
Part VI

Consideration of the provisions of Chapter VI of the Charter

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Introductory note

Part VI deals with the practice of the Security Council during 2008-2009 aimed at promoting and implementing recommendations and methods or procedures for the peaceful settlement of disputes within the framework of Articles 33 to 38 of Chapter VI and Articles 11 and 99 of the Charter of the United Nations.

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. While reaffirming its commitment to the pacific settlement of disputes, in conformity with the Charter, in particular Chapter VI, the Council at a high-level meeting on mediation and settlement of disputes, held on 23 September 2008, underlined the importance of mediation as a means of pacific settlement of disputes, encouraged the further use of this mechanism in the settlement of disputes and highlighted the crucial role of the United Nations in this regard.¹ Following the issuance of the first report of the Secretary-General on enhancing mediation and its support activities,² the Council by its decisions underlined its intention to remain engaged in all stages of the conflict cycle, including in support of mediation, and expressed its readiness to explore further ways and means to reinforce the promotion of mediation as an important means for the pacific settlement of disputes, wherever possible before they evolved into violence. Moreover, the Council in a number of decisions increasingly called upon the Secretary-General's good offices to use mediation as a tool to respond to emerging and existing crises, and highlighted the importance of the actions undertaken by him in promoting mediation.

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 instruments aimed at preventing the outbreak and/or the recurrence of conflicts, including Security Council and fact-finding missions, to determine whether in line with Article 34 of the Charter any dispute or any situation might lead to international friction or give rise to a dispute; support for the good offices of the Secretary-General and his Special Representatives and Envoys; 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 peacebuilding in integrated peacekeeping operations.

As part I of this Supplement sets out a full account of Council proceedings, including with regard to the pacific settlement of disputes, this part will not discuss the practice of the Council aimed at the peaceful settlement of disputes in a comprehensive manner. Instead, it 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 in a readily accessible form which sets forth the practices and procedures to which the Council has had recourse. In line with the Supplement to the *Repertoire* covering the period 2004-2007, 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.

¹ S/PRST/2008/36.

² S/2009/189.

Section I illustrates how, under Article 35, Member States and States which are not Members of the United Nations had brought new disputes or any situation of the nature referred to in Article 34 of the Charter to the attention of the Security Council. This section 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 Council to situations which are likely to threaten the maintenance of international peace and security. Section 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. Section III provides an overview of the recommendations and decisions of the Council made with regard to the peaceful 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. Section IV reflects constitutional discussions within the Security Council on the interpretation or application of the provisions of Chapter VI of the Charter.

The following Articles of the Charter are cited in this part:

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 peaceful 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.

I. Referral of disputes or 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 subsections.

The first subsection, entitled “Referrals by States”, provides an overview of the referrals of disputes or situations to the Security Council under Article 35 (1) and (2). During the period under review, disputes or situations were referred to the Security Council, generally by means of a communication, mainly by Members of the United Nations, either by those directly affected and/or through third States and regional groups. The section also outlines, in a table, new disputes or situations referred to the Council concerning which the Council convened meetings under existing or new agenda items during the period under consideration. Following the trend of previous years, the number of new referrals to the Council significantly decreased during the period 2008-2009.

The second subsection, entitled “Nature of matters referred to the Security Council”, describes the subject matter of the relevant communications referred by Member States to the Council. This is followed by a third subsection entitled “Action requested of the Security Council” which analyses the type of action requested of the Council by Member States submitting a dispute or a situation to its attention.

The last two subsections, 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 such matters to the Council. However, the Secretary-General referred several such situations implicitly to the attention of the Council.

Referrals by States

Article 35 of the Charter, 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 any situation” which might lead to “international friction or give rise to a dispute”. While Article 35 was expressly referred to in several communications, most communications did not cite any specific Article as the basis on which they were submitted.³

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, no State which was not a Member of the United Nations submitted any dispute or situation to the attention of the Council. Situations were referred to the Council exclusively under the provisions of Article 35 (1) directly by the affected Member States, either on their own⁴ or through

³ For explicit references to Article 35, see the following communications addressed to the President of the Security Council: letters dated 12 February 2008 (S/2008/92), 17 February 2008 (S/2008/103) and 6 March 2008 (S/2008/162) from the representative of Serbia in connection with the unilateral declaration of independence of the Serbian province of Kosovo and Metohija; letters dated 17 April 2008 (S/2008/257), 27 May 2008 (S/2008/342), 10 July 2008 (S/2008/453), 8 August 2008 (S/2008/536), 9 August 2008 (S/2008/537), 11 August 2008 (S/2008/540) and 27 August 2008 (S/2008/587) from the representative of Georgia in connection with the situation in Georgia; letter dated 22 September 2009 (S/2009/487) from the representative of Brazil in connection with the presence of the President of Honduras in the Embassy of Brazil at Tegucigalpa.

⁴ See, for example, the following letters addressed to the President of the Security Council: letter dated 12 February 2008 from the representative of Serbia requesting a meeting to consider the unilateral declaration of independence of the Serbian province of Kosovo and Metohija (S/2008/92); letter dated 17 April 2008 from the representative of Georgia requesting a meeting in connection with the launching of formal cooperation between the Russian Government and the de facto authorities of Abkhazia, Georgia, and the Tskhinvali region/South Ossetia (S/2008/257); and letter dated 21 July 2008 from the representative of Cambodia requesting a meeting to consider “Thailand’s violation of the sovereignty and occupation of the territory of the Kingdom of Cambodia” (S/2008/475).

communications from third States and/or regional groups.⁵

Communications by which new disputes or situations were referred to the Council and in response to which the Council convened meetings under new agenda items during the period under review are listed in table 1.⁶

In some instances, the Security Council did not respond positively to requests to convene a meeting. Whereas, under Article 35, States have the power to draw the Council's attention to a matter, this does not imply that the Council has an obligation to consider the matter. For instance, by a letter dated 27 May 2008 addressed to the President of the Security Council, the representative of Georgia, explicitly referring to Article 35, requested a meeting in connection with the downing of a Georgian unmanned aerial vehicle by Russian military aircraft over the territory of Abkhazia, Georgia.⁷ By a letter dated 21 July 2008 addressed to the President of the Security Council, the representative of Cambodia requested a meeting to consider "Thailand's violation of the sovereignty and occupation of the territory of the Kingdom of Cambodia".⁸ No meetings of the Security Council were held following the aforementioned requests.

Communications by which Member States merely conveyed information about a dispute or situation 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 earlier Supplements, table 1 does not include communications referring to disputes or situations considered by the Council under then existing agenda items, so as not to classify separately new developments and the deterioration of situations in ongoing conflicts.

It should, however, be noted that table 1 contains five letters relating to the situation in the Middle East. Although the situation in the Middle East is not a new item, they were included in the table because the five communications, from the representatives of Saudi Arabia, the Libyan Arab Jamahiriya and Egypt, on behalf of the Arab Group, requesting the Security Council to convene an urgent meeting, brought to the Council's attention a deteriorating situation arising in the Occupied Palestinian Territory, leading to hostilities and armed conflict.⁹ In addition, as a result of Kosovo's unilateral declaration of independence, the Council received three communications from the representatives of Serbia and the Russian Federation requesting the Council to convene an emergency meeting under the item relating to the situation in Kosovo entitled "Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)".¹⁰ The situation in Georgia, which was not a new item, was included in table 1 because four communications from the representatives of the Russian Federation, the United States of America and Georgia requested the convening of an emergency meeting as a result of the outbreak of hostilities in South Ossetia and Georgia.¹¹ Lastly, while the situation in the Democratic People's Republic of Korea was not a new item, it was included in table 1 because two communications from the representative of Japan, requesting the Security Council to convene an urgent meeting, brought to the Council's attention a new situation arising in connection with the nuclear test conducted by the Democratic People's Republic of Korea.¹²

⁵ See, for example, the following letters addressed to the President of the Security Council: letter dated 21 January 2008 from the representative of Saudi Arabia, on behalf of the States members of the League of Arab States, requesting an urgent meeting of the Security Council to consider "Israeli aggression in the Occupied Palestinian Territory, including East Jerusalem" (S/2008/31); and letter dated 5 December 2008 from the representative of Egypt, as Chair of the Arab Group, requesting the Security Council to convene an urgent meeting to address the situation in the Occupied Palestinian Territory, including East Jerusalem (S/2008/765).

⁶ The adoption of a new agenda item does not necessarily imply the existence of a new dispute or situation: it may simply be a new formulation of an item already before the Council.

⁷ S/2008/342.

⁸ S/2008/475.

⁹ S/2008/31, S/2008/142, S/2008/615, S/2008/842 and S/2008/843.

¹⁰ S/2008/103, S/2008/104 and S/2008/162.

¹¹ S/2008/533, S/2008/536, S/2008/537 and S/2008/538.

¹² S/2009/176 and S/2009/271.

Table 1

Communications bringing disputes or situations to the attention of the Security Council during the period 2008-2009

<i>Communications</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
The situation in the Middle East, including the Palestinian question		
Letter dated 21 January 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council (S/2008/31)	The convening of an urgent meeting of the Security Council to consider Israeli aggression in the Occupied Palestinian Territory, including East Jerusalem	5824th meeting 22 January 2008
Letter dated 1 March 2008 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/2008/142)	The convening of an urgent meeting of the Security Council to consider the deteriorating situation in the Occupied Palestinian Territory, due to continuing Israeli military attacks on the civilian population, under the item "The situation in the Middle East, including the Palestinian question"	5847th meeting 1 March 2008
Letter dated 22 September 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Saudi Arabia to the United Nations addressed to the President of the Security Council (S/2008/615)	The convening of an urgent meeting of the Security Council on Israeli settlement activities in the occupied Palestinian territories	5983rd meeting 26 September 2008
Letter dated 31 December 2008 from the Permanent Representative of Egypt to the United Nations addressed to the President of the Security Council (S/2008/842)	The convening of an emergency meeting of the Security Council "to consider the continued Israeli military aggression" against the occupied Palestinian territory in the Gaza Strip	6060th meeting 31 December 2008
Letter dated 31 December 2008 from the Permanent Representative of the Libyan Arab Jamahiriya to the United Nations addressed to the President of the Security Council (S/2008/843)		
Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)		
Letter dated 17 February 2008 from the Permanent Representative of Serbia to the United Nations addressed to the President of the Security Council (S/2008/103)	The convening of an emergency meeting of the Security Council to consider the unilateral declaration of independence by the provisional institutions of self-government of the Serbian province of Kosovo and Metohija in violation of Security Council resolution 1244 (1999) and the territorial integrity of the Republic of Serbia	5839th meeting 18 February 2008
Letter dated 17 February 2008 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council (S/2008/104)		

<i>Communications</i>	<i>Action requested of the Security Council</i>	<i>Meeting and date</i>
Letter dated 6 March 2008 from the Chargé d'affaires a.i. of the Permanent Mission of Serbia to the United Nations addressed to the President of the Security Council (S/2008/162)	The convening of an emergency meeting to consider the aggravation of the situation concerning the Serbian province of Kosovo and Metohija owing to the illegal unilateral declaration of independence by the provisional institutions of self-government and the subsequent recognition of this illegal act by some States Members of the United Nations in violation of the sovereignty and territorial integrity of the Republic of Serbia	5850th meeting 11 March 2008
The situation in Georgia		
Letter dated 7 August 2008 from the Permanent Representative of the Russian Federation to the United Nations addressed to the President of the Security Council (S/2008/533)	The convening of an emergency meeting to consider the aggressive actions of Georgia against South Ossetia, an internationally recognized party to the conflict	5951st meeting 8 August 2008
Letter dated 8 August 2008 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council (S/2008/536)	The convening of a meeting of the Security Council to address the alleged intrusion of Russian military aircraft into Georgian airspace	5952nd meeting 8 August 2008
Letter dated 9 August 2008 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council (S/2008/537)	The convening of an emergency meeting of the Security Council to address the escalation of violence in Georgia	5953rd meeting 10 August 2008
Letter dated 10 August 2008 from the Permanent Representative of the United States of America to the United Nations addressed to the President of the Security Council (S/2008/538)		
Letter dated 27 August 2008 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council (S/2008/587)	The convening of a meeting of the Security Council to consider the illegal unilateral actions of the Russian Federation with regard to two Georgian provinces (Abkhazia and South Ossetia) in violation of the Charter, all Security Council resolutions on Georgia, fundamental norms and principles of international law, the Helsinki Final Act, the six-point accord and the sovereignty, independence and territorial integrity of Georgia	5969th meeting 28 August 2008

Communications	Action requested of the Security Council	Meeting and date
Non-proliferation/Democratic People's Republic of Korea		
Letter dated 4 April 2009 from the Permanent Representative of Japan to the United Nations addressed to the President of the Security Council (S/2009/176)	The convening of a meeting of the Security Council to consider the launch by the Democratic People's Republic of Korea, under the item entitled "Non-proliferation/Democratic People's Republic of Korea"	6106th meeting 13 April 2009
Letter dated 25 May 2009 from the Permanent Representative of Japan to the United Nations addressed to the President of the Security Council (S/2009/271)	The convening of an urgent meeting of the Security Council to consider the announcement by the Democratic People's Republic of Korea that it had conducted a nuclear test	6141st meeting 12 June 2009
Letter dated 22 September 2009 from the Permanent Representative of Brazil to the United Nations addressed to the President of the Security Council (S/2009/487)		
Letter dated 22 September 2009 from the Permanent Representative of Brazil to the United Nations addressed to the President of the Security Council (S/2009/487)	The convening of an urgent meeting of the Security Council to inform members of the situation related to the presence of the President of Honduras in the Embassy of Brazil at Tegucigalpa in order to prevent any action that might further aggravate the situation	6192nd meeting 25 September 2009

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".¹³ In some instances, the subject matter of the relevant communications was referred to as "developments",¹⁴ or described in narrative form.¹⁵

¹³ See, for example, letter dated 1 March 2008 from the representative of the Libyan Arab Jamahiriya to the President of the Security Council in connection with the situation in the Middle East, including the Palestinian question (S/2008/142).

¹⁴ See, for example, the following letters addressed to the President of the Security Council: in connection with the "grave situation in the Serbian province of Kosovo and Metohija", letter dated 12 February 2008 from the representative of the Russian Federation (S/2008/93); and in connection with "the Libyan ship *Al-Marwa* which was bound for the port of Gaza carrying humanitarian aid", letter dated 2 December 2008 from the representative of the Libyan Arab Jamahiriya (S/2008/754).

¹⁵ See, for example, the following letters addressed to the President of the Security Council: in connection with the dispute between Thailand and Cambodia, letter dated

It should 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,¹⁶ and/or as

21 July 2008 from the representative of Cambodia (S/2008/475); and in connection with the situation in the Occupied Palestinian Territory, including East Jerusalem, letter dated 5 December 2008 from the representative of Egypt (S/2008/765).

¹⁶ In a letter dated 21 July 2008 addressed to the President of the Security Council, the representative of Cambodia stated that the escalating situation with Thailand was "a grave threat to peace and security" in the region (S/2008/475).

acts of aggression.¹⁷ In connection with those communications, however, the Council did not always determine the existence of any threat to the peace, breach of the peace or act of aggression.

Action requested of the Security Council

In their communications to the Security Council, States most often requested the Council to convene an urgent emergency meeting to consider the dispute or situation.¹⁸ 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.

For example, in a letter dated 31 December 2008 addressed to the President of the Security Council, the representative of Egypt, in his capacity as Chair of the Arab Group, requested the Council to convene an emergency meeting to adopt “an enforceable and binding resolution that would ensure an immediate ceasefire, cessation of the Israeli military aggression, lifting of the blockade, opening of border-crossing points, end of the Israeli policy of collective punishment, providing international protection to the Palestinian people and ensuring calm”.¹⁹

Referrals by the Secretary-General

While Article 99 of the Charter stipulates that the Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security, 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 not on its agenda and also conveyed to the Council his intention to establish a commission of inquiry. For example, in connection with the assassination of the

former Prime Minister of Pakistan, Mohtarma Benazir Bhutto, the Secretary-General noted, by a letter dated 2 February 2009, that he had received a request from the Government of Pakistan that he establish an international commission of inquiry. He acceded to that request and expressed his intention to establish a three-member Commission of Inquiry. The terms of reference of the proposed Commission were annexed to his letter.²⁰ In a letter dated 3 February 2009 addressed to the Secretary-General, the President of the Security Council subsequently stated that the former’s intention to accede to the request of the Government of Pakistan and establish a commission of inquiry had been brought to the attention of the members of the Council, who had taken note of it with appreciation.²¹

In another instance, by a letter dated 28 October 2009 addressed to the President of the Security Council, the Secretary-General informed the Council that he had decided “to establish an international Commission of Inquiry to investigate the many killings, injuries and alleged gross human rights violations that took place in the Republic of Guinea on 28 September 2009”.²² The terms of reference for the proposed Commission were annexed to his letter. By a statement of the President dated 28 October 2009, the Council took note of the fact that the authorities of Guinea had officially committed to support the work of the international commission of inquiry in secure conditions, and welcomed the statement of the summit of the Economic Community of West African States (ECOWAS) supporting the Secretary-General’s decision to establish a commission to investigate the events.²³

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.²⁴

¹⁷ By a letter dated 10 July 2008 addressed to the President of the Security Council, the representative of Georgia requested the Council to convene a meeting in order to consider the intrusion of a Russian military aircraft on 8 July 2008 into Georgian sovereign airspace, as “a fact of aggression” which had been explicitly confirmed by the Ministry of Foreign Affairs of the Russian Federation (S/2008/453).

¹⁸ See table 1.

¹⁹ S/2008/842.

²⁰ S/2009/67.

²¹ S/2009/68.

²² S/2009/556.

²³ S/PRST/2009/27.

²⁴ For more information, see part IV, sect. I.

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 continuance of the dispute or situation is likely to endanger the maintenance of international peace and security”. 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 initiated, performed or requested the Secretary-General to undertake a number of investigative and/or fact-finding activities that may be deemed to fall within the scope of Article 34 or be related to its provisions. This section provides an overview of the practice of the Security Council in connection with Article 34, including decisions in which the Council either referred to or endorsed the Secretary-General’s initiative to establish bodies entrusted with investigative and/or fact-finding functions (see table 2).

In connection with the situation in the Middle East, by a letter dated 30 January 2008 addressed to the President of the Security Council, the Secretary-General transmitted a request of the Government of Lebanon for technical assistance from the International Independent Investigation Commission in the investigation of the murder of Major Wissam Eid of the Internal Security Forces, Adjutant Oussama Merheb and other civilians in an explosion in Beirut on 25 January 2008. Since the Commission reported to the Council, the Secretary-General requested the Council

to take appropriate action regarding this matter.²⁵ The following day, members of the Security Council responded by inviting the Commission to extend the appropriate technical assistance to the Lebanese authorities.²⁶ In another instance, following the conflict in the Gaza Strip and southern Israel during which United Nations personnel, premises and operations were affected, by a letter dated 4 May 2009 addressed to the President of the Security Council, the Secretary-General informed the Council that, in his capacity as the Chief Administrative Officer of the Organization, he had decided to establish a United Nations Headquarters Board of Inquiry to review and investigate nine of those incidents, in which death or injuries occurred at, or damage was done to, United Nations premises or in which death or injuries occurred, or damage was sustained, in the course of United Nations operations. A summary of the report of the Board of Inquiry was attached to the letter.²⁷

In addition to those investigative and/or fact-finding missions, the Council continued to request the Secretary-General to report on developments relating to matters of which the Council was seized. In a number of instances, the Council dispatched missions consisting of Council members to conflict areas, including Afghanistan, Chad, Côte d’Ivoire, the Democratic Republic of the Congo, Djibouti, Haiti, Liberia, Rwanda and the Sudan. The Council missions were not expressly charged with investigative tasks, but did serve, inter alia, to allow the Council members to form an impression of the respective situations on the ground (see table 3).

²⁵ S/2008/60.

²⁶ S/2008/61.

²⁷ S/2009/250.

Table 2

Decisions of the Security Council relating to investigative and/or fact-finding missions

Decision and date

Provisions

Protection of civilians in armed conflict

[S/PRST/2009/1](#)
14 January 2009

The Council adopted an updated version of the aide-memoire first adopted on 15 March 2002 as a practical guide for its consideration of issues pertaining to the protection of civilians. It suggested in the aide-memoire the establishment of ad hoc judicial mechanisms at the national or international level to investigate and prosecute war crimes and serious violations of human rights law in situations where local judicial mechanisms were overwhelmed (annex, section I.F)

The situation in Guinea-Bissau

[S/PRST/2009/6](#)
9 April 2009

The Council stressed the importance of national reconciliation and the fight against impunity in Guinea-Bissau, and called upon the international community to support the commission of inquiry established to investigate the assassinations of the President and of the Chief of Staff of the armed forces (sixth paragraph)

Peace consolidation in West Africa

[S/PRST/2009/27](#)
28 October 2009

Taking note of the fact that the authorities of Guinea had officially committed to support the work of the international commission of inquiry in secure conditions, the Council welcomed the statement of the Economic Community of West African States summit supporting the decision of the Secretary-General to establish an international commission of inquiry to investigate the events of 28 September (fourth paragraph)

Peace and security in Africa

Resolution [1907 \(2009\)](#)
23 December 2009

The Council noted that Djibouti had withdrawn its forces to the status quo ante and cooperated fully with all concerned, including the United Nations fact-finding mission and the good offices of the Secretary-General (sixteenth preambular paragraph)

Table 3
Security Council missions, 2008-2009

<i>Duration of the mission</i>	<i>Destination</i>	<i>Composition</i>	<i>Terms of reference</i>	<i>Final report</i>	<i>Meeting and date</i>
31 May-10 June 2008	Djibouti (on Somalia), the Sudan, Chad, the Democratic Republic of the Congo and Côte d'Ivoire	South Africa and United Kingdom (co-heads of mission for Somalia and the Sudan), France (head of mission for Chad and the Democratic Republic of the Congo), Burkina Faso (head of mission for Côte d'Ivoire), Belgium, China, Costa Rica, Croatia, Indonesia, Italy, Libyan Arab Jamahiriya, Panama, Russian Federation, United States and Viet Nam	S/2008/347	S/2008/460	5915th 18 June 2008
21-28 November 2008	Afghanistan	Italy (head of mission), Belgium, Burkina Faso, China, Costa Rica, Croatia, France, Indonesia, Italy, Libyan Arab Jamahiriya, Panama, Russian Federation, South Africa, United Kingdom, United States and Viet Nam	S/2008/708 , annex	S/2008/782	6031st 4 December 2008
11-14 March 2009	Haiti	Costa Rica (head of mission), Austria, Burkina Faso, China, Croatia, France, Japan, Libyan Arab Jamahiriya, Mexico, Russian Federation, Turkey, Uganda, United Kingdom, United States and Viet Nam	S/2009/139	S/2009/175	6093rd 19 March 2009
14-21 May 2009	Africa (Ethiopia, Rwanda, Democratic Republic of the Congo, Liberia)	Uganda and United Kingdom (co-heads of mission for Ethiopia and Rwanda), France (head of mission for the Democratic Republic of the Congo), United States (head of mission for Liberia), Austria, Burkina Faso, China, Costa Rica, Croatia, Japan, Libyan Arab Jamahiriya, Mexico, Russian Federation, Turkey and Viet Nam	S/2009/243	S/2009/303	6131st 28 May 2009

The four case studies below illustrate Council action on investigation and/or fact-finding: (1) in connection with the item entitled “Peace and security in Africa”, developments leading to the establishment of a fact-finding mission to investigate the border dispute between Eritrea and Djibouti; (2) in connection with the item entitled “Peace consolidation in West Africa”, the establishment of the international commission of inquiry to investigate the killings in Guinea; (3) in connection with the item entitled “Protection of civilians in armed conflict”, discussion on the use of investigations and fact-finding missions to determine perpetrators of crimes against civilians; and (4) in connection with the item entitled “Women and peace and security”, discussion on the recommendation by the Secretary-General for the Security Council to establish a commission of inquiry to investigate reports of sexual violence.

Case 1 Peace and security in Africa

Following a border dispute between Djibouti and Eritrea, the Security Council endorsed the Secretary-General’s initiative to send a fact-finding mission to investigate the situation. Subsequently, by resolution [1862 \(2009\)](#) of 14 January 2009, the Council welcomed the fact that Djibouti had withdrawn its forces to the status quo ante and demanded that Eritrea do the same.

By a letter dated 5 May 2008, the representative of Djibouti brought to the attention of the Security Council “a looming crisis” at the common border with Eritrea. He stated that there had been a progressive growth in the number of Eritrean troops at the common border since February 2008, which included preparation of fortifications and battlements; equipment flow; and well-armed Eritrean soldiers on the Djibouti side of the promontory of the Ras-Doumeira mountain range.²⁸

In a letter dated 11 June 2008 addressed to the President of the Security Council, the representative of Djibouti transmitted a letter from the Minister for Foreign Affairs and International Cooperation of Djibouti informing the Council of recent developments

²⁸ S/2008/294.

in the situation on the border between Djibouti and Eritrea at Ras Doumeira.²⁹

In response, by a presidential statement of 12 June 2008, the Council expressed its strong concern about the serious incidents that had occurred on 10 June 2008 along the frontier between Djibouti and Eritrea, called upon the parties to commit to a ceasefire and urged both parties, in particular Eritrea, to show maximum restraint and withdraw forces to the status quo ante. Moreover, the Council encouraged the Secretary-General urgently to use his good offices to facilitate bilateral discussions to determine arrangements for decreasing the military presence along the border and to develop confidence-building measures to resolve the border situation.³⁰

The Council held its 5924th meeting, on 24 June 2008, in response to a request from the representative of Djibouti concerning the border dispute between his country and Eritrea.³¹ During the meeting, the Director of the Africa Division of the Department of Political Affairs, providing an update on the situation, stated that interlocutors had described the situation on the border as calm but tense, with military regroupings occurring on either side of the border.³² The representative of France, supported by the representative of Belgium, said that it would be useful for the Secretary-General to deploy a fact-finding mission to the region, which should have the full cooperation of both parties.³³ While underlining the role of the Security Council as an instrument of conflict prevention, as mandated by Article 34 of the Charter, the representative of Italy supported the launch of a fact-finding mission by the Secretariat, which would provide essential elements for the Council to develop its position and approach to the issue.³⁴

²⁹ S/2008/387.

³⁰ S/PRST/2008/20, first and sixth paragraphs.

³¹ By a letter dated 11 June 2008 addressed to the President of the Security Council, the representative of Djibouti reported that on 10 June 2008 Eritrean armed forces launched unprovoked attacks with light and heavy weapons against the positions of the army of Djibouti, thereby demonstrating the Eritrean Government’s bellicose nature and its intention to destabilize the region (S/2008/387).

³² S/PV.5924, p. 2.

³³ *Ibid.*, p. 9 (France); and p. 15 (Belgium).

³⁴ *Ibid.*, p. 14.

By a letter dated 11 September 2008 addressed to the President of the Security Council, the Secretary-General transmitted the report of the United Nations fact-finding mission which visited Djibouti and Ethiopia from 28 July to 6 August 2008 in accordance with consultations held by the Security Council on 24 June 2008. The Department of Political Affairs had dispatched the mission to Djibouti and Eritrea to assess the political, security and humanitarian situation in the area. However, the Eritrean authorities had refused to issue visas, and therefore it had not been possible for the fact-finding mission to visit Asmara or the Eritrean side of the border. The mission recommended, *inter alia*, that the offer of the good offices of the Secretary-General to defuse the tension between Djibouti and Eritrea be renewed as a matter of the utmost priority.³⁵

Responding to the report, by a letter dated 16 September 2008 addressed to the President of the Security Council, the representative of Eritrea outlined what he called “the vexing schemes of the United States Administration to embroil our region in an endless crisis only in order to control the region”. He stated that his Government could not be expected to be “party to a futile exercise where the outcome was determined *a priori*”, and that “what is being recklessly set in motion in the name of the United Nations ‘fact-finding mission’ is the revival of the ‘crisis’ that was frustrated and contained at its inception”.³⁶

The 6000th meeting of the Council, on 23 October 2008, was convened under the item entitled “Peace and security in Africa” in response to a note verbale dated 3 October 2008 from the representative of Djibouti addressed to the President of the Security Council.³⁷ During the meeting, the President of Djibouti drew attention to the results of the Security Council fact-finding mission to the region of Doumeira and reiterated his country’s determination to recover all territory “now illegally occupied by Eritrea”. He called on the Council to require both countries to devote themselves to resolving the crisis and stated that any failure to implement such a decision should give rise to the implementation of sanctions by the Council.³⁸ The representative of Eritrea described the conflict as “manufactured” and “fabricated”, but affirmed his Government’s desire for the restoration and cultivation

of good-neighbourly relations.³⁹ The representative of France referred to the report of the United Nations fact-finding mission⁴⁰ which established that Eritrea had not withdrawn its troops to the status quo ante and similarly did not issue visas to the fact-finding mission even when the President of the Security Council had called upon the parties to facilitate the mission.⁴¹ A few Council members echoed France’s frustration that the mission had not been received by Eritrea.⁴² In a letter dated 4 December 2008 addressed to the President of the Security Council, the representative of Djibouti transmitted a letter from the President of Djibouti, who drew attention to Eritrea’s build up along the common border at Ras Doumeira. He expressed regret that the fact-finding mission was not received by Eritrea and stated that his people were anxiously awaiting action by the Security Council.⁴³

In a letter dated 12 January 2009 addressed to the President of the Security Council, the representative of Eritrea stated that the condemnation of Eritrea in June, followed by the dispatching of a fact-finding mission, amounted to “putting the cart before the horse”. He further stated that this demonstrated that certain members of the Council were pursuing national interests without regard to the facts on the ground and urged the Council to exercise utmost caution before considering a draft resolution.⁴⁴

By resolution 1862 (2009) of 14 January 2009, the Council welcomed the fact that Djibouti had withdrawn its forces to the status quo ante, as established by the fact-finding mission, and condemned the refusal of Eritrea to do so. Noting that Djibouti had cooperated fully with the fact-finding mission, the Council deeply regretted that Eritrea had continuously refused to grant visas to the members of the mission. The Council requested the Secretary-General to provide to it a report on the evolution of the situation, and on compliance by both parties.⁴⁵

In a letter dated 30 March 2009 addressed to the President of the Security Council, the Secretary-

³⁵ S/2008/602.

³⁶ S/2008/605.

³⁷ S/2008/635.

³⁸ S/PV.6000, pp. 3-4.

³⁹ *Ibid.*, p. 5.

⁴⁰ S/2008/602.

⁴¹ S/PV.6000, p. 6.

⁴² *Ibid.*, p. 7 (Burkina Faso); p. 9 (Indonesia); and p. 13 (United States).

⁴³ S/2008/766.

⁴⁴ S/2009/28.

⁴⁵ Resolution 1862 (2009), sixth preambular paragraph, paras. 4 and 7.

General noted that, despite the diplomatic overture by the Eritrean authorities, attempts to send a fact-finding mission to Eritrea had not received a positive response from the Government. In addition, his continuing efforts to engage the Government of Eritrea by dispatching a high-level official to Eritrea and the region had yet to produce results.⁴⁶

Case 2 Peace consolidation in West Africa

Following the mass killings and injuries that occurred on 28 September 2009 in the Republic of Guinea, the Secretary-General set up an international Commission of Inquiry to establish the facts and circumstances of the events of that day and related events in their aftermath.

By a letter dated 28 October 2009 addressed to the President of the Security Council, the Secretary-General informed members of his decision to establish the Commission to investigate the many killings, injuries and alleged gross human rights violations that had taken place in Guinea on 28 September 2009, and in response to widespread appeals from Member States, including the Government of Guinea, members of ECOWAS, the African Union and the Security Council.⁴⁷

At its 6207th meeting, on 28 October 2009, the Council adopted a presidential statement, in which it, *inter alia*, stated that it remained deeply concerned by the situation in Guinea, which might pose a risk to regional peace and security following the killings that had occurred in Conakry on 28 September, when members of the army opened fire on civilians attending a rally. It strongly condemned the violence that had reportedly caused more than 150 deaths and hundreds of wounded and other blatant violations of human rights, including numerous rapes and sexual crimes against women, as well as the arbitrary arrest of peaceful demonstrators and opposition party leaders. The Council welcomed the statement of the ECOWAS summit supporting the Secretary-General's decision to establish an international commission of inquiry, in order to ascertain the facts, to identify the perpetrators with a view to ensuring that those responsible for violations were held accountable and to make recommendations to him.⁴⁸

⁴⁶ S/2009/163.

⁴⁷ S/2009/556.

⁴⁸ S/PRST/2009/27, first and fourth paragraphs.

In a letter dated 18 December 2009 addressed to the President of the Security Council, the Secretary-General informed members that the Commission of Inquiry had completed its mission and had submitted its final report, which he transmitted by his letter.⁴⁹

Case 3 Protection of civilians in armed conflict

At several meetings, Member States and Council members supported the Secretary-General's recommendations for the Security Council to mandate commissions of inquiry to examine situations where violations of international humanitarian law existed.

At the 6066th meeting, on 14 January 2009, the Under-Secretary-General for Humanitarian Affairs, referring to the situation in southern Israel and Gaza, stated that violations of international humanitarian law by one party to a conflict offered no justification for non-compliance by other parties. He asserted that allegations of violations must be fully investigated and those responsible held to account.⁵⁰ This sentiment was supported by several speakers.⁵¹ The representative of the United Arab Emirates noted that an international commission of inquiry should be established to investigate war crimes committed by Israel against civilians in Gaza.⁵² At the end of the debate, the Council adopted a statement by the President with an annexed aide-memoire, in which was suggested the establishment, in situations where local judicial mechanisms were overwhelmed, of ad hoc judicial mechanisms at the national or international level to investigate and prosecute war crimes and serious violations of human rights law.⁵³

At its 6151st meeting, on 26 June 2009, the Council considered the report of the Secretary-General on the protection of civilians in armed conflict.⁵⁴ Referring to the report, the Under-Secretary-General for Humanitarian Affairs noted that the Security Council had an important role to play in promoting systematic compliance with the law in situations of which it was seized. This included requests for reports on violations and the mandating of commissions of

⁴⁹ S/2009/693.

⁵⁰ S/PV.6066, p. 3.

⁵¹ *Ibid.*, p. 8 (Costa Rica); p. 11 (Austria); p. 19 (Croatia); and S/PV.6066 (Resumption 1), p. 2 (Switzerland).

⁵² S/PV.6066 (Resumption 1), p. 8.

⁵³ S/PRST/2009/1, annex, sect. I.F.

⁵⁴ S/2009/277.

inquiry where concerns existed regarding serious violations of international humanitarian and human rights law.⁵⁵

In the debate which followed, a few speakers supported the recommendations in the report about the Council mandating commissions of inquiry and also supported the use of the International Criminal Court.⁵⁶ The representative of Liechtenstein stated that repeated violations of international humanitarian law, such as in the conflicts in Sri Lanka and Gaza, warranted a clear response from the Council. He further stated that where national accountability mechanisms failed, the Council should establish commissions of inquiry or similar bodies in order to enhance accountability for serious violations.⁵⁷ The Permanent Observer of Palestine stated that several investigations, including those by the Secretary-General's Board of Inquiry, the League of Arab States Independent Fact-Finding Committee on Gaza, and humanitarian organizations operating on the ground, had determined that civilians were directly targeted by the occupying Power, and thus he fully agreed with the recommendation in the report that the Council mandate commissions of inquiry to examine situations where there were violations of international humanitarian law and international human rights law.⁵⁸ While noting that the Council should systematically demand reports on allegations of violations of law and consider the creation of commissions of inquiry, the representative of Switzerland recalled the existence of the International Humanitarian Fact-Finding Commission established under Protocol I additional to the Geneva Conventions.⁵⁹ While welcoming the efforts of the Office for the Coordination of Humanitarian Affairs to better monitor access constraints and report to the Council, the representative of Canada said that timely and credible information and analysis were crucial in developing effective responses. However, when issues of access were brought to the Council's attention, follow-up was vital. He stated that the Council should be willing to draw consistently upon key tools at its disposal, including fact-finding missions, good offices,

envoys, monitoring missions and preventive deployments, when civilians were at risk.⁶⁰

At its 6216th meeting, on 11 November 2009, the Council adopted resolution 1894 (2009), in which it emphasized the importance of addressing in its country-specific deliberations the compliance of parties to armed conflict with international humanitarian, human rights and refugee law, noted the range of existing methods used, on a case-by-case basis, for gathering information on alleged violations of applicable international law relating to the protection of civilians, and underlined the importance in this regard of receiving information that is timely, objective, accurate and reliable. To this end, it considered the possibility of using the International Humanitarian Fact-Finding Commission established under article 90 of Protocol I additional to the Geneva Conventions.⁶¹

After the adoption of the resolution, the Deputy United Nations High Commissioner for Human Rights stated that the dispatch of credible, independent, law-based commissions of inquiry that were focused on accountability and reported their findings publicly had proved to be an important catalyst in the Council's efforts to combat impunity, and that more use could be made of such mechanisms.⁶² Several speakers emphasized that investigations were highly important for the protection of civilians.⁶³ The representative of Burkina Faso asserted that the Council must establish independent commissions of inquiry to establish the facts in cases of serious violations and prosecute perpetrators before the appropriate international judicial body.⁶⁴ The representative of Egypt reiterated the importance of the role of the General Assembly and the Security Council, not only with regard to enhanced involvement with respect to the protection of civilians in conflict situations but also in order to focus on the need to investigate violations of international humanitarian law, without discrimination.⁶⁵ The representative of Switzerland stated that the Security Council should ensure that investigations were carried out in all situations where there were allegations of serious violations of international law. She stated that

⁵⁵ S/PV.6151, p. 4.

⁵⁶ S/PV.6151 (Resumption 1), p. 3 (Liechtenstein); and p. 5 (Palestine).

⁵⁷ *Ibid.*, p. 3.

⁵⁸ *Ibid.*, pp. 4-5.

⁵⁹ *Ibid.* p. 6.

⁶⁰ *Ibid.*, p. 9.

⁶¹ Resolution 1894 (2009), paras. 8 and 9.

⁶² S/PV.6216, p. 8.

⁶³ *Ibid.*, p. 23 (Burkina Faso); p. 29 (Austria); S/PV.6216 (Resumption 1), p. 9 (Egypt); p. 14 (Switzerland); and p. 27 (Saudi Arabia).

⁶⁴ S/PV.6216, p. 23.

⁶⁵ S/PV.6216 (Resumption 1), p. 9.

this could be done through ad hoc machinery or by mandates from the International Humanitarian Fact-Finding Commission.⁶⁶ The representative of Saudi Arabia stated that there were numerous instruments for the protection of civilians and the Security Council was an important tool for preserving and maintaining the dignity and lives of civilians. He noted that the dispatch of fact-finding missions was a powerful instrument to prevent the recurrence of such violations.⁶⁷

Case 4 Women and peace and security

In his report pursuant to Security Council resolution 1820 (2008), the Secretary-General suggested that the Security Council should establish a commission of inquiry to investigate reports of sexual violence. During the debate, members of the Council were divided on this recommendation.

At its 6180th meeting, on 7 August 2009, the Council considered the report of the Secretary-General pursuant to resolution 1820 (2008).⁶⁸ In the report, the Secretary-General urged the Council to establish a commission of inquiry, supported by the Office of the United Nations High Commissioner for Human Rights, to investigate and report on violations of international humanitarian and human rights law, with a dedicated focus on sexual violence in ongoing conflict situations in Chad, the Democratic Republic of the Congo and the Sudan, and to recommend to the Security Council the most effective mechanisms for ensuring accountability. The Council should also consider establishing such commissions in other conflicts where sexual violence occurred.⁶⁹

During the meeting, many speakers expressed their support for the establishment of a commission of inquiry to investigate sexual violence particularly in Chad, the Democratic Republic of the Congo and the Sudan.⁷⁰ While welcoming the recommendation to establish a

commission of inquiry, the representative of the United States stated that it deserved serious consideration and that the Council should also explore deployment of technical assistance teams to develop the capacity to combat sexual violence in all conflict zones.⁷¹ The representative of Mexico added that the commission of inquiry should also identify those responsible for crimes of sexual violence and report on the measures that States and other parties to the conflict may take or fail to take. Such information would be useful to the work of the various sanctions committees.⁷² While underlining the need for the Council to follow up any investigation by taking concrete measures, the representative of Canada proposed creating a dedicated working group as a more effective response.⁷³

While expressing support for the eradication of sexual violence in conflict situations, some members questioned whether the establishment of a commission of inquiry in conflict countries was the best approach. The representative of Japan expressed the view that it was important to carefully consider the feasibility of establishing a commission of inquiry, specifically how information would be collected and shared, and whether the aim would be to facilitate prosecution of perpetrators or simply to build a strong informational resource.⁷⁴ The representative of the Russian Federation considered that focusing only on sexual violence could be “excessively narrow” and stated that the proposal merited careful study perhaps in a broader context.⁷⁵ The representative of Croatia cautioned that regular reporting on resolution 1820 (2008) would require further development of United Nations capacities in the strategic collection and analysis of violations against women and girls in conflict situations and thus the establishment of a commission of inquiry warranted serious consideration.⁷⁶ While noting the Secretary-General’s proposal to investigate sexual violence in the Sudan, the Democratic Republic of the Congo and Chad, the representative of China requested the Secretary-General to fully communicate and coordinate with the countries concerned and to seek their prior consent to a commission of inquiry.⁷⁷

⁶⁶ Ibid., p. 14.

⁶⁷ Ibid., p. 27.

⁶⁸ S/2009/362.

⁶⁹ Ibid., para. 56 (i).

⁷⁰ S/PV.6180, p. 4 (United States); p. 8 (France); p. 9 (Austria); p. 12 (Libyan Arab Jamahiriya); p. 15 (Mexico); p. 23 (United Kingdom); p. 24 (Norway); p. 26 (Israel). S/PV.6180 (Resumption 1), p. 3 (Liechtenstein); p. 4 (Canada); p. 8 (Germany); p. 9 (Australia); p. 10 (Italy); p. 16 (Netherlands); and p. 24 (Timor-Leste).

⁷¹ S/PV.6180, pp. 4-5.

⁷² Ibid., p. 15.

⁷³ S/PV.6180 (Resumption 1), p. 4.

⁷⁴ S/PV.6180, p. 10.

⁷⁵ Ibid., p. 14.

⁷⁶ Ibid., p. 17.

⁷⁷ Ibid., p. 21.

III. Decisions of the Security Council concerning the pacific settlement of disputes

Note

Chapter VI of the Charter contains 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 shall 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 procedures or methods of adjustment”. Article 37 (2) envisages that the Council shall decide whether to “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 procedures or methods of settlement, such as bilateral or multilateral negotiations,⁷⁸ political settlement or dialogue aimed at achieving national reconciliation,⁷⁹ elections or the establishment of a representative government,⁸⁰ as well as peace consolidating activities such as the peaceful return of refugees and internally displaced persons.⁸¹ In several instances, the Council made recommendations with regard to good offices, mediation or conciliation efforts to be undertaken by the Secretary-General,⁸² or with regard to such efforts undertaken by Governments of neighbouring countries⁸³

or regional leaders,⁸⁴ by expressing its support and calling upon the parties to a conflict to cooperate with such efforts.

During the period under review, the Council increasingly looked to elections to promote national dialogue, reconciliation, and the reinforcement of the democratic process. In countries such as Burundi, the Central African Republic, Chad, Côte d’Ivoire, Guinea-Bissau, Liberia, Nepal and the Sudan, several peace agreements laid out plans and time tables for elections. In that context, the Council called on the Government and parties to provide the necessary conditions, including material support and security, for the conduct of free and fair elections. The Council also requested peacekeeping and peacebuilding missions, consistent with their mandate and within their capabilities, to support the electoral process. For example, the Council urged the United Nations Mission in the Sudan (UNMIS), consistent with its mandate, to begin immediate preparations to support the conduct of national elections, including support for the development of a national strategy for the conduct of elections in close collaboration with the United Nations Development Programme and the parties to the Comprehensive Peace Agreement.⁸⁵

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 Georgia, the Council called upon the Georgian and Abkhaz parties to increase their bilateral contacts by making full use of all existing mechanisms as described in the relevant Council resolutions in order to come to a peaceful settlement, and to commit themselves to fulfil within a reliable time frame the conditions necessary for the safe, dignified and swift return of refugees and internally displaced persons.⁸⁶ Similarly, in connection with the item entitled “Maintenance of international peace and security: mediation and settlement of disputes”, the Council, recognizing the importance of mediation, to be

⁷⁸ See, for example, in connection with the situation in Burundi, resolution 1858 (2008).

⁷⁹ See, for example, in connection with the situation in the Central African Republic, S/PRST/2009/5.

⁸⁰ See, for example, in connection with the situation in Chad, the Central African Republic and the subregion, resolution 1861 (2009).

⁸¹ See for example, in connection with the situation in Georgia, resolution 1808 (2008).

⁸² See, for example, in connection with the situation concerning the Democratic Republic of the Congo, S/PRST/2008/40.

⁸³ See, for example, in connection with the situation in Chad, the Central African Republic and the subregion, resolution 1861 (2009).

⁸⁴ See, for example, in connection with the situation in Côte d’Ivoire, S/PRST/2008/11.

⁸⁵ Resolution 1812 (2008), para. 15.

⁸⁶ Resolution 1808 (2008), para. 10.

launched in the earliest possible phases of conflicts as well as in the implementation phases of signed peace agreements, underlined the need to design mediation processes that addressed the root causes of conflicts and contributed to peacebuilding, in order to ensure sustainable peace.⁸⁷

In a number of instances, the Council dispatched Security Council missions to conflict areas to, inter alia, express its support for efforts towards peaceful settlement of disputes undertaken either by local actors or by regional organizations and to examine how those efforts could best be supported. In the terms of reference for the Sudan segment of its mission to Africa from 31 May to 10 June 2008, for example, the Council stated that the mission would “stress that successful implementation of the Comprehensive Peace Agreement is essential to sustainable peace and stability throughout the Sudan, including Darfur, and in the region and to encourage further cooperation between the National Congress Party and the Sudan People’s Liberation Movement in carrying out their responsibilities to further implement the Comprehensive Peace Agreement.”⁸⁸ In the terms of reference for its mission to Haiti, the Council stated that one of the objectives of the mission would be “to urge the Government of Haiti to intensify its efforts to promote an effective and all-inclusive political dialogue aimed at national reconciliation, good governance and sustainable development.”⁸⁹ In the terms of reference for its mission to Africa from 14 to 21 May 2009, the Council noted that the mission would, inter alia, “stress that all parties should reinvigorate their participation in the Goma and Nairobi processes, which are the agreed framework for stabilizing the eastern part of the Democratic Republic of the Congo.”⁹⁰

This section provides 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 overview will aim to set out the decisions in a systematic order, without relating them to specific Articles of the Charter. Since Council decisions relating to investigation and fact-finding missions are covered in section II of this part, they will not be reflected here.

The practice of the Council under Chapter VI of the Charter is described below in three subsections. Subsection A captures the decisions of the Council on thematic issues touching upon the provisions of Chapter VI of the Charter. Subsection 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. Subsection C provides an overview of the decisions of the Council, within the framework of its efforts towards the pacific settlement of disputes, involving the Secretary-General. Subsection D briefly illustrates various ways in which the Council, in dealing with specific situations under its consideration, encouraged and supported efforts by regional organizations in the peaceful settlement of disputes.⁹¹

A. Decisions of the Security Council on thematic issues relating to the pacific settlement of disputes

The present subsection provides an overview of the decisions of the Council on thematic issues relating to the pacific settlement of disputes. By such decisions, the Council underlined the centrality of Chapter VI of the Charter in the United Nations system of collective security and its responsibility to promote and support mediation as an important means for the pacific settlement of disputes. The Council also underlined the importance of engaging women and regional organizations in mediation efforts.

⁸⁷ S/PRST/2009/8, third paragraph.

⁸⁸ S/2008/347.

⁸⁹ S/2009/139.

⁹⁰ S/2009/243.

⁹¹ The present Supplement presents the decisions of the Council, in resolutions and presidential statements, in table form. The summaries in the right-hand column serve as a guide to how the Security Council invoked Chapter VI during this period.

Table 4

Decisions of the Security Council on thematic issues relating to the pacific settlement of disputes

Decision and date

Provision

Peace and security in Africa

Resolution
1809 (2008)
16 April 2008

Welcoming the role of the African Union in efforts to settle conflicts on the African continent and expressing its support for the peace initiatives conducted by the African Union and through subregional organizations, the Council welcomed regional dialogue and the promotion of shared experiences as well as common regional approaches to the settlement of disputes and other issues relating to peace and security. The Council expressed its determination to strengthen and enhance cooperation between the United Nations and regional organizations, in particular the African Union, in conflict prevention, resolution and management including good offices, mediation support, effective use of sanctions, electoral assistance and preventive field presence (fourth preambular paragraph, paras. 3 and 8)

Maintenance of international peace and security: mediation and settlement of disputes

S/PRST/2008/36
23 September 2008

Reaffirming its commitment to the pacific settlement of disputes, including through mediation, in conformity with the Charter, in particular Chapter VI, the Council underlined the importance of mediation as a means of pacific settlement of disputes, encouraged the further use of this mechanism in the settlement of disputes and reaffirmed the crucial role of the United Nations in that regard. The Council underlined the importance of engaging the potential and the existing capacities and capabilities of regional and subregional organizations in mediation efforts, and welcomed the promotion of regional approaches to the pacific settlement of disputes. Moreover, while noting that women had an important role to play in the settlement of disputes, the Council stressed the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security (first, second, seventh and eighth paragraphs)

Women and peace and security

S/PRST/2008/39
29 October 2008

The Council urged Member States and international, regional and subregional organizations to take measures to increase the participation of women in conflict prevention, conflict resolution and peacebuilding and to strengthen the role of women as decision makers in those areas (fourth paragraph)

Maintenance of international peace and security: mediation and settlement of disputes — report of the Secretary-General on enhancing mediation and its support activities (S/2009/189)

S/PRST/2009/8
21 April 2009

Recognizing the importance of mediation, to be launched at the earliest possible phases of conflicts as well as in the implementation phases of signed peace agreements, the Council underlined the need to design mediation processes that addressed the root causes of conflicts and contributed to peacebuilding, in order to ensure sustainable peace. The Council stressed that the principal responsibility for the peaceful settlement of disputes rested with the parties to the conflict and that it was only through their full participation and genuine commitment to resolve the conflict, including its underlying causes, that peace could be achieved and sustained. The Council noted with concern the very low numbers of women in formal roles in mediation processes, and stressed the need to ensure that women were appropriately appointed at decision-making levels, as high-level mediators, and within the composition of the mediators' teams in line with resolutions 1325 (2000) and 1820 (2008) (third, fourth and ninth paragraphs)

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

This subsection 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 a regional context, by agenda item and in chronological order, in which the Council requested or called upon parties to settle their disputes

by peaceful means; 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 resorted in its decisions to a regional approach, calling on neighbouring countries and regional leaders to assist in the settlement of disputes, particularly as mediators.

Table 5

Decisions containing recommendations relating to methods, procedures or terms of the pacific settlement of disputes

<i>Decision and date</i>	<i>Provision</i>
Africa	
The situation in Burundi	
S/PRST/2008/10 24 April 2008	Expressing serious concern at the confrontations between the Parti pour la libération du peuple hutu-Forces nationales de libération and the National Defence Forces of Burundi, the Council called upon the two parties to scrupulously respect the ceasefire concluded on 7 September 2006 and to resume their dialogue to overcome the obstacles that hindered the implementation of the Comprehensive Ceasefire Agreement and delayed the conclusion of the peace process in Burundi (second and third paragraphs)
Resolution 1858 (2008) 22 December 2008	Welcoming the agreements reached between the Government of Burundi and the Parti pour la libération du peuple hutu-Forces nationales de libération, the Council urged the parties to make every effort to implement, before 31 December 2008, the agreements they had reached on 4 December 2008 so as to bring this last phase of the peace process to a successful conclusion (third preambular paragraph and para. 2)
Resolution 1902 (2009) 17 December 2009	The Council urged the Government of Burundi to take the measures necessary to create an environment conducive to the holding of free, fair and peaceful elections in 2010, and encouraged the Government and the political parties to remain engaged in dialogue, in particular through the Permanent Forum for Dialogue (para. 6)
The situation in the Central African Republic	
S/PRST/2009/5 7 April 2009	The Council welcomed the recent progress towards implementing the recommendations of the inclusive political dialogue, and called upon all parties to sustain the momentum created by the dialogue and the spirit of compromise and cooperation that enabled its successful holding. The Council called upon all parties to respect and implement the comprehensive peace agreement signed at Libreville on 21 June 2008 and their earlier commitments contained in the Sirte agreement of 2 February 2007 and the Birao agreement of 13 April 2007 (first and second paragraphs)

Decision and date

Provision

[S/PRST/2009/35](#)
21 December 2009

The Council welcomed ongoing efforts aimed at national reconciliation in the Central African Republic based on the Libreville comprehensive peace agreement of 21 June 2008 and the commitments contained in the Sirte Agreement of 2 February 2007 and the Birao agreement of 13 April 2007, and encouraged the Government of the Central African Republic to continue to ensure that the recommendations of the inclusive political dialogue were expeditiously and fully implemented (first paragraph)

The situation in Chad, the Central African Republic and the subregion

[S/PRST/2008/22](#)
16 June 2008

The Council urged all parties to respect the Sirte Agreement of 25 October 2007, and called upon States in the region to implement their commitments under the Dakar Agreement of 13 March 2008 and prior agreements (second and third paragraphs)

Resolution [1834 \(2008\)](#)
24 September 2008

The Council demanded that armed groups ceased violence immediately, and urged all parties in Chad and the Central African Republic respectively to respect and implement the Sirte Agreement of 25 October 2007 and the comprehensive peace agreement signed in Libreville on 21 June 2008. The Council encouraged the authorities and political stakeholders in Chad and the Central African Republic to continue to pursue their efforts at national dialogue, with respect for the constitutional frameworks, and noted the positive efforts of the Government of Gabon to support a national dialogue in the Central African Republic (paras. 12 and 13)

Resolution [1861 \(2009\)](#)
14 January 2009

Welcoming the recent resumption of diplomatic relations between the Governments of Chad and the Sudan and the efforts by the Government of the Libyan Arab Jamahiriya to promote it, the Council stressed that a further improvement of relations between the Sudan, Chad and the Central African Republic would contribute to long-term peace and stability in the region. The Council encouraged the authorities and political stakeholders in Chad and the Central African Republic to continue to pursue their efforts of national dialogue, and welcomed the holding of the inclusive political dialogue in the Central African Republic. Moreover, it emphasized the importance of the political agreement for the reinforcement of the democratic process signed at N'Djamena on 13 August 2007 and encouraged the parties to proceed with its implementation, in particular with a view to holding early elections (fifth preambular paragraph and para. 21)

The situation in Côte d'Ivoire

[S/PRST/2008/11](#)
29 April 2008

Commending the Facilitator, President Blaise Compaoré of Burkina Faso, for his continued efforts to support the peace process in Côte d'Ivoire, in particular through the Ouagadougou Political Agreement follow-up and consultation mechanisms, the Council stated that the support to the actions of President Laurent Gbagbo and Prime Minister Guillaume Soro, with the active engagement of the Special Representative of the Secretary-General for Côte d'Ivoire, had been instrumental towards achieving the establishment of a consensus among all political parties to hold presidential elections in 2008 (third paragraph)

<i>Decision and date</i>	<i>Provision</i>
S/PRST/2008/42 7 November 2008	The Council commended the Facilitator for convening a meeting of the Permanent Consultative Framework of the Ouagadougou Political Agreement on 10 November 2008, in order for the Ivorian political actors to address all the main difficulties of the electoral process. The Council urged all the Ivorian political actors to cooperate fully with the Facilitator, with the support of the Special Representative of the Secretary-General, and to demonstrate their political determination to fulfil the commitments made in the Ouagadougou Political Agreement and within the framework of its follow-up mechanisms (second paragraph)
S/PRST/2009/16 29 May 2009	The Council welcomed the communiqué of 18 May 2009 of the Permanent Consultative Framework of the Ouagadougou Political Agreement, which provided a comprehensive electoral time frame leading to the first round of the presidential elections in Côte d'Ivoire on 29 November 2009 (first paragraph)
The situation concerning the Democratic Republic of the Congo	
S/PRST/2008/2 30 January 2008	Welcoming the resolutions adopted at the Goma Conference, the Council underscored the need for the Congolese authorities and all political and social stakeholders in North and South Kivu to continue, through dialogue, to seek long-term and comprehensive ways to address the root causes of instability (fifth paragraph)
S/PRST/2008/38 21 October 2008	The Council urged the Government of the Democratic Republic of the Congo and the Government of the Republic of Rwanda to urgently engage in efforts to settle their differences, including by reactivating the Joint Verification Mechanism, and called upon them to implement fully the Nairobi communiqué of 9 November 2007 (eighth paragraph)
S/PRST/2008/40 29 October 2008	Urging all the signatories to the Goma and Nairobi processes to implement their commitments effectively and in good faith, the Council called upon the authorities of the Democratic Republic of the Congo and Rwanda to take concrete steps to defuse tensions and to restore stability in the region (second paragraph)
The situation between Eritrea and Ethiopia	
S/PRST/2008/12 30 April 2008	The Council urged both sides to show maximum restraint and to refrain from any threat or use of force against each other and called upon the parties to address forthwith the unresolved issues in accordance with the commitments made in the Algiers Agreements (fifth paragraph)
Resolution 1827 (2008) 30 July 2008	Terminating the mandate of the United Nations Mission in Ethiopia and Eritrea, the Council demanded that Ethiopia and Eritrea comply fully with their obligations under the Algiers Agreements (para. 2)
The situation in Guinea-Bissau	
S/PRST/2009/2 3 March 2009	Condemning in the strongest terms the assassinations of the President of Guinea-Bissau and the Chief of Staff of the armed forces, the Council urged all parties to resolve their disputes through political and peaceful means within the framework of the democratic institutions (first and second paragraphs)

Decision and date

Provision

Resolution 1876 (2009)
26 June 2009

The Council called upon the Government and all political stakeholders of Guinea-Bissau to work together in order to set up the best conditions for national reconciliation and to consolidate peace and security throughout Guinea-Bissau. The Council urged Guinea-Bissau's political leaders to refrain from involving the military in politics, and requested them to use legal and peaceful means to solve their differences (paras. 7 and 9)

[S/PRST/2009/29](#)
5 November 2009

Taking note of the plans of the National Assembly to convene a national conference on the theme "Conflicts in Guinea-Bissau: causes, prevention, resolution and consequences", the Council underscored the need to conduct an inclusive political dialogue process aimed at ensuring national reconciliation in the country (third paragraph)

Reports of the Secretary-General on the Sudan^a

Resolution 1812 (2008)
30 April 2008

Stressing the importance of full and expeditious implementation of all elements of the Comprehensive Peace Agreement, the Darfur Peace Agreement and the Eastern Sudan Peace Agreement, the Council called for all the parties to respect their commitments to those agreements without delay. It welcomed the sustained commitment of the parties to work together in the Government of National Unity, and urged the cooperation of the National Congress Party and the Sudan Peoples Liberation Movement in carrying out their responsibilities to further implement the Comprehensive Peace Agreement (paras. 3 and 4)

[S/PRST/2008/15](#)
13 May 2008

Strongly condemning the attacks of 10 May 2008 perpetrated by the Justice and Equality Movement against the Government of the Sudanese Government in Omdurman, the Council urged all parties to cease violence immediately, respect their obligations under international humanitarian law and commit to a peaceful resolution of all outstanding issues (first paragraph)

[S/PRST/2008/24](#)
24 June 2008

The Council welcomed the road map for the return of internally displaced persons and the implementation of the Abyei Protocol signed by the National Congress Party and the Sudan People's Liberation Movement on 8 June 2008, and emphasized that the peaceful resolution of the situation in Abyei was vital to the effective implementation of the Comprehensive Peace Agreement and peace in the region. The Council urged the parties to use the opportunity created by the signing of the road map to resolve all outstanding issues related to implementation of the Agreement and welcomed the commitment of the parties to take unresolved issues to arbitration as necessary (first paragraph)

Resolution 1870 (2009)
30 April 2009

Stressing the importance of full and expeditious implementation of all elements of the Comprehensive Peace Agreement, and implementation of the Abyei road map, agreements on Darfur and the Eastern Sudan Peace Agreement, the Council called upon all parties to respect and abide by their commitments to those agreements without delay. The Council welcomed the sustained commitment of the parties to work together in the Government of National Unity, and urged the continued cooperation of the National Congress Party and the Sudan People's Liberation Movement in carrying out their responsibilities in further implementing the Comprehensive Peace Agreement. Moreover, the Council welcomed the agreement by the parties to submit the Abyei boundary dispute to the Abyei Arbitration Tribunal

<i>Decision and date</i>	<i>Provision</i>
	at the Permanent Court of Arbitration for resolution, and called upon the parties to abide by and implement the decision of the Tribunal on the final settlement of the Abyei boundary dispute (paras. 4, 5 and 8)
Resolution 1881 (2009) 30 July 2009	Calling upon the Sudan and Chad to abide by their obligations under the Doha Agreement of 3 May 2009, the Dakar Agreement of 13 March 2008 and previous bilateral agreements, the Council reaffirmed the need for both countries to engage constructively with the Dakar Contact Group with a view to normalizing relations, ceasing support for armed groups, strengthening actions to combat arms trafficking in the region, establishing effective joint border monitoring, and cooperating through diplomatic means to establish peace and stability in Darfur and the wider region (para. 9)
Peace and security in Africa	
S/PRST/2008/4 6 February 2008	Kenya. Expressing its deep concern that civilians continued to be killed, subjected to sexual and gender-based violence and displaced from their homes, the Council emphasized that the only solution to the crisis lay through dialogue, negotiation and compromise and strongly urged Kenya's political leaders to foster reconciliation and to elaborate and implement the actions agreed to on 1 February without delay (second paragraph)
S/PRST/2008/20 12 June 2008	Djibouti and Eritrea. Calling upon Djibouti and Eritrea to commit to a ceasefire, the Council urged both parties, in particular Eritrea, to cooperate and engage in diplomatic efforts to resolve the matter peacefully and in a manner consistent with international law (third and fourth paragraphs)
S/PRST/2008/23 23 June 2008	Zimbabwe. Expressing its concern over the impact of the situation in Zimbabwe on the wider region, the Council welcomed the recent international efforts, including those of the Southern African Development Community and particularly President Mbeki. The Council called on the Zimbabwean authorities to cooperate fully with all efforts, including through the United Nations, aimed at finding a peaceful way forward, through dialogue between the parties, that allowed a legitimate government to be formed that reflected the will of the Zimbabwean people (fourth paragraph)
S/PRST/2008/30 19 August 2008	Mauritania. The Security Council demanded the immediate release of President Sidi Mohamed Ould Cheikh Abdallahi and the restoration of the legitimate, constitutional, democratic institutions immediately (fourth paragraph)
Asia	
Letter dated 22 November 2006 from the Secretary-General addressed to the President of the Security Council (S/2006/920) (Nepal)	
Resolution 1796 (2008) 23 January 2008	Expressing its full support for the Comprehensive Peace Agreement, the Council called upon all parties to maintain momentum in the implementation of the Agreement, to continue constructive engagement with the United Nations, including reaching an early status-of-mission agreement, and to work together to progress to Constituent Assembly elections (para. 2)

Decision and date

Provision

Resolution [1825 \(2008\)](#)
23 July 2008

Expressing its continued readiness to support the peace process in Nepal in the timely and effective implementation of the Comprehensive Peace Agreement and subsequent agreements, the Council welcomed the successful conclusion of the Constituent Assembly elections on 10 April 2008, and the progress made by the parties since the formation of the Assembly in working towards a democratic government. The Council called upon all parties in Nepal to work together in a spirit of cooperation, consensus and compromise in order to continue the transition to a durable long-term solution to enable the country to move to a peaceful, democratic and more prosperous future (fifth and sixth preambular paragraphs and para. 7)

Resolution [1879 \(2009\)](#)
23 July 2009

Renewing the mandate of the United Nations Mission in Nepal, the Council called upon all political parties to take full advantage of the expertise and readiness of the Mission, within its mandate, to support the peace process to facilitate the completion of outstanding aspects of the mandate of the Mission by 23 January 2010 (paras. 1 and 2)

The situation in Timor-Leste

[S/PRST/2008/5](#)
11 February 2008

Condemning in the strongest possible terms the attempt on the life of the President and the attack on the Prime Minister of Timor-Leste, the Council urged all parties in Timor-Leste to resolve any disputes through political and peaceful means within the framework of its democratic institutions (first and third paragraphs)

Resolution [1802 \(2008\)](#)
25 February 2008

The Council urged all parties in Timor-Leste, in particular political leaders, to continue to work together and engage in political dialogue and consolidate peace, democracy, the rule of law, sustainable social and economic development and national reconciliation in the country (para. 5)

Resolution [1867 \(2009\)](#)
26 February 2009

The Council commended the political leadership and State institutions of Timor-Leste for restoring and securing stability, and welcomed the return of a significant number of internally displaced persons and the disbandment of the “petitioners” group, while recognizing the importance of additional measures to achieve meaningful reconciliation and their reintegration into their respective communities (sixth preambular paragraph)

Europe

The situation in Georgia

Resolution [1808 \(2008\)](#)
15 April 2008

The Council called upon the Georgian and Abkhaz parties to increase their bilateral contacts by making full use of all existing mechanisms as described in the relevant Council resolutions in order to come to a peaceful settlement, and to commit themselves to fulfil within a reliable time frame the conditions necessary for the safe, dignified and swift return of refugees and internally displaced persons (para. 10)

Middle East

The situation in the Middle East, including the Palestinian question

Resolution [1860 \(2009\)](#)
8 January 2009

The Council called for renewed and urgent efforts by the parties and the international community to achieve a comprehensive peace based on the vision of a region where two democratic States, Israel and Palestine, live side by side in peace with secure and recognized borders, as envisaged in resolution [1850 \(2008\)](#) (para. 8)

<i>Decision and date</i>	<i>Provision</i>
S/PRST/2009/14 11 May 2009	The Council called upon the parties to fulfil their obligations under the performance-based road map to a permanent two-State solution to the Israeli-Palestinian conflict, refraining from any steps that could undermine confidence or prejudice the outcome of negotiations on all core issues. The Council encouraged tangible steps towards intra-Palestinian reconciliation, including in support of Egypt's efforts (fifth and sixth paragraphs)

^a For additional references to the Sudan, see the item "The situation in Chad, the Central African Republic and the subregion", above.

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 aimed at conflict prevention and the peaceful settlement of disputes did, however, increasingly require the involvement of the Secretary-General, who, in coordination with the Council or at its request, facilitated peace efforts in various ways.

During the period under review, the Council frequently called upon the Secretary-General to make use of mediation as a tool and further emphasized the importance of the actions undertaken by him in promoting mediation. For example, by resolution [1809 \(2008\)](#) of 16 April 2008, the Council recognized the important role of the good offices of the Secretary-General in Africa, and encouraged him to continue to use mediation as often as possible to help to resolve conflicts peacefully, working in coordination and closely with the African Union and other subregional organizations in that regard.⁹² In another instance, in a statement of the President dated 23 September 2008, emphasizing the importance of the actions undertaken by the Secretary-General, in using his good offices and his representatives and special envoys and United Nations mediators in promoting mediation and in the pacific settlement of disputes, the Council took note of

⁹² Resolution 1809 (2008), para. 15.

the establishment of the Mediation Support Unit of the Department of Political Affairs of the United Nations Secretariat, which provided expertise for supporting the mediation efforts of the United Nations and regional and subregional organizations.⁹³

The report of the Secretary-General on enhancing mediation and its support activities⁹⁴ was acknowledged by the Council in its presidential statement dated 21 April 2009. By that statement, the Council emphasized the importance of the actions undertaken by the Secretary-General in promoting mediation and in the pacific settlement of disputes, and welcomed the continued efforts of the Department of Political Affairs, in particular through the Mediation Support Unit, to respond to emerging and existing crises. It also underscored that mediation support efforts should be responsive to the demands of fast-moving peace processes. The Council requested the Secretary-General to keep it informed of the action undertaken by him in promoting and supporting mediation and pacific settlement of disputes, ensuring coherence with the ongoing efforts to strengthen peacebuilding and peacekeeping.⁹⁵

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 to cooperate in negotiations held under the auspices of the Secretary-General, expressed support for conciliation efforts undertaken by him, expressly requested that he assume an active role in the process of achieving dialogue and reconciliation, or endorsed his initiatives within the framework of his good offices. In this context, the Secretary-General increasingly used his

⁹³ S/PRST/2008/36, fourth paragraph.

⁹⁴ S/2009/189.

⁹⁵ S/PRST/2009/8, fifth and tenth paragraphs.

Special Envoys, Advisers and Representatives to assist him in his efforts. For instance, he appointed a Joint African Union-United Nations Chief Mediator for Darfur to conduct the mediation efforts in the Sudan on a full-time basis.⁹⁶ With respect to Burundi, after the adoption of the Declaration of the Summit of the Heads of State and Government of the Great Lakes Region on the Burundi Peace Process, the Council requested the Executive Representative of the Secretary-General for Burundi to facilitate and promote dialogue among national and international stakeholders, in particular in the context of the upcoming elections, while continuing to support their efforts to sustain peace and stability.⁹⁷

Beyond the discharge of his good offices, the Secretary-General increasingly proposed the establishment or continuation of special political missions to undertake peacebuilding 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. In a statement of the President dated 7 April 2009, the Council for example welcomed the recommendation of the Secretary-General to establish a United Nations Integrated Peacebuilding Office in the Central African

Republic (BINUCA) to succeed the United Nations Peacebuilding Support Office.⁹⁸ It noted with satisfaction that BINUCA, inter alia, would assist national and local efforts in implementing the dialogue outcomes, in particular through support for governance reforms and electoral processes.⁹⁹ Likewise, by resolution 1876 (2009), the Council requested the Secretary-General to establish a United Nations Integrated Peacebuilding Office in Guinea-Bissau to succeed the United Nations Peacebuilding Support Office in Guinea-Bissau, as recommended by him in his report.¹⁰⁰ The Office was mandated, inter alia, with supporting an inclusive political dialogue and national reconciliation process.¹⁰¹

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. The practice described below is illustrative and does not purport to be comprehensive.

⁹⁸ See S/2009/128.

⁹⁹ S/PRST/2009/5, sixth paragraph.

¹⁰⁰ S/2009/302.

¹⁰¹ Resolution 1876 (2009), para. 3.

⁹⁶ See S/2008/439.

⁹⁷ Resolution 1858 (2008), para. 7.

Table 6

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

Decision and date

Provision

Africa

The situation in Burundi

Resolution 1858 (2008)
22 December 2008

The Council requested the Executive Representative of the Secretary-General for Burundi to facilitate and promote dialogue among national and international stakeholders, in particular in the context of the upcoming elections, while continuing to support their efforts to sustain peace and stability (para. 7)

The situation in Chad, the Central African Republic and the subregion

Resolution 1834 (2008)
24 September 2008

Looking forward to the implementation of the commitment of the Sudan and Chad to restore diplomatic ties with a view to normalizing their relations, the Council welcomed the role played in particular by the regional contact group, the Governments of the Libyan Arab Jamahiriya and the Republic of the Congo as African co-mediators, as well as the African Union and the United Nations, including through the Special Representative of the Secretary-General for the Central African Republic and Chad and Head of Mission, in support of the Dakar process (para. 11)

Decision and date

Provision

The situation in the Central African Republic

[S/PRST/2009/5](#)
7 April 2009

Welcoming the recommendation of the Secretary-General to establish a United Nations Integrated Peacebuilding Office in the Central African Republic (BINUCA) to succeed the United Nations Peacebuilding Support Office, the Council noted with satisfaction that BINUCA inter alia, would assist national and local efforts in implementing the dialogue outcomes, in particular through support for governance reforms and electoral processes (sixth paragraph)

The situation concerning the Democratic Republic of the Congo

[S/PRST/2008/38](#)
21 October 2008

The Council encouraged the Secretary-General to step up his efforts to facilitate dialogue between Rwanda and the Democratic Republic of the Congo (eighth paragraph)

[S/PRST/2008/40](#)
29 October 2008

The Council expressed its strong support for the efforts of the Secretary-General to facilitate the dialogue between the leaders of the Democratic Republic of the Congo and Rwanda and encouraged him to send a special envoy tasked with that mission as soon as possible (second paragraph)

The situation between Eritrea and Ethiopia

Resolution [1798 \(2008\)](#)
30 January 2008

The Council expressed its strong support for the ongoing efforts of the Secretary-General and the international community to engage with Eritrea and Ethiopia to help them to normalize their relations, to promote stability between the parties and to lay the foundation for a comprehensive and lasting settlement of the dispute, and urged the parties to accept the Secretary-General's good offices (para. 9)

Resolution [1827 \(2008\)](#)
30 July 2008

The Council expressed its strong support for the ongoing efforts of the Secretary-General and the international community to engage with Ethiopia and Eritrea to help them to implement the Algiers Agreements, to normalize their relations, to promote stability between them and to lay the foundation for a comprehensive and lasting peace between them, and urged again Ethiopia and Eritrea to accept the Secretary-General's good offices (para. 3)

The situation in Guinea-Bissau

Resolution [1876 \(2009\)](#)
26 June 2009

The Council requested the Secretary-General to establish a United Nations Integrated Peacebuilding Office in Guinea-Bissau to succeed the United Nations Peacebuilding Support Office in Guinea-Bissau, with the task, inter alia, of supporting an inclusive political dialogue and national reconciliation process (para. 3)

Reports of the Secretary-General on the Sudan

Resolution [1812 \(2008\)](#)
30 April 2008

The Council urged the United Nations Mission in the Sudan, consistent with its mandate, to begin immediate preparations to support the conduct of national elections, including support for the development of a national strategy for the conduct of elections in close collaboration with United Nations Development Programme and the parties to the Comprehensive Peace Agreement (para. 15)

Peace and security in Africa

[S/PRST/2008/20](#)
12 June 2008

Djibouti and Eritrea. The Council encouraged the Secretary-General urgently to use his good offices and reach out to both parties, in coordination with regional efforts, to facilitate bilateral discussions to determine arrangements for decreasing the military presence along the border and to develop confidence-building measures to resolve the border situation (sixth paragraph)

Resolution [1862 \(2009\)](#)
14 January 2009

Djibouti and Eritrea. Welcoming the offer of good offices made by the Secretary-General, the Council deeply regretted that Eritrea had continuously refused to grant visas to the members of the fact-finding mission or to receive any envoy by the Secretary-General, and welcomed the continued readiness of the Secretary-General to send a fact-finding mission or an envoy to Eritrea (para. 3)

Asia

The situation in Timor-Leste

Resolution [1802 \(2008\)](#)
25 February 2008

Recognizing the important role that the United Nations Integrated Mission in Timor-Leste continued to play in promoting peace, stability and development in Timor-Leste, the Council expressed its full support for the continued efforts of the Special Representative of the Secretary-General for Timor-Leste aimed at addressing critical political and security-related issues facing the country through inclusive and collaborative processes, including the High-level Coordination Committee and the Trilateral Coordination Forum (ultimate preambular paragraph and para. 5)

Europe

The situation in Georgia

Resolution [1808 \(2008\)](#)
15 April 2008

Having extended the mandate of the United Nations Observer Mission in Georgia, the Council requested that the Secretary-General make use of the mandate in order to encourage and support the parties in implementing measures to build confidence and to establish an intensive and meaningful dialogue, with a view to achieving a lasting and comprehensive settlement, including the facilitation of a meeting at the highest level (para. 17)

Thematic issues

Peace and security in Africa

Resolution [1809 \(2008\)](#)
16 April 2008

The Council recognized the important role of the good offices of the Secretary-General in Africa, and encouraged the Secretary-General to continue to use mediation as often as possible to help to resolve conflicts peacefully, working in coordination and closely with the African Union and other subregional organizations in that regard, as appropriate (para. 15)

Decision and date

Provision

Maintenance of international peace and security: mediation and settlement of disputes

[S/PRST/2008/36](#)

23 September 2008

The Council requested the Secretary-General to continue to ensure that mediation processes conducted by or under the auspices of the United Nations were guided by the purposes and principles of the Organization and that mediators were experienced, impartial, had a good knowledge of all the stakeholders, facts and circumstances of any dispute to which they had been assigned, and were provided with the necessary support and flexibility to approach mediation according to the specificities of the disputes (fifth paragraph)

[S/PRST/2009/8](#)

21 April 2009

The Council emphasized the importance of the actions undertaken by the Secretary-General in promoting mediation and in the pacific settlement of disputes, and welcomed the continued efforts of the Department of Political Affairs, in particular through the Mediation Support Unit, to respond to emerging and existing crises. It further requested the Secretary-General to work in partnership with Member States, regional and subregional organizations and other relevant partners in a coordinated and mutually complementary manner when cooperating in a mediation process (fifth and eighth paragraphs)

Women and peace and security

[S/PRST/2008/39](#)

29 October 2008

Urging Member States and international, regional and subregional organizations to take measures to increase the participation of women in conflict prevention, conflict resolution and peacebuilding and to strengthen the role of women as decision makers in these areas, the Council called upon the Secretary-General to appoint more women to pursue good offices on his behalf, particularly as Special Representatives and Special Envoys (fourth paragraph)

D. Decisions involving regional arrangements or agencies

During the period under review, the Security Council not only called upon parties to a conflict to cooperate with regional arrangements or agencies, 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 agencies or requested the Secretary-General to undertake such efforts in conjunction with them. Decisions of the Council regarding the joint or parallel efforts undertaken by the Council and regional arrangements or agencies in the pacific settlement of disputes during the period under review are covered in detail in part VIII of this Supplement.

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

Note

This section highlights the main arguments raised in the deliberations of the Security 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.

According to the provisions of Chapter VI, the Council shall, when it deems necessary, make recommendations in relation to disputes or situations which are likely to endanger international peace and security. This section focuses on the deliberations of the Security Council with regard to the interpretation of specific provisions of Chapter VI of the Charter. When making recommendations to the parties the Council is also required, pursuant to Article 36 of the Charter, to take into consideration (a) procedures of settlement which have already been adopted by the parties, and (b) the general rule that disputes of a legal nature ought to be referred to the International Court of Justice. Instances in which the requirements stipulated by Article 36 (3) became the subject of deliberations are also considered below.

During the course of thematic and country-specific debates held in the Council the measures available under Chapter VI, notably mediation, were often referred to as a tool that the Council could employ in resolving conflicts.¹⁰² Many speakers emphasized that mediation should be part of a comprehensive approach to the pacific settlement of disputes and called on it to be widely utilized by all parties and the United Nations.

The information in this section, on discussions concerning the provisions of Chapter VI and the good offices of the Secretary-General as a primary tool for the mediation of disputes provided for under Article 99 of the Charter, is set out under four headings, namely: Relevance of the provisions of Chapter VI in comparison to the provisions of Chapter VII; Obligation of Member States to settle their disputes by peaceful means in the light of Article 33 (1) and recommendations for the settlement of disputes by the Security Council in the light of Article 33 (2); Referral of legal disputes in the light of Article 36 (3); and Referrals by the Secretary-General in the light of Article 99. In several instances, Member States provided different interpretations of the provisions of Chapter VI or challenged the Security Council's interpretation of those provisions, or even its role in the pacific settlement of disputes.

¹⁰² See, for example, the 5979th and 6108th meetings on the item "Maintenance of international peace and security: mediation and settlement of disputes".

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

Case 5

Maintenance of international peace and security: mediation and settlement of disputes

At its 6108th meeting, on 21 April 2009, the Council held an open debate on ways to promote the use of mediation in the peaceful settlement of disputes. During the debate, several speakers highlighted the need to exhaust the provisions of Chapter VI before resorting to those provided for under Chapter VII.¹⁰³ The representative of Viet Nam stressed that mediation efforts should focus on addressing the root causes of the conflicts, with due attention to the need to help countries overcome conditions of absolute poverty and the lack of socioeconomic development. In his view, mediation would help to avoid escalation and the unnecessary application of measures of last resort, such as those invoked by Chapter VII.¹⁰⁴ While underlining the need for a "new international vision for mediation", the representative of the Libyan Arab Jamahiriya stressed that tools provided for in Chapters VI and VIII should be exhausted before resorting to Chapter VII.¹⁰⁵ The representative of Brazil said that further recourse to Chapter VI contributed to the long-term sustainability of action under Chapter VII. He stated that early efforts to peacefully resolve disputes reduced threats to peace and security and therefore helped to maintain the demand for peacekeeping operations at levels that the United Nations and Member States could manage adequately.¹⁰⁶ The representative of Qatar added that the deployment of peacekeeping forces and "other measures of the use of force" resulted in a much greater financial burden than the cost of diplomatic mediation.¹⁰⁷

The representative of Cuba, speaking on behalf of the Non-Aligned Movement, echoed by the representative of Qatar, expressed alarm regarding the prevalent use of Chapter VII measures long before the

¹⁰³ S/PV.6108, p. 7 (Viet Nam); p. 9 (Libyan Arab Jamahiriya); p. 23 (Mexico); p. 24 (Brazil); S/PV.6108 (Resumption 1), p. 11 (Cuba, on behalf of the Non-Aligned Movement); and p. 13 (Qatar).

¹⁰⁴ S/PV.6108, p. 7.

¹⁰⁵ *Ibid.*, p. 9.

¹⁰⁶ *Ibid.*, p. 24.

¹⁰⁷ S/PV.6108 (Resumption 1), p. 13.

full range of Chapter VI measures had been utilized.¹⁰⁸ Specifically, the representative of Cuba stated that the Council was increasingly resorting to Chapter VII action as an “umbrella” for addressing issues that did not necessarily pose a threat to international peace and security.¹⁰⁹ The representative of Pakistan stressed that “injudicious use” of Chapter VII created the wrong impression that non-Chapter VII resolutions were not equally binding. Experience had shown that Chapter VII measures were not always ideal and could, in fact, worsen disputes. In contrast, measures taken under Chapter VI built confidence and fostered respect for the sovereignty of States.¹¹⁰

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

Article 33 refers to the obligation of Member States to settle their disputes by peaceful means. Article 33 (1) allocates primary responsibility for 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. Two case studies are set out below, concerning (a) the maintenance of international peace and security: mediation and settlement of disputes, indicating general support for making broader use of mediation and for a strong role for the United Nations in such a domain; and (b) peace and security in Africa, exemplifying how the Council called upon the parties to resolve their dispute through dialogue and negotiation.

**Case 6
Maintenance of international peace and security: mediation and settlement of disputes**

At its 5979th (high-level) meeting, on 23 September 2008, the Council considered a concept paper prepared by the presidency (Burkina Faso).¹¹¹

The concept paper, inter alia, underlined that mediation was one among the wide range of methods defined in Article 33 of the Charter, and the increasingly frequent recourse to mediation had made it one of the principal alternatives for the settlement of contemporary conflicts. Opening the debate, the representative of Burkina Faso stressed the importance of tackling disputes through peaceful means in conformity with the Charter. He emphasized that bilateral and multilateral partners should be proactive in any mediation process by promoting the leadership role of the mediator and supporting each step of the process in a timely and appropriate manner, and that the United Nations and especially the Security Council could and should play a crucial role in that regard. The representative held that no mediation could succeed without the full participation of the protagonists and underlined three elements as key for meditation to bear fruit: (1) all parties concerned must have ownership of the peace process; (2) any final document must reassure each party and answer all fundamental questions underlying the dispute; and (3) follow-up mechanisms must be taken to prevent possible pitfalls.¹¹²

The Secretary-General said that while the United Nations had increasingly been asked to rapidly deploy peacekeeping operations to save lives in conflict situations, mediation was indispensable to prevent further bloodshed. He therefore called on the Council and all Member States to invest “up front” in mediation efforts. While acknowledging that the United Nations did not claim a monopoly on the settlement of disputes, he considered that the Security Council played a central role in mediating and settling disputes, as laid out in Articles 33 and 36 of the Charter. He observed that mediation would be most effective when it was supported by a unified Council which was also prepared to use its leverage, such as targeted sanctions, supported one clear chief mediator and gave the process space.¹¹³

Mr. Lakhdar Brahimi noted that while regional organizations had acquired remarkable skills in the field of mediation, the United Nations remained the leading actor in this field. He highlighted two of the principles at the heart of United Nations mediation: first, the mediator should include in the peace process

¹⁰⁸ Ibid., p. 11 (Cuba, on behalf of the Non-Aligned Movement); and p. 13 (Qatar).

¹⁰⁹ Ibid., p. 11.

¹¹⁰ Ibid., p. 18.

¹¹¹ S/2008/590.

¹¹² S/PV.5979, pp. 2-4.

¹¹³ Ibid., pp. 4-5.

all the parties to the conflict without any exception; secondly, the mediator's efforts could be significantly strengthened when the principles and approaches he or she adhered to while conducting the mediation were seen to be supported by all Council members and Member States. He further maintained that the United Nations universality, impartiality and consistent adherence to the principles of the Charter were powerful weapons in its mediator's arsenal.¹¹⁴

In the subsequent discussion, a few speakers explicitly invoked Article 33 of the Charter, highlighting mediation as an important tool for the peaceful settlement of disputes.¹¹⁵ Drawing examples from past experiences, all Council members recognized the role of the United Nations in mediation and the settlement of disputes. Citing the situation in Zimbabwe, the representative of the United Kingdom noted that the agreement between the ruling party and the opposition was the product of a long and difficult mediation effort led by President Thabo Mbeki with the support of the United Nations and the African Union. He emphasized that mediation required strong and capable leadership, a coherent international effort and the resources to make sure it could deliver.¹¹⁶ The representative of the United States believed that formal negotiations and mediation, where States engaged fully and inclusively and real political effort was to be expended, were often the best way to address the most serious international disputes.¹¹⁷

Several speakers touched on the role of the Security Council in mediation and dispute settlement. The representative of the United Kingdom emphasized the need to strengthen the Council's role through each phase of conflict prevention, the mediation of conflicts, conflict resolution and the implementation of peace agreements.¹¹⁸ The representative of France held that sanctions could be a tool for mediation and conflict settlement,¹¹⁹ while the representative of South Africa warned that the Council should avoid the temptation to pre-empt the outcome of mediation efforts through the use of coercive tools and otherwise avoid interfering in

mediation efforts of either the Secretary-General or regional organizations.¹²⁰

A number of speakers maintained that mediators should remain neutral and impartial, and should have the consent and full participation of all parties concerned.¹²¹ The representative of China, advocating for international support for mediators, stated that neutrality and fairness constituted the basic conditions for successful mediation.¹²² The representative of the Libyan Arab Jamahiriya, however, held that the effectiveness of mediation did not depend only on the impartiality of the mediator but also on the unity and coordination of regional and international efforts. He further noted that the option of mediation offered ideas and proposals to urge the parties to a dispute to resort to dialogue.¹²³

At the end of the meeting, the Council adopted a presidential statement, in which it affirmed that, as the organ with the primary responsibility for the maintenance of international peace and security, it had a responsibility to promote and support mediation as an important means for the pacific settlement of disputes, and underlined the importance of engaging the potential and existing capabilities of regional and subregional organizations in mediation efforts.¹²⁴

On 21 April 2009, the Council held another debate on the topic, at which the Under-Secretary-General for Political Affairs introduced the report of the Secretary-General on enhancing mediation and its support activities,¹²⁵ submitted pursuant to the presidential statement of 23 September 2008.¹²⁶ The report examined the experience and challenges faced by the United Nations and its partners in providing professional mediation assistance to parties in conflict. It also highlighted that mediation had proved to be the most promising among the various means contained in Article 33 for the peaceful settlement of conflict. In his recommendations, the Secretary-General emphasized the need for early United Nations engagement to strengthen conflict prevention and resolution; professionalize operational support to mediators;

¹¹⁴ *Ibid.*, pp. 5-7.

¹¹⁵ *Ibid.*, p. 4 (Secretary-General); p. 10 (South Africa); p. 18 (United States); p. 19 (Libyan Arab Jamahiriya); and p. 21 (China).

¹¹⁶ *Ibid.*, p. 16.

¹¹⁷ *Ibid.*, pp. 18-19.

¹¹⁸ *Ibid.*, p. 17.

¹¹⁹ *Ibid.*, p. 14.

¹²⁰ *Ibid.*, p. 11.

¹²¹ *Ibid.*, p. 2 (Burkina Faso); p. 15 (Russian Federation); p. 17 (Viet Nam); and p. 21 (China).

¹²² *Ibid.*, p. 21.

¹²³ *Ibid.*, p. 19.

¹²⁴ S/PRST/2008/36.

¹²⁵ S/2009/189.

¹²⁶ S/PRST/2008/36.

develop the next generation of United Nations mediators; and integrate mediation support into United Nations field presences.¹²⁷

During the debate, many delegations welcomed the recommendations of the Secretary-General on enhancing mediation and its support activities as described in the report.¹²⁸ Speakers were unanimous in recognizing the importance of mediation, many citing Chapter VI and Article 33 as the basis for the role of the United Nations, and they called on States to resolve their disputes by peaceful means.¹²⁹ Several delegations pointed out that the peaceful settlement of disputes constituted an integral part of the Charter.¹³⁰ The representative of China emphasized that the peaceful settlement of disputes would reap an abundant peace dividend and added that the Charter had provided theoretical guidance and a basis of action for mediation and dispute settlement.¹³¹ The representative of Qatar noted that the United Nations had to make mediation and dispute settlement a central feature of its Charter-based charge to save present and future generations from the scourge of war.¹³² The representative of South Africa, invoking Article 33 of the Charter, stated that the United Nations had played a useful role over the years in helping to mediate inter- and intra-State conflicts before they escalated into armed conflict, after the outbreak of violence and during the implementation of peace agreements. However, he maintained that the peaceful resolution of disputes was a sovereign responsibility, and that building effective local and national capacity should be a priority within States.¹³³

Several speakers stressed that mediation was a highly efficient and cost-effective tool, and urged that mediation efforts be properly resourced in order to prevent the escalation of conflicts and thus obviate the need for costly peacekeeping operations.¹³⁴ At the same time, the representative of Costa Rica pointed out that the Organization had to move away from the “simple equation” that mediation was important solely because it was cost-effective, but rather support should be given to the human dimension of a timely intervention, whereby lives were saved, human rights protected and institutions preserved.¹³⁵ While some representatives emphasized that mediation could be utilized at all stages of the conflict cycle,¹³⁶ other representatives stressed the need for early intervention.¹³⁷ The representative of Brazil noted that early mediation would be easier if the United Nations and other actors developed and kept expertise needed for immediate and/or rapid use.¹³⁸ The representatives of Austria and Uganda observed that mediation should complement other crisis prevention and management activities, such as peacekeeping and peacebuilding.¹³⁹ In addition, the representative of the United Kingdom stressed that mediation could not be conducted in “a vacuum”, but must be a core part of any institutional architecture to address conflict and thus the necessary linkages should be made between mediators and those engaged in the planning and implementation of peace agreements.¹⁴⁰

Several delegations emphasized that the United Nations did not hold a monopoly on mediation and urged that issues of mediation should be approached on the basis of the principle of a judicious division of labour with relevant actors, including regional and

¹²⁷ S/2009/189, paras. 2 and 62.

¹²⁸ S/PV.6108, p. 7 (Viet Nam); p. 8 (Costa Rica); p. 10 (Austria); p. 21 (Mexico); p. 24 (Brazil); p. 28 (Switzerland); p. 29 (Bosnia and Herzegovina); and S/PV.6108 (Resumption 1), p. 6 (Uruguay).

¹²⁹ S/PV.6108, p. 6 (Russian Federation); p. 17 (Burkina Faso); p. 23 (Mexico, Brazil); S/PV.6108 (Resumption 1), p. 2 (South Africa); p. 11 (Cuba, on behalf of the Non-Aligned Movement); p. 13 (Qatar); p. 17 (Pakistan); and p. 24 (Sudan).

¹³⁰ S/PV.6108, p. 9 (Libyan Arab Jamahiriya); p. 11 (China); p. 13 (United States); p. 17 (Burkina Faso); p. 31 (Morocco); S/PV.6108 (Resumption 1), p. 11 (Cuba, on behalf of the Non-Aligned Movement); p. 13 (Qatar); and p. 21 (Armenia).

¹³¹ S/PV.6108, p. 11.

¹³² S/PV.6108 (Resumption 1), p. 13.

¹³³ *Ibid.*, p. 2.

¹³⁴ S/PV. 6108, p. 8 (Costa Rica); p. 9 (Libyan Arab Jamahiriya); p. 10 (Austria); p. 14 (Uganda); p. 15 (Croatia); p. 17 (Burkina Faso); p. 19 (Japan); p. 20 (Turkey); p. 24 (Canada); p. 30 (Algeria); S/PV.6108 (Resumption 1), p. 2 (South Africa); p. 7 (Republic of Korea); p. 8 (Czech Republic, on behalf of the European Union); p. 9 (Liechtenstein); and p. 16 (Kenya).

¹³⁵ S/PV.6108, p. 8.

¹³⁶ *Ibid.*, p. 10 (Austria); p. 14 (Uganda); and S/PV.6108 (Resumption 1), p. 7 (Czech Republic, on behalf of the European Union).

¹³⁷ S/PV.6108, p. 24 (Brazil); p. 29 (Bosnia and Herzegovina); and S/PV.6108 (Resumption 1), p. 2 (South Africa).

¹³⁸ S/PV.6108, p. 24.

¹³⁹ *Ibid.*, p. 10 (Austria); and p. 14 (Uganda).

¹⁴⁰ *Ibid.*, p. 13.

subregional organizations.¹⁴¹ The representative of the Republic of Korea held that, although the United Nations did not have a monopoly on mediation, the Organization was in an ideal position to provide mediation in most cases and thus the only global intergovernmental organization recognized by the parties concerned.¹⁴² The representative of China cautioned that mediation was a process with “inevitable setbacks and fluctuations”, and thus it was important for the international community to speak with one voice.¹⁴³ The representatives of Turkey and Norway pointed out that the challenge was to find the right composition and combination of actions among the interested actors.¹⁴⁴ The representatives of Viet Nam and Turkey called for enhanced coordination and cooperation between the United Nations and regional organizations in order to avoid duplication, waste of resources, and rivalry that could negate each other’s role and to ensure productive synergy.¹⁴⁵

Most speakers emphasized that the success of mediation processes required that mediators remained neutral, impartial and should have an in-depth understanding of local history, politics, cultures and personalities before assuming any substantive role.¹⁴⁶ The representative of the Sudan cautioned that, regardless of the independence, impartiality, objectivity and expertise of mediators, it was essential that all influential parties, particularly the Security Council and regional organizations directly involved with the parties to a conflict, contributed to the solution.¹⁴⁷ The representative of the Russian Federation noted the importance of the careful selection of United Nations mediators, which should be conducted in a balanced way and on the basis of objective, universally accepted criteria, in order to avoid “any excessive bias” towards any regional or political group. He called for transparency with regard

to the activities of mediators and stressed that mediators should be held accountable against their mandates, in the case that the Council had provided one.¹⁴⁸

At the end of the meeting the Council adopted a presidential statement, in which it underlined its intention to remain engaged in all stages of the conflict cycle, including in support of mediation, and expressed its readiness to explore further ways and means to reinforce the promotion of mediation as an important means for the pacific settlement of disputes, wherever possible before they evolved into violence. It also recognized the importance of mediation, to be launched at the earliest possible phases of conflict as well as in the implementation phases of signed peace agreements. The Council underlined the need to design mediation processes that addressed the root causes of conflicts and contributed to peacebuilding, in order to ensure sustainable peace.¹⁴⁹

Case 7 Peace and security in Africa (Djibouti and Eritrea)

The 5924th meeting of the Council, on 24 June 2008, was an emergency meeting held in response to a request from the representative of Djibouti concerning the border dispute between his country and Eritrea.¹⁵⁰ The Director of the Africa Division of the Department of Political Affairs, providing an update on the situation, stated that interlocutors had described the situation on the border as calm but tense, with military regrouping occurring on either side. He informed the Council that during an emergency meeting held on 12 June with the League of Arab States, the League had called on Eritrea to withdraw its forces from the border area. France and Egypt had also called on Eritrea to allow mediation efforts, and the African Union had joined the United Nations in calling for talks between the parties to end the border clashes.¹⁵¹

Taking the floor, the representative of Djibouti held that the conflict, which had already caused many casualties since Eritrean troops had attacked the positions of Djibouti’s army on 10 June, deserved the Council’s attention. He pointed out the necessary steps

¹⁴¹ Ibid., p. 6 (Russian Federation); p. 15 (Uganda); p. 16 (Croatia); p. 23 (Mexico); and S/PV.6108 (Resumption 1), p. 2 (South Africa).

¹⁴² S/PV.6108 (Resumption 1), p. 6.

¹⁴³ S/PV.6108, p. 11.

¹⁴⁴ Ibid., p. 21 (Turkey); and S/PV.6108 (Resumption 1), p. 12 (Norway).

¹⁴⁵ S/PV.6108, p. 7 (Viet Nam); and p. 21 (Turkey).

¹⁴⁶ Ibid., p. 9 (Libyan Arab Jamahiriya); p. 11 (China); p. 15 (Uganda); p. 19 (Japan); p. 29 (Bosnia and Herzegovina); p. 31 (Morocco); S/PV.6108 (Resumption 1), p. 10 (Nigeria); p. 12 (Norway); and p. 13 (Qatar).

¹⁴⁷ S/PV.6108 (Resumption 1), p. 25.

¹⁴⁸ S/PV.6108, p. 6.

¹⁴⁹ S/PRST/2009/8.

¹⁵⁰ S/2008/387.

¹⁵¹ S/PV.5924, pp. 2-3.

that Djibouti had taken to find a diplomatic solution to the current crisis with Eritrea; he hoped that a settlement of the dispute with Eritrea would come by peaceful means and indicated his country's efforts to engage in dialogue with a view to establishing lasting peace and stability throughout the region. He emphasized that Djibouti was prepared to cooperate with the Security Council and the Secretary-General in their efforts to resolve the situation.¹⁵²

In response, the representative of Eritrea stated that his country had made no incursions into the territory of Djibouti, nor did it have any territorial ambitions in the region. He further stated that there had been numerous contacts between officials of the two countries at the highest levels, but Djibouti had taken the matter to the public arena, with unwarranted hostile anti-Eritrean campaigns. He added that Eritrea would continue to value close cooperation with Djibouti, as demonstrated by the signing of several bilateral ventures in the areas of trade, health, fishing and infrastructure. Lastly, he reaffirmed his country's commitment to exercising restraint and remaining politically committed to solving peacefully any dispute with Djibouti.¹⁵³

Speakers expressed concern about the incidents that had occurred on the border between Eritrea and Djibouti and urged both parties to peacefully resolve the dispute.

The representatives of Indonesia and Italy explicitly invoked Article 33, urging the parties to seek diplomatic and judicial approaches to a peaceful settlement of the dispute, as well as to resort to regional agencies or other peaceful means of their choice.¹⁵⁴ The representative of Costa Rica noted that the conflict between Djibouti and Eritrea should be settled through consultations and negotiations that explored ways of reaching new agreements through arbitration and mediation.¹⁵⁵ The representative of the United States called on both sides, particularly Eritrea, to withdraw military forces from the common border area and to engage in dialogue to resolve the matter peacefully in accordance with international law.¹⁵⁶

On the role of the Security Council, the representative of Burkina Faso asserted that it was its duty to urge the parties to refrain from any action that could lead to an escalation of the conflict, adding that the Council should emphasize dialogue over military action.¹⁵⁷ The representative of China held that the Council could strengthen its contact and communication with Djibouti and Eritrea, listen to the views and requests of the parties concerned, and coordinate with and support the good offices of the African Union and other regional organizations.¹⁵⁸ The representative of the Libyan Arab Jamahiriya urged the Council to work towards putting an end to these conflicts by assisting the parties to reach a peaceful solution.¹⁵⁹ The representative of the United States stated that, should Eritrea fail to engage in a peaceful solution and pull its forces back from its border with Djibouti, the Council should consider appropriate actions or measures.¹⁶⁰

On 23 October 2008, the Council met in response to a note verbale dated 3 October 2008 from the representative of Djibouti.¹⁶¹ During the debate, the representative of Djibouti recounted his Government's efforts to find a diplomatic and peaceful solution to its dispute with Eritrea. He noted that, while his Government had been tireless in the search for a peaceful and diplomatic solution, Eritrea had continued to reinforce its troops and had carried out further incursions into the territory of Djibouti. Thus, he believed that the Council should, within three weeks, call on both sides to devote themselves to solving the crisis.¹⁶² The representative of Eritrea stated that on 1 June 2008 Djibouti had unleashed an unprovoked attack against Eritrean units within Eritrean territory and that his Government had chosen the path of restraint and patience in order not to escalate the crisis. As a result of an approach by the Emir of Qatar, the President of Eritrea had called on the President of Djibouti with a view to addressing the situation and ensuring peace and security in the subregion.¹⁶³

Council members expressed concern over the situation between Djibouti and Eritrea and called for the peaceful settlement of the border dispute. Several

¹⁵² *Ibid.*, pp. 4-6.

¹⁵³ *Ibid.*, pp. 6-8.

¹⁵⁴ *Ibid.*, p. 9 (Indonesia); and p. 14 (Italy).

¹⁵⁵ *Ibid.*, p. 14.

¹⁵⁶ *Ibid.*, p. 15.

¹⁵⁷ *Ibid.*, p. 10.

¹⁵⁸ *Ibid.*, p. 11.

¹⁵⁹ *Ibid.*, p. 12.

¹⁶⁰ *Ibid.*, p. 15.

¹⁶¹ S/2008/635.

¹⁶² S/PV.6000, pp. 2-4.

¹⁶³ *Ibid.*, pp. 4-5.

speakers stressed the need for both parties to engage in dialogue with a view to finding a peaceful solution to the dispute in conformity with the principles of international law and the Charter.¹⁶⁴ Members commended the Government of Djibouti for having complied with the Council's presidential statement of 12 June 2008,¹⁶⁵ in which the Council had called on both sides to show restraint and withdraw their forces to the status quo ante, and urged Eritrea to comply with the Council's demands. The representative of the United States believed that Eritrea should be given a timeframe by which it must accept mediation; should that proposal be rebuffed, the Council must react immediately.¹⁶⁶

At its 6065th meeting, on 14 January 2009, the Council adopted resolution 1862 (2009), in which it demanded that Eritrea abide by its international obligations as a Member of the United Nations, respect the principles mentioned in Article 2, paragraphs 3, 4 and 5, and Article 33 of the Charter, and cooperate fully with the Secretary-General, in particular through his proposal of good offices.¹⁶⁷

Referral of legal disputes in the light of Article 36 (3)

Article 36 (3) of the Charter stipulates that the Security Council, in making recommendations under Article 36, "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".

As set out in case 8, Member States debated the referral by the General Assembly to the International Court of Justice of the question of Kosovo's unilateral declaration of independence.

Case 8 Security Council resolutions 1160 (1998), 1199 (1998), 1203 (1998), 1239 (1999) and 1244 (1999)

At its 6025th meeting, on 26 November 2008, the Council considered the report of the Secretary-General

on the United Nations Interim Administration Mission in Kosovo (UNMIK), which informed it that, on 8 October 2008, the General Assembly had adopted a resolution submitted by Serbia requesting the International Court of Justice to issue an advisory opinion on the question: "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government in Kosovo in accordance with international law?"¹⁶⁸ The report further indicated that the Kosovo authorities had expressed regret over the adoption of that resolution, stressing that Kosovo's independence was irreversible and that the review by the International Court of Justice of the legality of the declaration of independence would not prevent other countries from appreciating the constant progress in Kosovo or recognizing it as an independent State.¹⁶⁹

During the debate, the representative of Serbia noted that, in order to avoid any dispute regarding the territorial integrity of any Member State, the world community should work constructively together to solve that issue through international institutions of indisputable and universal legitimacy. He was pleased to state that the General Assembly had supported Serbia's position by adopting the resolution to refer the question of status to the International Court of Justice. He expressed the view that referring the matter to the judicial arena was a reaffirmation by the world community of Serbia's strategic choice to respond to the universal declaration of independence peacefully with maximum restraint.¹⁷⁰ The representative of Kosovo, on the other hand, regretted that the Government of Serbia had requested an advisory opinion from the International Court of Justice on Kosovo's independence. He expressed the view that the question of independence was settled and irreversible and said he was confident that the referral to the Court would not hinder nations around the world from assessing Kosovo's continued progress or their eventual decision to recognize its independence. He maintained that Kosovo would play an active part in presenting its case before the Court and was confident that the Court's deliberations would be fair and impartial.¹⁷¹

The representative of South Africa expressed concern over the manner in which Kosovo had declared

¹⁶⁴ Ibid., p. 6 (France); p. 7 (Belgium); p. 8 (Italy); p. 9 (United Kingdom); p. 11 (Croatia); p. 12 (Costa Rica, Viet Nam); p. 13 (Panama); and p. 14 (China).

¹⁶⁵ S/PRST/2008/20.

¹⁶⁶ S/PV.6000, pp. 13-14.

¹⁶⁷ Resolution 1862 (2009), para. 5 (iii).

¹⁶⁸ General Assembly resolution 63/3.

¹⁶⁹ S/2008/692, para. 3.

¹⁷⁰ S/PV.6025, p. 5.

¹⁷¹ Ibid., p. 8.

its independence from Serbia, especially at the fact that it was not achieved through a negotiated settlement based on international law, and consequently welcomed the decision of the General Assembly to refer the question to the Court.¹⁷²

Referring to the statement by the representative of Serbia, the representative of the United Kingdom sought to clarify that the General Assembly did not approve Serbia's position on Kosovo's status by that resolution. The General Assembly had merely agreed that the Court should be asked for an opinion on the question which Serbia had asked and this did not prejudice the answer to that question.¹⁷³

At the 6097th meeting, on 23 March 2009, the representative of Serbia affirmed that the legal aspect of the Kosovo case was before the International Court of Justice. He stated that the Court was the principal judicial organ of the United Nations mandated to provide an advisory opinion on the question whether the unilateral declaration of independence by the provisional institutions of self-government of Kosovo was in accordance with international law. He emphasized that all Member States should respect the fact that the Court would decide the issue and that no one should in any way prejudge its deliberations. He therefore called on Member States that had not recognized the unilateral declaration of independence to stay the course while the Court conducted its work.¹⁷⁴

Referring to Security Council resolution 1244 (1999) as the legal framework for the search for a solution to the situation in Kosovo, the representative of Mexico urged the United Nations to be the competent forum for the achievement of a long-term resolution. He underlined that his Government continued to be a firm and constant promoter of the principles of justice and international law enshrined in the Charter of the United Nations, as well as of the International Court of Justice as the jurisdictional body par excellence for peacefully settling differences arising from interpretations of international law. He would await the Court's advisory opinion on Kosovo as requested by the General Assembly.¹⁷⁵

At its 6144th meeting, on 17 June 2009, the Council was briefed by the Special Representative of the Secretary-General and Head of UNMIK, who expressed regret that the Mission's ability to promote "status-neutral" solutions to practical issues had been affected by the positions taken by the parties in anticipation of the issuance of the advisory opinion requested by the General Assembly from the Court on Kosovo's declaration of independence. He further expressed concern that since then all action taken by the parties or UNMIK was being viewed through the prism of how it might be perceived or interpreted by the Court, which could potentially weaken or strengthen the case of one side or the other.¹⁷⁶ The representative of Serbia said that the judicial proceedings marked the first time that the Court had been asked to consider the legality of a unilateral attempt by an ethnic minority to secede from a Member State, in defiance of that State's democratic constitution and the will of the Security Council. To that end, he emphasized that the conclusions of the Court would have far-reaching consequences for the international system. At the same time, he cautioned that the legal process should not be politically influenced.¹⁷⁷ The representative of Kosovo informed the Council of his Government's collaborative efforts to comply with requests from the Court. He said that his country's written contribution had been submitted to the Court in compliance with the set deadlines and that the Court had been notified of Kosovo's intention to present an oral contribution. He further emphasized Kosovo's commitment to justice and hoped that the Court's deliberations and ruling would be fair and impartial.¹⁷⁸

The representative of the Russian Federation cautioned that the Court should objectively and impartially consider the submission of the General Assembly on whether the unilateral declaration of Kosovo's independence was consistent with international law.¹⁷⁹

Referrals by the Secretary-General in the light of Article 99

Article 99 of the Charter empowers the Secretary-General to bring to the attention of the Security

¹⁷² *Ibid.*, p. 12.

¹⁷³ *Ibid.*, p. 20.

¹⁷⁴ S/PV.6097, pp. 6-7.

¹⁷⁵ *Ibid.*, p. 17.

¹⁷⁶ S/PV.6144, p. 3.

¹⁷⁷ *Ibid.*, p. 6.

¹⁷⁸ *Ibid.*, p. 9.

¹⁷⁹ *Ibid.*, p. 14.

Council any matter which in his opinion may threaten the maintenance of international peace and security. In the discussions of the Council presented below, Member States encouraged the Secretary-General to fully and effectively exercise his power as stipulated in Article 99. At the same time, they advocated for strengthening the effectiveness of the good offices missions of the Secretary-General and his mediation capacities in conflict prevention and resolution. They also welcomed the establishment of a Mediation Support Unit in the Department of Political Affairs.

Case 9
Peace and security in Africa: report of the Secretary-General on the implementation of Security Council resolution 1625 (2005) on conflict prevention, particularly in Africa

At its 5868th (high-level) meeting, on 16 April 2008, the Council considered the report of the Secretary-General on the implementation of resolution 1625 (2005) on conflict prevention, particularly in Africa. In his report, the Secretary-General, *inter alia*, emphasized that his good offices were a primary tool for the prevention of conflict, as provided for under Article 99 of the Charter.¹⁸⁰

Taking the floor, the Under-Secretary-General for Political Affairs stated that the report reviewed recent efforts to develop more multifaceted approaches to dealing with conflicts, particularly in Africa. It also emphasized the need for a broad strategy to assist in building national and regional capacities for preventive action. Although conflict prevention was not always highly visible, it remained the most cost-effective and efficient way to promote international peace and security. He noted that the Secretary-General had proposed strengthening the Department of Political Affairs with a view to enhancing the United Nations capacity for early warning, conflict prevention and mediation.¹⁸¹

During the debate, the representatives of the Democratic Republic of the Congo and Botswana stressed the importance of strengthening the good offices missions and mediation capacities of the Secretary-General in order to ensure the implementation of, and follow-up to, the prevention

and resolution of conflicts.¹⁸² The representative of Slovenia, speaking on behalf of the European Union, applauded the Secretary-General's commitment in promoting dialogue between the United Nations and regional organizations and stated that the European Union had recognized the importance of different conflict prevention tools as highlighted in the Secretary-General's report. He added that the use of quiet diplomacy and preventive mediation, for example through the Mediation Support Unit of the Department of Political Affairs, as well as the effective use of sanctions and the Secretary-General's good offices, were essential in de-escalating potential violent conflicts.¹⁸³

At the end of the meeting, the Council unanimously adopted resolution 1809 (2008), in which it recognized the important role of the good offices of the Secretary-General in Africa, and encouraged the Secretary-General to continue to use mediation as often as possible to help resolve conflicts peacefully, working in coordination and closely with the African Union and other subregional organizations in that regard.¹⁸⁴

Case 10
Peace and security in Africa (Djibouti and Eritrea)

In a presidential statement of 12 June 2008, the Council expressed its strong concern about the serious incidents that had occurred on 10 June 2008 along the frontier between Djibouti and Eritrea. The Council called upon the parties to commit to a ceasefire and urged both parties, in particular Eritrea, to show maximum restraint and withdraw forces to the status quo ante. The Council encouraged the Secretary-General to urgently use his good offices to facilitate bilateral discussions to determine arrangements for decreasing the military presence along the border and to develop confidence-building measures to resolve the border situation.¹⁸⁵

On 23 October 2008, following the refusal of Eritrea to cooperate with the Secretary-General's good offices, the Council convened an open meeting at the

¹⁸⁰ S/2008/18, para. 22.

¹⁸¹ S/PV.5868, p. 3.

¹⁸² *Ibid.*, p. 15 (Democratic Republic of the Congo); and p. 26 (Botswana).

¹⁸³ S/PV.5868 (Resumption 1), pp. 17-18.

¹⁸⁴ Resolution 1809 (2008), para. 15.

¹⁸⁵ S/PRST/2008/20.

request of the Government of Djibouti.¹⁸⁶ During the meeting, the representative of Djibouti expressed the view that the Council should call on Eritrea to meet its international obligations and to cooperate with the Organization with a view to accepting the Secretary-General's good offices.¹⁸⁷ Several members condemned Eritrea for having failed to respond positively to the Secretary-General's offer to deploy his good offices and supported his offer to do so. The representative of France was convinced that the United Nations Secretariat had a very positive role to play and hoped that the Secretary-General could formalize his proposal of good offices to Eritrea and dispatch a mission to the area.¹⁸⁸ Regretting Eritrea's action, the representative of the United Kingdom warned that, should Eritrea continue to block international efforts to facilitate dialogue, the Security Council would need to consider what steps it might take to break the impasse.¹⁸⁹ The representative of the Libyan Arab Jamahiriya supported the use of the Secretary-General's good offices and urged both nations to respond positively to that proposal.¹⁹⁰

Case 11
Maintenance of international peace and security: mediation and settlement of disputes

At the 5979th (high-level) meeting, on 23 September 2008, the Secretary-General affirmed that his good offices were always available to parties wishing to avail themselves of an honest broker, who could help them stay or return to what was sometimes a difficult path to peace. That role, which successive Secretaries-General had played in cases such as Iran (Islamic Republic of), Iraq, El Salvador, Guatemala, Nigeria, Cameroon and Afghanistan, was a critical tool for the international community in settling a dispute. He further stated that such good offices could be useful when intergovernmental bodies were deadlocked or the parties actively resisted intergovernmental involvement. Noting that many peace processes had benefited from his ability to speak to relevant parties, he asserted that those efforts had usually been made discreetly and that such a low visibility had often led to progress. He lamented, however, that this came at a price for the

Organization, as it often struggled to convey to a sceptical world the breadth and depth of its efforts. Finally, noting the establishment in the Department of Political Affairs of a small Mediation Support Unit as well as a standby team of mediation experts pursuant to the 2005 World Summit Outcome, the Secretary-General urged Member States to ensure that the Unit, which was currently operating on a meagre budget had the requisite resources.¹⁹¹

During the debate, most speakers agreed that the United Nations should play a greater role in mediation and underlined the Secretary-General's potential to perform this function through his good offices.¹⁹² The representative of Croatia highlighted the role that Special Envoys and Special Representatives of the Secretary-General played in the mediation of conflicts. He also pointed out the need to re-examine the Council's strategies in "static situations", such as the case of Cyprus, and expressed his country's support for the good offices of the Special Adviser of the Secretary-General in that country.¹⁹³

The representative of South Africa warned that the Council should avoid interfering with coercive measures in mediation efforts either of the Secretary-General or regional organizations. He stressed that the Council's role should be limited to the support of the appointed mediators.¹⁹⁴ The representative of Italy opined that the Council should strengthen and improve its mechanism for interacting with the Secretary-General and with his representatives and envoys engaged in various Chapter VI actions to settle international disputes.¹⁹⁵

The representative of Costa Rica emphasized the "huge value of proximity and impartiality" with regard to the good offices of the Secretariat, whose effectiveness could be weakened by obstruction from the Council. He stressed the importance of giving the Secretary-General a margin to act that was as broad as possible, and of distinguishing between those situations in which the Secretary-General acted on his own accord or at the request of the interested parties, and those situations in which he acted at the request of the

¹⁸⁶ S/2008/635.

¹⁸⁷ S/PV.6000, p. 3.

¹⁸⁸ *Ibid.*, p. 6.

¹⁸⁹ *Ibid.*, p. 9.

¹⁹⁰ *Ibid.*, p. 13.

¹⁹¹ S/PV.5979, pp. 4-5.

¹⁹² *Ibid.*, p. 8 (Croatia); p. 9 (Belgium); p. 12 (Italy); p. 16 (United Kingdom); and p. 21 (Costa Rica).

¹⁹³ *Ibid.*, p. 8.

¹⁹⁴ *Ibid.*, p. 11.

¹⁹⁵ *Ibid.*, p. 12.

Security Council. He further called for a broader scope for the Secretary-General's good offices functions. He drew the Council's attention to the difference between Security Council-mandated situations and the Secretary-General's own initiatives or acts requested by the parties. In the latter cases, he pointed out it was important for the Secretary-General to be discreet and independent from the political dynamic of the Council.¹⁹⁶

Many speakers welcomed the establishment in 2008 of the Mediation Support Unit designed to assist peace processes through its team of mediation experts and to provide mediators with the necessary resources, and called for it to be properly resourced.¹⁹⁷ The representative of France stated that the establishment of a Mediation Support Unit was indeed progress, but asserted that the Unit was a bit like "humanitarian affairs" which he opined had become like "university teaching".¹⁹⁸

The representative of China implicitly invoked Article 99 by encouraging the Council to follow closely matters brought to its attention by Member States and the Secretary-General, in accordance with the relevant provisions of the Charter, and to work out a comprehensive preventive strategy in the light of each particular crisis.¹⁹⁹

At the end of the meeting, the Council adopted a presidential statement, in which it emphasized the importance of the actions undertaken by the Secretary-General, in using his good offices and his representatives and special envoys and United Nations mediators in promoting mediation and in the pacific settlement of disputes. The Council also took note of the establishment of the Mediation Support Unit, which provided expertise for supporting the mediation efforts of the United Nations and regional and subregional organizations.²⁰⁰

At its 6108th meeting, on 21 April 2009, the Council considered the report of the Secretary-General on enhancing mediation and its support activities.²⁰¹ Introducing the report, the Under-Secretary-General for

Political Affairs briefed members on some key initiatives taken by the Department of Political Affairs in the mediation field. On the establishment of the Mediation Support Unit, he stated that it had been further complemented with a standby team of mediation experts who could provide advice and assistance to mediators on themes such as peace process design, security arrangements, power-sharing, wealth-sharing, natural resource management and constitution-making. In the past year, the Department had provided mediation support to over 20 peace processes, and the Unit had exerted a "multiplier effect" on those efforts.²⁰²

Several delegations welcomed the establishment of the Unit and highlighted the role it played in preparing and supporting a growing number of mediation processes and in providing expertise to its partners. The representative of Viet Nam stated that the Unit had become a very important tool in supporting the good offices and mediation efforts conducted by the United Nations.²⁰³ The representative of Costa Rica noted that strengthening mediation was a solid investment in the future of the Organization and that the Department of Political Affairs had made significant strides to that end, including through the creation of the Unit.²⁰⁴ The representative of Burkina Faso noted that the international community was familiar with the Secretary-General's good offices and mediation missions, which had grown in number in response to the increased number of conflicts and, in particular, to their increasing complexity. In this regard, he pondered how to further build the capacities of the Secretariat, in particular those of the Unit, which was increasingly being called upon but was equipped with limited resources.²⁰⁵ The representative of Liechtenstein stressed that the establishment of the Unit was an important step, that the momentum had to be carried forward and that the recommendations in the report of the Secretary-General had to be followed up on by the Council, the General Assembly and the Secretariat.²⁰⁶

The representative of the Russian Federation, however, stated that the Secretary-General's analysis of the provision of mediation assistance required "study

¹⁹⁶ *Ibid.*, pp. 20-21.

¹⁹⁷ *Ibid.*, p. 8 (Croatia); p. 11 (South Africa); p. 12 (Italy); p. 16 (United Kingdom); and p. 17 (Viet Nam).

¹⁹⁸ *Ibid.*, p. 14.

¹⁹⁹ *Ibid.*, p. 21.

²⁰⁰ S/PRST/2008/36.

²⁰¹ S/2009/189.

²⁰² S/PV.6108, p. 3.

²⁰³ *Ibid.*, p. 7.

²⁰⁴ *Ibid.*, p. 8.

²⁰⁵ *Ibid.*, p. 17.

²⁰⁶ S/PV.6108 (Resumption 1), p. 9.

and analysis". He stated that the report elicited a number of questions, including the "overreaching objective" of having a standing rapid mediation response capacity, and hoped that its funding would not come from the regular budget.²⁰⁷ The representative of Egypt criticized the report for confusing mediation activities aimed at preventing conflicts through diplomatic means, including the good offices of the Secretary-General and facilitation of dialogue, and the settlement of disputes and post-conflict peacebuilding activities. He stressed the importance of impartiality on the part of the Secretary-General and his mediation team as well as the need for them to pay close attention to the local context of the conflict including religious, cultural, ethnic and political aspects, independent of the views of the Security Council members.²⁰⁸

Several speakers held that the Secretary-General had a special role in the peaceful settlement of disputes.²⁰⁹ Some called for greater international support for the Secretary-General's good offices.²¹⁰ The representative of France lauded the Secretary-General's initiative in dispatching his Special Envoy to mediate in a number of conflict-ridden areas, such as the Great Lakes region, Madagascar and Sri Lanka.²¹¹ The representative of China emphasized that it was necessary both to engage in "shuttle diplomacy" and to employ the Secretary-General's good offices in order to make best use of the Organization's advantages in resources to cultivate local mediation capacities.²¹² The representatives of Japan and Mexico requested the Secretary-General to continue to exercise his good offices functions and to keep the Council informed of his activities. They suggested that the Council should hold periodic reviews of the progress in that area.²¹³

At the end of the meeting, the Council adopted a statement, in which it emphasized the importance of the actions undertaken by the Secretary-General in promoting mediation and in the pacific settlement of disputes and welcomed the continued efforts of the

Department of Political Affairs, in particular through the Mediation Support Unit, to respond to emerging and existing crises. The Council requested the Secretary-General to keep it informed of the action undertaken by him in promoting and supporting mediation and pacific settlement of disputes.²¹⁴

Case 12 **The situation in Myanmar**

At the 6161st meeting, on 13 July 2009, the Secretary-General briefed the Council on his visit to Myanmar on 3 and 4 July 2009 within the framework of his good offices. He stated that the objective of his trip was to engage Myanmar's senior leadership directly on a number of serious and long-standing concerns that could not be left unaddressed at that critical stage of Myanmar's transition, and to offer the help of the United Nations in advancing national reconciliation, democracy, respect for human rights and sustainable development. The Secretary-General further stated that he had made a number of specific proposals to Myanmar's leadership, which included the resumption of a substantive dialogue between the Government and the opposition.²¹⁵ The representative of Myanmar viewed his Government's acceptance of the good offices role of the Secretary-General as evidence of the country's movement towards greater cooperation with the United Nations.²¹⁶

In the subsequent discussion, members unanimously supported the Secretary-General's good offices initiative along with the efforts of his Special Adviser on Myanmar. Several speakers highlighted the special role of the Secretary-General in the reconciliation process and requested him to continue to exercise this function with their full support.²¹⁷ The representative of Japan pointed out that the Secretary-General was one of the very few political leaders who could directly convey the concerns of the international community to the country's highest leadership.²¹⁸ Affirming that the Government of Myanmar had the opportunity to strengthen the process of national reconciliation, the representative of Mexico stated that that objective should be pursued with the support of the

²⁰⁷ S/PV.6108, p. 6.

²⁰⁸ *Ibid.*, p. 26.

²⁰⁹ *Ibid.*, p. 19 (Japan); p. 23 (Mexico); and p. 32 (Morocco).

²¹⁰ *Ibid.*, p. 15 (Uganda); p. 17 (Burkina Faso); p. 30 (Algeria); p. 31 (Morocco); S/PV.6108 (Resumption 1), p. 7 (Republic of Korea); and p. 14 (Qatar).

²¹¹ S/PV.6108, p. 18.

²¹² *Ibid.*, p. 12.

²¹³ *Ibid.*, p. 20 (Japan); and p. 23 (Mexico).

²¹⁴ S/PRST/2009/8.

²¹⁵ S/PV.6161, p. 2.

²¹⁶ *Ibid.*, p. 5.

²¹⁷ *Ibid.*, p. 6 (United Kingdom); pp. 9-10 (Japan); p. 11 (Austria); p. 12 (Viet Nam); p. 14 (Croatia); and p. 17 (Costa Rica).

²¹⁸ *Ibid.*, p. 9.

United Nations through the good offices of the Secretary-General with the support of States in the region.²¹⁹

Referring to the Secretary-General's mission to Myanmar, the representative of the Russian Federation emphasized that the good offices was a process that required time and patience, and added that he was counting on the constructive efforts of the Special Adviser to the Secretary-General on Myanmar. He pointed out that the mission had provided an important

²¹⁹ Ibid., p. 7.

and effective channel of communication between the Security Council, the United Nations and Myanmar.²²⁰ The representative of China, similarly, emphasized that the Secretary-General's good offices was a process and hoped that it would help Myanmar to achieve domestic stability and national reconciliation. He credited the Secretary-General's good offices for the projected general elections scheduled for the following year.²²¹

²²⁰ Ibid., p. 13.

²²¹ Ibid., pp. 14-15.