries. A number of speakers stressed the importance of strengthening existing subregional mechanisms and organizations, including the Economic Community of Central African States (ECCAS). Moreover, several delegations welcomed the Secretary-General's intention to appoint a Special Envoy for the region.<sup>410</sup> The representative of Cameroon deplored that the report did not include a recommendation in line with the request, which he believed had been made by all, and not just most, Governments in Central Africa during the mission's visit, for a permanent United Nations presence in the subregion.<sup>411</sup> The representative of France stated that the cross-border challenges confronting the countries in Central Africa made it necessary for the States of the region and the international community to coordinate appropriate responses. At the same time, France believed that the proposal to appoint a

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<sup>408</sup> S/PV.4753, p.12.

<sup>409</sup> S/2003/1077.

<sup>410</sup> S/PV.4871, p. 7 (Guinea); p. 8 (China); p. 11 (Syrian Arab Republic); p. 14 (Russian Federation); and p. 25 (Chad).

<sup>411</sup> *Ibid.*, pp. 4-6.

Special Envoy should be considered in the context of the international conference on the Great Lakes region.<sup>412</sup> The representative of Germany stated that it was difficult to see how a mandate for an additional special envoy for Central Africa could avoid overlapping with the mandate of the Special Representative for the Great Lakes Region. His delegation therefore preferred for the United Nations missions in the Central African subregion to identify possible areas of cooperation aimed at effectively addressing cross-cutting issues.<sup>413</sup> The representative of Spain agreed with the report that it was preferable to make effective and coordinated use of existing structures in the region before considering the possibility of establishing new ones.<sup>414</sup> The representative of the United Kingdom recognized the need for a comprehensive and concerted approach to the issues of peace, security and development in Central Africa, and stressed the importance of making effective operational linkages across the United Nations system and, where relevant, across borders. He stated that an integrated and holistic subregional approach was required to complement national solutions, but cautioned against imposing templates on different kinds of problems.<sup>415</sup> The representative of the Russian Federation expressed concern that some African countries tended to appeal to the international community before fully exhausting national or regional possibilities. That applied to the “rather excessive approach for the establishment in Central Africa of a United Nations office”.<sup>416</sup> The representative of the United States, noting that the international conference on the Great Lakes region might incorporate a number of the elements laid out in the report of the multidisciplinary mission, recommended that the decision on naming a Special Envoy be deferred until after the issuance of the results and recommendations of that conference. Moreover, he expressed concern about adding yet another layer of bureaucracy to the United Nations structures in the Central African region.<sup>417</sup> The representative of Chile recommended heeding the concern of the Secretary-General regarding the proliferation of United Nations offices in the region.<sup>418</sup> The representative of the Republic of Congo, speaking on behalf of the 11 Member States of ECCAS, underlined that it was

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<sup>412</sup> Ibid., pp. 6-7.

<sup>413</sup> Ibid., p. 9.

<sup>414</sup> Ibid., p. 11.

<sup>415</sup> Ibid., pp. 12-13.

<sup>416</sup> Ibid., pp. 13-14.

<sup>417</sup> Ibid., p. 14.

<sup>418</sup> Ibid., p. 15.

imperative to have a subregional, coordinated approach, and for the subregion to have a United Nations interlocutor with a regional perspective.<sup>419</sup> The representative of Equatorial Guinea stressed the special responsibility of the Security Council to address the crises in the region, and also expressed appreciation for the work of the United Nations Standing Advisory Committee on Security Questions in Central Africa. He underlined that despite recent positive developments, the countries of the region remained fragile, and he stressed the need for a permanent political United Nations presence with a subregional scope.<sup>420</sup> The Permanent Observer of the African Union, pointing to the abundance of subregional, regional and international organizations present in Central Africa, stressed the need to strengthen existing capacities, and hoped that a United Nations regional political presence could serve to enhance coordination among the various initiatives. As to what form the structure should take, he stated that the African Union relied on the flexibility shown by the countries in the subregion that were prepared to consider the issue further with the Special Envoy to be appointed by the Secretary-General. While supporting the request by the countries of the subregion, he emphasized that the form of coordination mattered less than its efficiency and effectiveness.<sup>421</sup> Finally, the Deputy Secretary-General for Political Affairs of ECCAS, noting the recent progress made towards consolidating peace and security in a number of countries in the region, argued that a new dynamic was under way in Central Africa and reiterated the call for a permanent United Nations regional office.<sup>422</sup>

#### *The situation in the Great Lakes region*

At the 4865<sup>th</sup> meeting, on 20 November 2003, the Security Council convened a meeting to discuss the preparations for an international conference on the Great Lakes region, following the presentation of a report of the Secretary-General.<sup>423</sup> In his report, the Secretary-General, stressed that the Council's call for an international conference on the Great Lakes region entailed the recognition of the fact that the internal problems in

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<sup>419</sup> Ibid., pp. 18-21.

<sup>420</sup> Ibid., pp. 26-27.

<sup>421</sup> Ibid., pp. 27-28.

<sup>422</sup> Ibid., pp. 28-29.

<sup>423</sup> S/2003/1099.

the region tended to spread because of the close social, economic and cultural links of the inhabitants of the entire region, which was why a regional approach was needed. The purpose of the conference, under United Nations and African Union partnership, was to begin a process to bring together the leaders of the countries of the Great Lakes region to reach an agreement on a set of principles and launch selected programmes to help end the cycle of conflict and ensure durable peace, democracy and development in the whole region. It would also establish a regional framework to facilitate the adoption of a stability, security and development pact. He noted that the conference was not a one-time event but a process of several stages and he urged the core countries to focus on the priorities of the conference in order to formulate concrete and feasible policies.<sup>424</sup>

At the meeting, most speakers strongly supported the conference, agreeing that a regional approach was essential to address the crisis affecting the Great Lakes region. They expressed hope that holding the conference would help consolidate the gains that had been made in the recent peace processes in the Democratic Republic of the Congo and Burundi. A number of speakers stressed that the conference would have to be judged on whether it produced concrete measures to ensure a safeguard against a future resurgence of violence, instability, and criminality,<sup>425</sup> while others, emphasizing the need for sufficient financial support, called on donors to provide it in a timely manner.<sup>426</sup>

### **Recourse to investigation by the Security Council in light of Article 34**

Article 34 of the Charter stipulates that the Security Council may investigate any dispute, or situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security. In the hereunder instances, the Article was implicitly and/or explicitly invoked, mainly in connection with the prevention of armed conflict.

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<sup>424</sup> S/PV.4865, p. 3.

<sup>425</sup> Ibid., p. 16 (France); p. 11 (Italy, on behalf of the European Union and associated countries); and p. 22 (Spain).

<sup>426</sup> Ibid., p. 8 (United Republic of Tanzania); p. 17 (China); and p. 20 (Syrian Arab Republic).

*Role of the Security Council in the prevention of armed conflict*

At the 4174<sup>th</sup> meeting of the Council, on 20 July 2000, the representative of China noted that the Security Council had taken some positive measures in regard to conflict prevention and peaceful resolution of conflicts, including the sending of fact-finding missions to areas of conflict. He further noted that setting up early warning systems or the sending of fact-finding or other special missions, which bear on the sovereignty of a State, should only follow after consent had been obtained from the countries or parties concerned.<sup>427</sup> The representative of Malaysia also called for more frequent use of fact-finding missions, either by the Secretary-General or by the Council itself.<sup>428</sup>

At the 4334<sup>th</sup> meeting, on 21 June 2001, the Council met to discuss the report of the Secretary-General on conflict prevention, which included a number of proposals to further enhance the capacity of the United Nations system for preventive action.<sup>429</sup> Introducing the report on behalf of the Secretary-General, the Deputy Secretary-General suggested that the Council could send fact-finding missions with multidisciplinary expert support to potential conflict areas, with the aim of working out comprehensive prevention strategies.<sup>430</sup> Several delegations supported the proposal of dispatching fact-finding missions to potential conflict areas.<sup>431</sup> The representative of the Russian Federation commented that such missions had already and repeatedly proven their necessity and “played an important role in the research for necessary solutions”.<sup>432</sup> The representative of Costa Rica however cautioned that the scope of such missions should not be exaggerated and that they would not be useful if they were “quick and superficial” and without expert members.<sup>433</sup> Similarly, the representative of Japan stressed the need for clear criteria, specified terms of reference and financing for such missions.<sup>434</sup> The representative of South Africa referred to the Secretary-General’s use of inter-agency

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<sup>427</sup> S/PV.4174, p. 13.

<sup>428</sup> *Ibid.*, p. 16.

<sup>429</sup> S/2001/574.

<sup>430</sup> S/PV.4334, p. 3.

<sup>431</sup> S/PV.4334, p. 7 (Jamaica); p. 13 (Russian Federation); p. 20 (Ukraine); and p. 25 (Mauritius); S/PV.4334 (Resumption 1), p. 9 (Costa Rica); p. 10 (Japan); p. 17 (Malaysia); and p. 20 (South Africa).

<sup>432</sup> S/PV.4334, p. 13.

<sup>433</sup> S/PV.4334 (Resumption 1), p. 9.

<sup>434</sup> *Ibid.*, p. 10.

task forces, and suggested that these could play a valuable role, complementary to that of the fact-finding missions of the Council. As a consequence, he added, consideration should be given to the harmonization of the two approaches.<sup>435</sup>

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

At the 4220<sup>th</sup> meeting of the Council, on 13 November 2000, the representative of Mali welcomed the Council's initiative to more frequently deploy fact-finding missions to areas of tension as "a quick means of preventing crises". At the same time, he acknowledged that conflict prevention measures should be taken in accordance with the principle of non-interference in the internal affairs of States.<sup>436</sup>

*The role of the Security Council in the pacific settlement of disputes*

At the 4753<sup>rd</sup> meeting of the Security Council, on 13 May 2003, the representative of Germany, referring to the different means available to the Council in addressing disputes, welcomed the Council's practice of dispatching fact-finding missions to fragile situations and added that this instrument "could benefit from some intensification". Furthermore, he emphasized that such "special missions" not only conveyed to the parties the clear message that a situation was under observation and a matter of concern to the Council, but also helped to "prepare for adequate solutions".<sup>437</sup> The representative of Spain stated that the Council should make greater use of its prerogative under Article 34 and, in particular, of Council missions in conflict zones, which would enable it to obtain "information first-hand while exerting pressure on the parties".<sup>438</sup>

*Protection of civilians in armed conflict*

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<sup>435</sup> Ibid., p. 20.

<sup>436</sup> S/PV.4220, p. 16.

<sup>437</sup> S/PV.4753, p. 15.

<sup>438</sup> Ibid., p. 12.

At the 4130<sup>th</sup> meeting of the Security Council, on 19 April 2000, the Secretary-General, in his remarks, referred to a number of recommendations contained in his first report to the Security Council on the protection of civilians in armed conflict.<sup>439</sup> Recalling the successful deployment of a mission to the Central African Republic, he welcomed the Security Council's willingness to consider the future establishment of preventive missions, including the dispatch of monitors and fact-finding missions in cases when such deployments could make a difference between peaceful settlement of disputes and violent conflict.<sup>440</sup> The representative of Portugal, speaking on behalf of the European Union and associated countries, supported the Secretary-General's views and added that early deployment of preventive missions such as fact-finding missions should be considered whenever possible.<sup>441</sup> The representative of Egypt agreed that the Council could carry out certain actions like sending fact-finding missions to prevent conflicts and reach peaceful settlements, but noted that the consent of the State concerned was required, as these procedures "were in fact voluntary".<sup>442</sup>

At its 4312<sup>th</sup> meeting, on 23 April 2001, the Council met to discuss the second report of the Secretary-General on the above-mentioned topic.<sup>443</sup> In her statement, the Deputy Secretary-General advocated for more frequent use of fact-finding missions to conflict areas with a view to identifying the specific requirements for humanitarian assistance.<sup>444</sup> Subsequently, the United Nations High Commissioner for Human Rights commented that "establishing the facts" could play a crucial part in the protection of civilians in armed conflict.<sup>445</sup> Referring to a number of instances where human rights fact-finding missions had taken place, including in relation to Afghanistan, Kosovo, East

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<sup>439</sup> In his report dated 8 September 1999, the Secretary-General recommended that the Security Council take into consideration the deployment, in certain cases, of "a preventive peacekeeping operation, or of another preventive monitoring presence". He also recommended that the Council increase its use of relevant provisions in the Charter, such as Articles 34 to 36, by investigating disputes at an early stage, inviting Member States to bring disputes to the Security Council's attention, and recommending appropriate procedures for dealing with disputes, and strengthen the relevance of Article 99 of the Charter by taking concrete action in response to threats against peace and security as these were identified by the Secretariat. See S/1999/957, p. 13.

<sup>440</sup> S/PV.4130, p. 3.

<sup>441</sup> S/PV.4130 (Resumption 1), p. 3.

<sup>442</sup> *Ibid.*, p. 13.

<sup>443</sup> S/PV.4312, pp. 3-4.

<sup>444</sup> S/2001/331, p. 6.

<sup>445</sup> S/PV.4312, p. 5.

Timor and Sierra Leone, the Commissioner further added that the reports of these missions should be available to the Security Council.<sup>446</sup> In the following debate, several speakers endorsed the Secretary-General's recommendation regarding more frequent use of fact-finding missions to conflict areas with a focus on humanitarian assistance.<sup>447</sup> The representative of Ukraine suggested that Council members had regular exchanges of views with other organs of the United Nations system, such as ECOSOC. He stated that there was "ample room" for the latter not only to participate in such missions, but also to lead them.<sup>448</sup> The representative of the United Kingdom commented that the Security Council should engage the parties in conflict and undertake fact-finding missions, and expressed the opinion that "in practice, these actions are those which are most likely to be taken up by actors that are represented in the field". As a consequence, he "noted with interest" the Ukrainian proposal that ECOSOC should join in fact-finding missions and called for clear arrangements for coordination with the other United Nations bodies.<sup>449</sup> The representative of Indonesia cautioned that the deployment of fact-finding missions should be based on the consent of the countries concerned.<sup>450</sup>

### *Women and peace and security*

At the 4208<sup>th</sup> meeting of the Security Council, on 24 and 25 October 2000, the representative of the United States, supported by the representative of New Zealand, stated that the presence of women in all phases of peacekeeping and peace-building missions, including fact-finding missions, should be "visible and consistent".<sup>451</sup> The representative of Indonesia suggested that the Council included gender issues in the terms of references of fact-finding missions.<sup>452</sup> Similarly, the representative of Namibia suggested that fact-finding missions should include "a senior gender expert" so that the

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<sup>446</sup> Ibid.

<sup>447</sup> S/PV.4312, p.10 (Ukraine); p. 11 (Tunisia); and p. 24 (Ireland); S/PV.4312 (Resumption 1), p. 5 (Sweden, on behalf of the European Union and associated countries); and p. 21 (Pakistan).

<sup>448</sup> S/PV.4312, p. 10.

<sup>449</sup> Ibid., p. 32.

<sup>450</sup> S/PV.4312 (Resumption 1), p. 33.

<sup>451</sup> S/PV.4208, p. 13 (United States); S/PV.4208 (Resumption 1), p. 21 (New Zealand).

<sup>452</sup> S/PV.4208 (Resumption 1), p. 25.

Council could gain a full appreciation of the gender dimension of ongoing or potential conflicts.<sup>453</sup>

### *Children and armed conflict*

At the 4684<sup>th</sup> meeting of the Security Council, on 14 January 2003, the representative of Costa Rica noted that there was a need for fact-finding missions in cases of accusations of serious violations of the rights of the child. These missions, he added, could also offer early warning in the event of a situation that might potentially threaten the security of children.<sup>454</sup>

### **Referral of disputes to the Security Council in light of Article 35**

Article 35 (1) and (2) grants Member States and non-member States the right to bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council. Explicit references to this prerogative were made in the following instance.<sup>455</sup>

### *The role of the Security Council in the pacific settlement of disputes*

At the 4753<sup>rd</sup> meeting of the Security Council, on 13 May 2003, in connection with the use of Article 35 by Member States, the representative of Greece, speaking on behalf of the European Union and associated countries, underlined the obligation of States to refer to the Council a dispute to which they were parties if they failed to reach an early solution by any of the means indicated in Article 33 of the Charter.<sup>456</sup> Recalling the importance of diversifying the tools at the Council's disposal under Chapter VI, the

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<sup>453</sup> S/PV.4208 (Resumption 2), p. 13.

<sup>454</sup> S/PV.4684 (Resumption 1), p. 24.

<sup>455</sup> At the 4720<sup>th</sup> meeting of the Security Council, in connection with the agenda item "Proliferation of small arms and light weapons and mercenary activities: threats to peace and security in West Africa", the representative of Liberia referred to a formal complaint presented recently by his country to the Security Council, in line with Article 35 (1) of the Charter, which documented "Guinea's involvement in fuelling the war in Liberia". See S/PV.4720, p. 19.

<sup>456</sup> S/PV.4753 (Resumption 1), p. 2.

representative of Bulgaria emphasized the importance of Article 35 of the Charter which enabled States to have greater recourse to the Council.<sup>457</sup>

### **Referral of legal disputes in light of Article 36 (3)**

Article 36 (3) of the Charter stipulates that the Security Council, in making recommendations under Article 36, “should take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court”.

In the following instances, Member States debated the question of whether the Security Council could make more frequent recourse to the provisions of Article 36.

#### *The role of the Security Council in the peaceful settlement of disputes*

At the 4753<sup>rd</sup> meeting of the Security Council, on 13 May 2003, speakers discussed, inter alia, the role of the International Court of Justice (ICJ) and of the International Tribunal for the Law of the Sea in the context of the peaceful settlement of disputes. During the debate, many delegations emphasized the importance of these judicial mechanisms in the prevention and resolution of legal disputes.

With regard to the role of the ICJ, the Secretary-General, in his statement, recalled the recommendations included in his report dated 7 June 2001,<sup>458</sup> including the one pertaining to earlier and more frequent resort to the Court by Member States to solve their disputes.<sup>459</sup> Similarly, Mr. Nabil Elaraby, judge of the ICJ, invited the Council to make a better use of the mechanisms provided by the Charter and involving the Court. Emphasizing that the Council could consider a “strict application” of the provisions of Article 36 (3), he recalled that the provision had been used only once, in the Corfu Channel case in 1947. He also added that the Council could consider requesting,

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<sup>457</sup> S/PV.4753, p. 20.

<sup>458</sup> S/2001/574, p. 14.

<sup>459</sup> S/PV.4753, p. 3.

whenever necessary, an advisory opinion from the ICJ to clarify legal questions, as once occurred in 1970 with respect to Namibia. He further underlined the importance of increasing the acceptance by States of the compulsory jurisdiction of the Court, recalling that that recommendation was contained in the ‘Agenda for Peace’,<sup>460</sup> together with two other proposals aimed at enhancing the role of the Court: that when the submission of a dispute to the full Court was not practical, its Chambers could be used; and that authority should be conferred on the Secretary-General to request advisory opinions from the ICJ.<sup>461</sup>

During the debate, several speakers echoed the recommendations of the Secretary-General by drawing attention to Article 36 (3) in the Charter and encouraging the Council to make more use of the Article’s provisions.<sup>462</sup> In this connection, the representative of Mexico commented that it was essential that States, which had not yet done so, make a declaration recognizing the jurisdiction of the Court with respect to any other State accepting the same obligation.<sup>463</sup> The representative of Cameroon stated that, in order to preserve the credibility of the machinery established in the Charter, the Security Council and the United Nations should adopt measures to compel States, if necessary and whenever circumstances so dictated, to implement forthwith and without equivocation the decisions established for peaceful procedures, especially decisions of the ICJ.<sup>464</sup> Similarly, the representative of Honduras noted that it was also a responsibility of the Security Council to make sure that the sentences from the ICJ were carried out.<sup>465</sup> The representative of Pakistan underlined that particular consideration should be given to the suggestion of more frequently requesting the ICJ for advisory opinions.<sup>466</sup>

With regard to the International Tribunal for the Law of the Sea, during the debate, a few speakers mentioned the importance of such a judicial mechanism in the

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<sup>460</sup> S/2411.

<sup>461</sup> S/PV.4753, pp. 8-9.

<sup>462</sup> S/PV.4753, p. 10 (Mexico); p. 13 (United Kingdom); p. 16 (Germany); p. 18 (Chile); p. 21 (Guinea); pp. 24-25 (Syrian Arab Republic); and pp. 27-28 (Cameroon); S/PV.4753 (Resumption 1), p. 2 (Greece on behalf of the European Union and associated countries); and p. 4 (Honduras).

<sup>463</sup> S/PV.4753, p. 10.

<sup>464</sup> *Ibid.*, pp. 27-28.

<sup>465</sup> S/PV.4753 (Resumption 1), p. 4.

<sup>466</sup> S/PV.4753, p. 29.

context of the pacific settlement of disputes.<sup>467</sup> More specifically, the representative of Mexico stated that the Tribunal was becoming increasingly more important in the pacific settlement of conflicts pertaining to the Convention of the Law of the Sea, and in general in matters regarding ocean affairs.<sup>468</sup> The representative of Greece, speaking on behalf of the European Union and associated countries, expressed the view that early and more frequent resort to the International Tribunal for the Law of the Sea would greatly contribute to the maintenance of international peace and security and the promotion of the primacy of international law in international relations.<sup>469</sup>

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

At its 4334<sup>th</sup> meeting, on 21 June 2001, the Council met to discuss the Secretary-General's report on the prevention of armed conflict.<sup>470</sup> In his report, the Secretary-General made four recommendations regarding the role of the ICJ: (i) Member States should resort to the ICJ earlier and more often to settle disputes; (ii) Member States that had not yet done so should accept the general jurisdiction of the Court; (iii) Member States should adopt, when signing treaties, clauses providing for disputes to be referred to the Court; and (iv) the General Assembly should authorize the Secretary-General and other United Nations organs to take advantage of the advisory competence of the Court, and other United Nations organs that already enjoy such authorization should resort to the Court more frequently for advisory opinions.<sup>471</sup>

In the following debate, several speakers supported the Secretary-General's call for a strengthening of the Court's role.<sup>472</sup> The representative of the United Kingdom supported the Secretary-General's first two recommendations and urged Members of the Organization that had not yet done so, to accept the compulsory jurisdiction of the ICJ.<sup>473</sup>

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<sup>467</sup> S/PV.4753, p. 11 (Mexico); and p. 16 (Germany); S/PV.4753 (Resumption 1), p. 2 (Greece, on behalf of the European Union and associated countries).

<sup>468</sup> S/PV.4753, p. 11.

<sup>469</sup> S/PV.4753 (Resumption 1), p. 2.

<sup>470</sup> S/2001/574.

<sup>471</sup> *Ibid.*, p. 14.

<sup>472</sup> S/PV.4334 (Resumption 1), p. 15 (Mexico); p. 19 (Nigeria); p. 22 (Iraq); and p. 28 (Permanent Observer of Palestine).

<sup>473</sup> S/PV.4334, p. 10.

The representative of the United States, supported by the representatives of Nigeria and Belarus, expressed the view that the United Nations system needed to improve cooperation and coordination, and that the ICJ had a contribution to make to this end.<sup>474</sup>

### **Referrals by the Secretary-General in light of Article 99**

Article 99 of the Charter empowers the Secretary-General to bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security. In the discussions of the Council presented below, Member States generally welcomed the strengthening of the Secretary-General's prerogatives under Article 99, especially in connection with the prevention of armed conflicts and humanitarian crises, as well as the protection of civilians in armed conflicts. In a number of instances, Article 99 was explicitly invoked by a Member State in communications addressed to the President of the Security Council and the Secretary-General. For example, in connection with the alleged enforcement of no-flight zones by United States and British aircraft, the representative of Iraq, by identical letters dated 2 December 2002 addressed to the President of the Council and the Secretary-General, expressed his hope that, in accordance with the Secretary-General's responsibilities as specified in Article 99 of the Charter, the Secretary-General would draw the attention of the Security Council to carry out its duties under Article 39 of the Charter.<sup>475</sup> Subsequently, in connection with the United States-led military action against Iraq, by two letters addressed to the Secretary-General dated 9 and 21 March 2003, respectively, the representative of Iraq appealed to the Secretary-General, under Article 99 of the Charter, to bring the new developments, posing a "threat to international peace and security", to the attention of the Security Council.<sup>476</sup>

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<sup>474</sup> S/PV.4334, p. 8 (United States); S/PV.4334 (Resumption 1), p. 19 (Nigeria); and p. 25 (Belarus).

<sup>475</sup> S/2002/1327. See also the following letters addressed to the Secretary-General in which the representative of Iraq explicitly invoked Article 99 of the Charter: S/2000/774; S/2000/776; S/2000/795; S/2000/820; S/2000/826; S/2000/848; and S/2001/559.

<sup>476</sup> S/2003/358 and S/2003/296.

*Maintaining peace and security: Humanitarian aspects of issues before the Security Council*

At the 4109<sup>th</sup> meeting of the Security Council, on 9 March 2000, speakers recognized the importance of timely consideration of humanitarian issues in preventing the escalation of conflicts and in maintaining international peace and security. In this regard, the representative of the Netherlands encouraged the Secretary-General to include humanitarian issues in his briefings to the Council and underlined that the Secretary-General's exercise of his prerogative under Article 99 was an indispensable means for ensuring that the Council could discharge its duties in cases where humanitarian crises endangered international peace and security.<sup>477</sup> The representative of Portugal, speaking on behalf of the European Union and associated countries, called upon the Secretary-General to resort more often to the prerogative given to him under Article 99. In this connection, he commented that it was indispensable to improve and use the capacity of the Secretariat to enable the Security Council to consider ways in which it might regularly monitor potential conflicts or massive violations of human rights and humanitarian law either through the use of existing mechanisms, such as the International Fact-Finding Commission, or by other means.<sup>478</sup> The representative of Norway supported previous speakers in urging the Secretary-General to make full use of Article 99 and also stated that this would require the establishment of mechanisms for early warning to provide time and opportunity for effective preventive diplomacy and pre-emptive conflict mediation.<sup>479</sup>

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

At the 4174<sup>th</sup> meeting of the Security Council, on 20 July 2000, many speakers underlined the critical role that the Secretary-General could play in making conflict prevention a more effective strategy.<sup>480</sup> In this respect, a number of representatives

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<sup>477</sup> S/PV.4109, p. 17.

<sup>478</sup> S/PV.4109 (Resumption 1), p. 3.

<sup>479</sup> Ibid. p. 6.

<sup>480</sup> S/PV.4174, p. 4 (United States); p. 6 (United Kingdom); p. 11 (the Netherlands); p. 14 (Tunisia); pp. 15-16 (Malaysia); p. 27 (France, on behalf of the European Union and associated countries); S/PV.4174 (Resumption 1), pp. 7-8 (Brazil); and p. 11 (Indonesia).

explicitly invoked Article 99 and emphasized the importance of the role of the Secretary-General in using this prerogative.<sup>481</sup> The representative of the United Kingdom, supported by the representative of Pakistan, commented that the Secretary-General needed to be given sufficient resources to make the early warning capacity of the Secretariat effective “in real life”. He also noted that it was essential that the Secretariat be able to produce clear-sighted analysis, comprehensive and integrated planning and well-resourced implementation. Furthermore, he encouraged the Secretary-General to “act on his convictions” and when a situation merit the attention of the Council, to do so under his prerogatives under Article 99.<sup>482</sup> Similarly, the representative of France reminded the Council of the role of the Secretary-General in alerting the Security Council to certain situations in accordance with Article 99 of the Charter, and remarked that the Secretariat’s early warning, reaction and analysis capabilities should be bolstered so that the Secretary-General could be able to better perform that task.<sup>483</sup> The representative of Pakistan stated that the Secretary-General should play a more proactive role, as envisaged in Article 99, and not find himself inhibited by one party in a particular conflict situation.<sup>484</sup> Echoing this statement, the representative of Malaysia added that, in case of political sensitivities, it would be more appropriate for the Secretary-General to arrange informal exchanges of views. He also added that the Council would benefit tremendously from timely and in-depth briefings by the Secretariat on potential conflict situations that would be brought to the attention of the Council by the Secretary-General by virtue of Article 99 of the Charter, which should be invoked more frequently than it has been in the past. Noting that the Secretary-General had been empowered to do so by the Charter, he pointed out that the latter should be encouraged to invoke this prerogative to give substance to the concept of conflict prevention.<sup>485</sup> Similarly, the representative of Ukraine believed that the Secretary-General played an essential role in conflict prevention in bringing to the attention of the Security Council any matter that might threaten

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<sup>481</sup> S/PV.4174, p. 13 (China); p. 14 (Tunisia); p. 27 (France, on behalf of the European Union and associated countries); S/PV.4174 (Resumption 1), p. 5 (Pakistan); and p. 10 (Senegal).

<sup>482</sup> S/PV.4174, p. 6.

<sup>483</sup> *Ibid.*, p. 27.

<sup>484</sup> S/PV.4174 (Resumption 1), p. 5.

<sup>485</sup> S/PV.4174, p. 16.

international peace and security, in accordance with Article 99 of the Charter..<sup>486</sup> The representative of Tunisia stated that the role of the Secretary-General in conflict prevention was an essential one, which he should exercise in accordance with Article 99 of the Charter.<sup>487</sup> The representative of Brazil stated that, as a contribution to prevention, Article 99 of the Charter offered the Secretary-General a most valuable instrument for engaging the Council in preventive action and that the role played by the special representatives of the Secretary-General and by his good offices missions should also be underscored.<sup>488</sup>

At the 4334<sup>th</sup> meeting, on 21 June 2001, the Council met to consider the report of the Secretary-General dated 7 June 2001 on the prevention of armed conflicts.<sup>489</sup> In his report, the Secretary-General had underlined that he had a role in the prevention of armed conflict since the earliest days of the Organization, through “quiet diplomacy” or “good offices of the Secretary-General”. The mandate for prevention was derived from Article 99 of the Charter of the United Nations, which provided that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.<sup>490</sup> During the discussion, the representative of France reiterated that there was a need to strengthen the early warning, reaction and analysis capacities of the Secretariat so that the Secretary-General could be in a better position to perform his function according to Article 99.<sup>491</sup> Echoed by the representatives of Singapore and Sweden, on behalf of the European Union and associated countries, the representative of France therefore welcomed the Secretary-General’s intention to initiate a practice of providing periodic regional or subregional reports to the Security Council on threats to international peace and security.<sup>492</sup> The representative of Pakistan commented that, although under Article 99 the Secretary-General had a responsibility to bring to the notice of the Security Council any matter which may threaten international peace and security, this did not restrict the Secretary-

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<sup>486</sup> Ibid., p.22.

<sup>487</sup> Ibid., p. 14.

<sup>488</sup> S/PV.4174 (Resumption 1), p. 4.

<sup>489</sup> S/2001/574.

<sup>490</sup> Ibid., pp. 14-16.

<sup>491</sup> S/PV.4334, p. 17.

<sup>492</sup> S/PV.4334, p. 17 (France); p. 22 (Singapore); S/PV.4334 (Resumption 1), p. 3 (Sweden, on behalf of the European Union and associated countries).

General from using his good offices, fact-finding missions and personal envoys to prevent conflict.<sup>493</sup>

### *Protection of civilians in armed conflict*

At its 4660<sup>th</sup> meeting, on 10 December 2002, the Council met to consider the latest report of the Secretary-General, dated 26 November 2002, on the protection of civilians in armed conflict.<sup>494</sup> In the report, the Secretary-General outlined a number of practical initiatives to heighten awareness of the need to protect civilians in the daily work of the United Nations. These included strengthening the relevance of Article 99 by taking concrete action in response to threats against peace and security identified by the Secretariat ('Roadmap for the protection of civilians').<sup>495</sup> During the debate, the representative of Mexico referred to Article 99 and to the power conferred to the Secretary-General in assisting the Security Council in matters of protecting civilians in armed conflict.<sup>496</sup> The representative of the United Kingdom, echoed by the representatives of Canada and Austria, encouraged the Secretary-General to make more use of his prerogative under Article 99 with the protection of civilians in mind.<sup>497</sup> Similarly, the representative of the Russian Federation remarked that the Secretary-General should act more promptly in conveying appropriate information to the Council about situations that could pose a threat to the maintenance of international peace and security, including instances of deliberate denial of safe access by humanitarian personnel to civilians, as well as about other gross violations of the rights of civilians.<sup>498</sup>

### *Children and armed conflict*

In his report of 19 July 2000 on children and armed conflict, the Secretary-General stated that it was his intention to pay particular attention to issues regarding the

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<sup>493</sup> Ibid., p. 24.

<sup>494</sup> S/2002/1300.

<sup>495</sup> Ibid., p. 19. This suggestion had already been made by the Secretary-General in his report dated 8 September 1999 on the protection of civilians in armed conflict (S/1999/957).

<sup>496</sup> S/PV.4660, p. 12.

<sup>497</sup> S/PV.4660, p. 27 (United Kingdom); S /PV.4660 (Resumption 1), p. 9 (Canada); and p. 17 (Austria).

<sup>498</sup> Ibid., p. 28.

protection of children affected by armed conflict when preparing periodic reports on disputes that could threaten international peace and security, as mandated by Article 99.<sup>499</sup> On the basis of this recommendation, the Council, by resolution 1379 (2001) of 20 November 2001, requested the Secretary-General to attach to his reports to the Council a list of parties to armed conflicts that recruited or used children in violation of international obligations, in situations that could be brought to the attention of the Security Council in accordance with Article 99.<sup>500</sup> At the 4684<sup>th</sup> meeting of the Security Council, on 14 January 2003, the representative of Costa Rica remarked that it was essential for the Secretary-General to make full use of his powers under Article 99 by referring to the Security Council any situations of armed conflict in which young people under the age of 18 were recruited or used in fighting.<sup>501</sup>

*The situation in the Middle East, including the Palestinian question*

At the 4515<sup>th</sup> meeting of the Council on 19 April 2002, the representative of Singapore, recalling the Secretary-General's call for the deployment of an impartial, robust and credible multinational force to the Middle East, remarked that the Secretary-General had fulfilled his Charter obligation under Article 99 by bringing the situation in the Middle East to the Council's attention.<sup>502</sup>

**Efforts of the Secretary-General for the peaceful settlement of disputes in light of Article 33**

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

At the 4174<sup>th</sup> meeting of the Security Council, on 20 July 2000, many speakers expressed appreciation for the analysis offered by the Secretary-General on conflict

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<sup>499</sup> S/2000/712, p. 34.

<sup>500</sup> Resolution 1379 (2001), para. 16. The Secretary-General provided the Security Council with a list of parties to armed conflicts recruiting or using children in violation of international obligations in his report of 26 November 2002 (S/2002/1299).

<sup>501</sup> S/PV.4684 (Resumption 1), p. 25.

<sup>502</sup> S/PV.4515 (Resumption 1), p. 14.

prevention strategies, and a number of delegations underlined the critical role that he had to play in order for prevention to be an effective strategy. They reiterated such previously identified conflict-prevention mechanisms as early warning systems and coordination within the United Nations system, and stressed that the Secretary-General, directly or through his special envoys, must enjoy both the authority and the resources to take action to prevent conflict or their re-emergence.<sup>503</sup> The representative of the United States stated that a possible means of strengthening the United Nations conflict-prevention and early warning capacity was to consider reinforcing the roles of the Special Representatives of the Secretary-General, in particular their abilities to identify hot spots and to intervene early.<sup>504</sup> Also the representative of the Russian Federation attached paramount importance to improving the means of preventing armed conflicts such as early warning systems, using inter alia the potential of the Secretary-General.<sup>505</sup> The representative of Malaysia noted that a truly preventive action or preventive diplomacy would involve the dispatch of a mission to a potential area of conflict that had not erupted and which resulted in averting the conflict. He added that such missions would more appropriately lie in the realm of preventive diplomacy, as opposed to preventive action, and might be best handled by the Secretary-General or his emissary in the context of his good offices or by individual Member States that were prepared to undertake such quiet and sensitive diplomacy.<sup>506</sup> The representative of Ukraine supported the Secretary-General's strategies for conflict prevention, involving the use of all available instruments, including confidence building, early warning, fact-finding, good offices, mediation, citizen diplomacy measures, naming of special representatives and sending envoys.<sup>507</sup> Also the representatives of Tunisia and Brazil underscored the role played by the special representatives of the Secretary-General and by his good offices missions in the prevention of armed conflicts.<sup>508</sup>

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<sup>503</sup> S/PV.4174, p. 5 (United States); p. 6 (United Kingdom); p. 12 (the Netherlands); p. 14 (Tunisia); p. 16 (Malaysia); p. 18 (Namibia); p. 22 (Ukraine); p. 27 (France, speaking on behalf of the European Union and associated countries); S/PV.4174 (Resumption 1), p. 4 (Brazil); p. 11 (Indonesia); and p. 14 (United Republic of Tanzania).

<sup>504</sup> S/PV.4174, p. 5.

<sup>505</sup> Ibid., p. 11.

<sup>506</sup> Ibid., p. 16.

<sup>507</sup> Ibid., p. 22.

<sup>508</sup> S/PV.4174, p. 14 (Tunisia). S/PV.4174 (Resumption 1), p. 8 (Brazil).

At the 4334<sup>th</sup> meeting of the Security Council, on 21 June 2001, the Council met to consider the report of the Secretary-General dated 7 June 2001 on the prevention of armed conflicts.<sup>509</sup> In his report, the Secretary-General had underscored that preventive diplomacy was an important part of his responsibilities, pursued through persuasion, confidence-building and information-sharing to find solutions to difficult problems at a very early stage. He saw the increasing demand for his engagement in this type of preventive action as recognition that the Secretary-General could do much quietly and discreetly outside the limelight of public attention, even though the results may not always be visible or easily assessed. He therefore intended to enhance, with the support of Member States, his traditional preventive role in four ways: first, by increasing the use of United Nations interdisciplinary fact-finding and confidence-building missions to volatile regions; second, by developing regional prevention strategies with regional partners and appropriate United Nations organs and agencies; third, by establishing an informal network of eminent persons for conflict prevention; and fourth, by improving the capacity and resource base for preventive action in the Secretariat.<sup>510</sup> Several speakers voiced their support for an enhancement of the role of the Secretary-General in conflict prevention, as proposed by the latter in his report.<sup>511</sup> The representative of Ukraine supported the proposals of the Secretary-General, and highlighted the idea of identifying eminent persons to serve as an informal network for advice and action in support of the Secretary-General's efforts to prevent and resolve armed conflicts.<sup>512</sup> The representative of Singapore commended the recent efforts of the Secretary-General to play a more active role in conflict prevention and underscored the need to strengthen the Secretariat's early warning analysis capacities. The Secretary-General's visit to the Middle East and active role in the Middle East process, he added, was the most recent contribution he had made to the ongoing efforts to achieve a just and lasting solution in the Middle East.<sup>513</sup> The representative of Iraq also supported the Secretary-General's recommendations, and encouraged the Security Council to support his initiatives and refrain from any action that

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<sup>509</sup> S/2001/574.

<sup>510</sup> *Ibid.*, pp. 14-16.

<sup>511</sup> S/PV.4334, p. 7 (Jamaica); p. 9 (United States); p. 17 (France); p. 22 (Singapore); S/PV.4334 (Resumption 1), p. 10 (Japan) and p. 13 (Egypt).

<sup>512</sup> *Ibid.*, pp. 20-21.

<sup>513</sup> *Ibid.*, p. 22.

could cause him to fail in his task.<sup>514</sup> The representative of Pakistan commented that, although under Article 99 the Secretary-General had a responsibility to bring to the notice of the Security Council any matter which may threaten international peace and security, this did not restrict the Secretary-General from using his good offices, fact-finding missions and personal envoys to prevent conflict.<sup>515</sup>

*The role of the Security Council in the pacific settlement of disputes*

At the 4753<sup>rd</sup> meeting of the Security Council, on 13 May 2003, the Secretary-General recalled that, in recent years, the Council had increasingly requested him to use his good offices and appoint special representatives and envoys, as well as to deploy fact-finding missions to the field.<sup>516</sup> Several speakers expressed support for the efforts of the Secretary-General for the pacific settlement of disputes through good offices and mediation.<sup>517</sup> The representative of Mexico stated that the post of Representative of the Secretary-General had become an effective and very powerful tool in promoting the pacific settlement of disputes.<sup>518</sup> Echoing this statement, the representative of the United States noted that a very significant contribution to the Secretary-General's good offices role had been through his appointment of special representatives, who remained on the ground to work with the involved parties to find and implement peaceful solutions. He therefore added that "strong, capable and experienced" special representatives could provide an extremely important link between peacemaking, peacekeeping and peacebuilding as a country moved from conflict to ceasefire and, then, reconstruction.<sup>519</sup>

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<sup>514</sup> Ibid., p. 21.

<sup>515</sup> Ibid., p. 24.

<sup>516</sup> S/PV.4753, pp. 2-3.

<sup>517</sup> S/PV.4753, p. 13 (United Kingdom); p. 15 (Germany); p. 17 (United States); pp. 19-20 (Bulgaria); p. 21 (France); and p. 29 (Pakistan); S/PV.4753 (Resumption 1), p. 3 (Greece, on behalf of the European Union and associated countries); and p. 14 (Ethiopia).

<sup>518</sup> S/PV.4753, p. 11.

<sup>519</sup> Ibid., p. 17.